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Abstract

In November 2016 the Baden-Wuerttemberg Constitutional Court ruled that the provisions regarding the higher organisation of Baden-Wuerttemberg universities and colleges qualify as inconsistent with the fundamental right of scientific freedom. In doing so, it specified the benchmark for assessing the constitutional conformity of organisational structures that had previously been developed by the German Federal Constitutional Court in the cases Hamburger Dekanat and Medizinische Hochschule Hannover. In particular, it carved out that regarding the crucial competence imbalance test the relation between the collegiate and the management body alone is not decisive anymore. The ruling rather indicates that the relation between the collegiate body and the body group consisting of management body and council body will be critical in the future. This development suggests that the organizational

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provisions of further federal states do not meet the requirements of the fundamental right anymore. Therefore, the article at hand anticipates the future constitutional standard and examines on its basis the state law on universities and colleges of North Rhine-Westphalia, Lower Saxony, Hesse, Saxony and Saarland. (HRK / Abstract übernommen)