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Abstract

University-business cooperation in the area of scientific research is taking place in large numbers. Such partnerships are regarded to be beneficial to both partners. However, the exact contents of such university-business agreements, especially when it comes to specific rights and obligations conferred upon the partners, are often kept behind closed doors. Recently some agreements had become public due to reports by the press, who had successfully won lawsuits claiming a right to insight into the certain agreements. These reports reveal that universities have agreed to grant the private business partner far-reaching influence over decisions concerning sensitive areas of scientific research and teaching, which are protected by Article 5 para. 3 of the Basic Law. The Basic Right enshrined in Article 5 para. 3 primarily aims to protect the university scholar's individual freedom of scientific research and teaching. In addition, this provision entitles universities to protection against interferences by the state and, according to the Federal Constitutional Court, carries implications for the organisational structure within public universities. Within the university context, the individual

27.4.2025

right of each scholar sets limits to the activities and organisational decisions made by the university institutions, including the decision to enter into cooperation agreement with private business partners. Such agreements must, therefore, satisfy the constitutional requirements prescribed by the individual right to freedom of science, research and teaching. This article, inter alia, concludes that clauses in agreements, which confer upon the private business partner a right to reserve approval of the publication of scientific research findings and which make decisions in the context of university appointment procedures dependent upon approval of the private business partner, are null and void because they violate the core protected area of the individual right enshrined in Article 5 para. 3 of the Basic Law. (HRK / Abstract übernommen)