

Karl-Heinz Ladeur

Kritik der Abwägung in der Grundrechtsdogmatik

Plädoyer für eine Erneuerung der liberalen Grundrechtstheorie

[A Critique of »Balancing« in the Dogmatics of Fundamental Rights. A Plea for a Renewal of the Liberal Theory of Fundamental Rights.]

Published in German.

The practice and the dogmatics of fundamental rights are determined by the concept of »balancing«. There is no reason to object to letting a judge weigh the issues as a means of coping with the conflict of fundamental rights in borderline cases. What is questionable however is the lack of standards for and the generalization of »multipolar balancing« between all types of constitutional interests. Karl-Heinz Ladeur has devised a subtly diversified dogmatics of fundamental rights which transcends the classic dichotomy of »man versus the state« to take into account the collective aspect of fundamental rights as a guarantee of the social self-organization of those areas of action which have been given constitutional protection from the state.

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2004. 83 pages. BOrd 170

ISBN 978-3-16-156956-2

DOI 10.1628/978-3-16-156956-2

eBook PDF 29,00 €

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