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Abstract

When selecting new professorial staff, German universities are under an obligation to involve professors from other universities ("external professors") in the process. This involvement can take the form of external professors' membership in the selectioncommittee or of an expert opinion given by external professors in the aftermath of the committee's decision. The legislative aim behind this obligation is to improve the transparency and the objectivity of the decisions. Strikingly, this form of external control seems to cause hardly any problems and there is no noticeable public criticism of this – at least theoretically – burdensome task. Despite the seemingly smooth functioning of this control-system, the involvement of external professors is not based on a coherent set of rules regarding their role. On the contrary, the system seems to be lacking coherence with regard to at least two aspects. First, the approach to control universities' decisions in this way is at odds with a number of other legislative goals. These goals relate to the New Public Management, the idea that universities should be competing with each other, and the long-established concept of a "university of groups" in which representatives of the different groups (professors, non-professorial scientific staff,

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non-scientific staff, and students) perform different roles but are all involved – to a different degree – in the decision-making process of faculties and of universities. Also, the control exercised by external professors is not integrated in the otherwise well-established system of governmental control of self-governing bodies. The second aspect giving rise to a perceived lack of coherence is a consequence of the fact that the external professors in all likelihood are civil servants, so that the civil service codes apply. In the application of these codes, it seems impossible to find a regulatory framework that could guide the actions of the external professors who are under an obligation to pursue the interests of their home university while being expected to help a competing institution to improve its scientific capacities. Altogether, it seems very surprising that so many expectations by the legislature meet so little effort to develop a coherent legal framework for the involvement of external professors. (HRK / Abstract übernommen)