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Title

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Abstract

The Bundesverfassungsgericht (BVerfG, Federal Constitutional Court) has declared as incompatible with the Basic Law the provisions presently in force for the external evaluation of study programmes by accreditation agencies (order of February 17th, 2016 – 1 BvL 8/10). The present contribution highlights the detrimental impacts that the current, as a general rule incomplete, regulations regarding the accreditation have for the higher education institutions and how the administrative courts have retroactively developed the legal remedies serving to protect the parties affected by accreditation decisions. While the decision taken in Karlsruhe specifically concerned a state-recognised higher education institution (university of applied sciences) domiciled in North Rhine-Westphalia, it is also relevant to higher education institutions in all other federal Länder. According to this ruling, the legislature is to itself take the essential decisions regarding study programmes and must, first and foremost, involve the academic teachers and higher education institutions providing these study programmes in quality assurance processes. The present contribution addresses the very detailed

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requirements stipulated by the Federal Constitutional Court (BVerfG) which, thus far, have not been complied with by a single one of the regulations in force at the Land level. By January 1st, 2018, all federal Länder of Germany will have to newly provide for the evaluation of study programmes such that it is in line with the Basic Law, and thus will have to amend their respective Hochschulgesetze (Acts on Higher Education Institutions). In this context, the matter not only concerns the addition of a paragraph – new procedures will need to be conceptualised. The teaching academicians will have to be permitted to more strongly contribute their perspective and expertise to these processes, in particular where the definition of the assessment standards and the stages of review are concerned. However, the present contribution also discusses the impacts the decision will have on existing study programmes and ongoing accreditation procedures. The author is an attorney in Potsdam and provides legal advice to universities and universities of applied sciences on matters of service law and university law. (HRK / Abstract übernommen)