Ranks and Titles

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For the European elections, I, like many others, have recently received the postal ballot documents, including the ballot itself, a yard-long piece of recycled paper with altogether 40 list proposals, each with the top ten candidates mentioned by name, status and profession. One of the things that catch the eye is the accumulation of academic ranks and titles in List No. 5, the far-right *Alternative für Deutschland*: five of the ten candidates there have a doctorate to their name, two are on top of that professors. Such a concentration of academic honorability will certainly not fail to have an impact on the conservative, authority-admiring *Bildungsbürgertum* targeted by the AfD.

One of the two professors on the AfD list, along with the party leader and economy professor Jörg Meuthen, is a certain "*Prof. Dr. Gunnar Beck, Hochschuldozent, Barrister-at-Law für EU-Recht, Neuss (NW)*", number ten on the list and therefore not unlikely to win a seat in the next European Parliament. His name might be familiar to some of you, as it was to a reader of Verfassungsblog who pointed him out to me: He is one of us, a legal scholar who teaches EU law and legal theory at the School of Oriental and African Studies (SOAS) in London. In his application speech at the AfD party conference last November, he introduced himself as a "professor and specialist lawyer for EU law in London" and as the author of a study on the European Court of Justice, "that is, the court that regularly declares *Unrecht* to be EU law". (To appreciate the full brazenness of this statement, one needs to know that *Unrecht* is a lot worse than injustice, it's the opposite of law, an *Unrechtsstaat* was what Adolf Hitler and Joseph Stalin were the leaders of.)

Alright, then. Professor Beck, is it? Let's see. Where did he get his professorship from? At SOAS he is listed as "Reader in Law". This is the rank beneath professor which at many British universities is reserved exclusively for chair holders. A reader in the UK is a distinguished rank, roughly what an associate or extraordinary professor would be elsewhere, but equivalence is not what matters under German higher education law. The right to call yourself lawfully a professor in Germany depends on whether you have actually been appointed professor or not. Careless handling of these regulations is not recommended: The unauthorised use of an academic degree or an official title is a criminal offence in Germany according to § 132a of the Penal Code.

I asked Dr. Beck on what basis he lets himself be listed as a professor, and in response he sent me a link to a "legal tip" on the website *anwalt.de* as well as the advice to read up on British academic ranks and titles and their German equivalents and to consult Wikipedia: "As far as I remember, Wikipedia correctly sums up my professional activity, with a correct indication of the professional titles."

I followed his advice and looked him up at Wikipedia. His entry "Gunnar Beck" includes the information, apparently added in summer of 2018, that he was appointed professor in 2016 by the University of Sussex. This information is part of both the English and the German version of his Wikipedia page. So I called the University of Sussex. Surprise: According to a spokesperson, Dr. Beck was in fact never employed at any time and was never appointed professor by the University of Sussex. I've asked Beck to comment on Thursday evening, but, as of this writing, haven't heard back from him.

It's about an election

I can't completely rule out that Dr. Beck may be in some other way entitled to call himself a professor and for some reason keeps the basis of this right secret from me and Wikipedia and the world. To be honest, I personally couldn't care less if he wants to be addressed in his private and professional life as profes-

sor, archbishop or His Imperial Majesty. It's just that Dr. Beck, who as "professor" of EU law takes it upon himself to call the European Court of Justice a court of *Unrecht*, is running for MEP. And with some prospect of success, too. He is running as "Prof. Dr. Gunnar Beck". That is written in black and white on my ballot paper and on millions of others in Germany. If the candidate Dr. Beck should turn out to be in fact not a professor, then the ballot paper would be factually incorrect. And in view of high regard of the AfD electorate for academic ranks and titles, it seems to me that it cannot entirely be ruled out that this incorrectness would actually have an impact on the composition of the next European Parliament.

What now? In any case, it's too late to print new ballot papers as tens of thousands of postal ballots have already been cast probably. But after the election, every voter can contest its validity within two months. According to German electoral law (§§ 26 EuWG, 1 WahlPrG) the competent authority is the *Bundestag*, and after that one can appeal to the Federal Constitutional Court in Karlsruhe.

For the election to be cancelled, any minor flaw won't do, obviously. It needs to be shown that the election was flawed in a way that actually or potentially affected the composition of the Parliament elected. If, for example, the AfD gains ten seats, then a lot would depend on how narrowly candidate #10 on the list (in this scenario, ironically, Gunnar Beck himself) has won his seat. If it's in fact a matter of a few dozen or hundred votes, then it seems to me that the potential relevance of the potential error for the composition of the EP can't be so easily dismissed. In the strict sense of the law, the consequence would be that the European elections would be invalid throughout Germany and would have to be repeated. The EP and the entire EU would be paralyzed for weeks or months. And that in times like these.

