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Title

Möglichkeiten und Grenzen des Art. 91b GG aus juristischer Perspektive nebst einigen
Vorbemerkungen zur föderalen Kompetenzverteilung in der Wissenschaftspolitik / Wolfgang Löwer

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Abstract

Science funding in the Federation where the Basic Law applies is complicated. Departmental research is subject to the administrative competence of the Federal Government. However, it is in the nature of the matter that the support for the research institutions is a fundamental federal issue. Unless it happens within the framework of its administrative competences, the Federal Government may not found or maintain universities. In the past, as far as universities and their promotion was concerned, the Federal Government exceeded its authority, without this having been criticized by the federal states. Transfer payments develop a peculiar paralyzing energy where claims for the recognition of federal limits are concerned. The amendment of Article 91b of the Basic Law settles the legal situation regarding the competences in the sense that, in future, the Federal Government may, now in accordance with the constitution, do everything that, by way of the Higher Education Pacts and the Initiative for Excellence, it already had been doing as far as funding is concerned but, in some cases, wasn't allowed to do. The Federal Government now has the possibility of unlimited institutional

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promotion of universities under constitutional law without, however, being obliged to do so. (HRK /
Abstract übernommen)