

A Study on the Concepts of “Regierungsakte” and “Gerichtsfreie Hoheitsakte” in German Public Law

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Abstract

Through an investigation of the concepts of “Regierungsakte” (acts of government) and “gerichtsfreie Hoheitsakte” (non-justiciable state actions) in German public law, this paper deals with the problems of judicial review of state actions. The paper is divided into four sections. First, it provides the history of the Administrative Court and the Constitutional Court in Germany. Second, it addresses constitutional developments in Germany since 1949, especially in light of some important decisions by the Federal Constitutional Court. Third, based on the above-mentioned discussions, this paper seeks to summarize important aspects of the problem of justiciability of state actions. Finally, this paper examines Interpretations No. 328 and 419 of the Council of Grand Justices and offers some alternative viewpoints for discussion on this topic.

Key Words: Regierungsakte (acts of government), gerichtsfreie Hoheitsakte (non-justiciable state actions), administrative court, constitutional court, judicial review.