

26.7.2024

Author

GÄRDITZ, Klaus Ferdinand

Title

Die Nachrationalisierung des Promotionsrechts durch die Rechtsprechung des Bundesverwaltungsgerichts / Klaus Ferdinand Gärditz

Publication year

2015

Source/Footnote

In: Wissenschaftsrecht. - 48 (2015) 3/4, S. 269 - 294

Inventory number

41889

Keywords

Promotion : allgemein ; Grade : Entzug

Abstract

In September 2015, the German Federal Administrative Court had to decide on the legality of a public university's decision to withdraw a doctoral degree. In the case at hand, a doctoral student (the plaintiff) in engineering had concealed a previous conviction for sexual assault as he applied for entering into the administrative proceedings granting a doctoral degree based on a doctoral thesis. The university's by-laws required all doctoral students to disclose previous convictions by a criminal record certificate. After the doctoral degree was awarded, the university gained knowledge about the conviction and instantly withdrew the degree, arguing that the applicant had deceived the affected faculty with regard to his criminal record. The plaintiff challenged the administrative act withdrawing his degree in court. The Administrative Court of Chemnitz (Saxony) and – on appeal – the Higher Administrative Court of Saxony dismissed the lawsuit and found that the university was competent to sanction the deceit in the admission procedure. The Federal Administrative Court quashed both judgements of the lower courts and annulled the administrative act of the public university. The court

26.7.2024

held that the university exceeded its competences by requesting general criminal records, because most criminal offences had no scientific impact and were completely irrelevant with regard to scientific graduation. Thus, the plaintiff was not obliged to provide the university with information on his previous conviction for sexual assault. Consequently, he was allowed to conceal the conviction. The review essay concurs with the Federal Administrative Court and analyses the consequences of a strictly scientific approach to the sometimes-anachronistic law of doctoral degrees. (HRK / Abstract übernommen)