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Abstract

The majority of Germany's university hospitals are institutionally separated from their universities as public corporations having own legal capacity. In spite of this formal outsourcing they remain obliged to cooperate closely with their universities. This so called "cooperation concept"

(Kooperationsmodell) has been established in almost every University Act of the federal states. The article covers the legal consequences arising from this twofold position of the chief physicians as "on the one hand" heads of department at the university hospital and "on the other hand" professors at the university. In a first step the article explores the legal requirements resulting from the academic freedom (article 5 paragraph 3 of the Basic Law), which guide the operation of the university hospital. To fulfill these constitutional requirements, the article deduces in a second step a universal constraint of mutuality between the university and the university hospital. It imposes the obligation of a consent in the fields of research and teaching as well as the health services of the clinic, especially in the appointment procedure for a professorship. Since 2013, this obligation is explicitly laid down in

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§ 15 of the Ordinance on the University Hospitals in North Rhine-Westphalia (Universitätsklinikum-Verordnung). Other federal states have to reform their University Act, while the universities have to adjust their statutory regulations to the necessities imposed by the uniform employment (einheitliches Anstellungsverhältnis) of the university professors. Finally, the article discusses the procedural aspects of the imposed obligation to cooperate. This includes inter alia the individual right of a professor to claim the consensus of the university and the university hospital before courts. As a consequence, the cooperation concept prevents the university professor from being positioned as a 'servant of two masters'. (HRK / Abstract übernommen)