If this were to happen and if it were indeed the case that a scholar of EU law, radicalised in the euro crisis and turned a rabid eurosceptic and Brexiteer, takes fierce revenge on the object of his study in this way – that would truly be material for a goddamn Wagner opera. Let's hope that it does not come to that.

Remembering Ernst-Wolfgang Böckenförde

On Verfassungsblog, a great highlight of this week was our online symposium in memory of the great, recently deceased Ernst-Wolfgang Böckenförde, organized by our associate editors KATHARINA MANGOLD and BENJAMIN RUSTEBERG. FRIEDER GÜNTHER illuminates Böckenförde's position within the German *Staatsrechtslehrerschaft*, co-organizer BENJAMIN RUSTEBERG his theory of fundamental rights, CHRISTOPH ENDERS his fight for the inviolability of human dignity, and UTE SACKSOFSKY his view of freedom of religion. JOACHIM WIELAND examines Böckenförde's view of the welfare state principle, GERTRUDE LÜBBE-WOLFF his theory of democracy and legitimation chains, MATHIAS HONG his relationship to Carl Schmitt, co-organizer KATHARINA MANGOLD the famous "*Böckenförde-Diktum*", MIRIAM KÜNKLER and TINE STEIN Böckenförde's view of Europe and DIETER GOSEWINKEL Ernst-Wolfgang Böckenförde as a historian. I am exceedingly proud and can't thank all participants enough that this amazing collection of scholarship has appeared on Verfassungsblog.

GRÁINNE DE BÚRCA and JOHN MORIJN's open letter of solidarity for Wojciech Sadurski has gathered more than 600 signatures last week, and counting. Sadurski, well known not only to readers of Verfassungsblog, is the target of legal proceedings initiated by the Polish ruling party PiS and its media minions in return for his sharp criticism of the decay of the rule of law and its proponents and profiteers in **Poland**.

In the German state of **Saxony** a few days ago, a bunch of Nazis marched through the small town of Plauen in a way that could and probably was intended to be equalled to SA marches of the 1930s, drums and flags and diarrhea-colored shirts included. Why didn't the police intervene? CHRISTOPH ENDERS analyses the situation under Saxon assembly law and comes to the conclusion that their reasons for restraint don't hold much water.

In **Germany**, Home Secretary Seehofer's federal police rejects refugees at the border by deporting them on the basis of bilateral agreements, especially with

Greece. ANNA LÜBBE takes a recent decision of the Administrative Court of Munich as an opportunity to ask about the effects on the Dublin regulations and the right to legal protection.

In **Latvia**, the Supreme Court has treated the (satirical) appeal to annex the country to the Russian Federation as a punishable attack on Latvian independence. According to ALEKSEJS DIMITROVS, the consequence could be that the call for a European federal state might be considered a crime, as well.

On the occasion of the 70th anniversary of the Council of Europe, CAROLINE VON GALL deals with the existential crisis into which the Council of Europe has been plunged by its still-member **Russia** and calls for an end of "appeasement" towards Russia.

In **Ukraine**, Volodymyr Zelenskiy has won the presidential elections. ALINA CHERVIATSOVA reports on what happens now and by what partly unconstitutional means parliament tries to make his life difficult.

In **Germany**, the AfD has demonstrated an astonishing degree of procedural creativity with its latest attempt to get one of their own on the speaker's bench of the *Bundestag*. ANNA VON NOTZ and I come to the conclusion that the parliament administration rightly fended off this advance as inadmissible.

The dispute between AfD and the **German** Federal Office for the Protection of the Constitution about its designation as a "case of scrutiny" (*Prüffall*) enters the next round: KLAUS FERDINAND GÄRDITZ finds that the office did not violate an injunction of the Administrative Court of Cologne by the way it used this term.

Elsewhere

EMRE TURKUT describes the Kafkaesque fate of the imprisoned **Turkish** constitutional judge Alparslan Aslan on the occasion of the ECtHR judgement in his case.

FRANCESCO PALERMO asks about the future role of fundamental rights in the **EU**.

LEONID SIROTA is flabbergasted about the way a law obliging gas stations to display anti-carbon-tax stickers came into being in rightwing-populist-governed Canadian state of **Ontario**.

PIERRE DE VOS is sceptical about the prospect of Cyril Ramaphosa's ANC effectively fighting corruption after its victory in the **South African** elections.

KAMEL AJJI takes **France's** President Macron and his call for more "mechanisms of accountability" at its word and demands to start with the president's own freedom of expression.

MARLOTTE VAN DAEL describes what can happen to you in the **Netherlands** if you have the misfortune to be a stateless Palestinian.

ANDREAS GUTMANN examines the implementation of the opinion of the Inter-American Court of Human Rights on LGBT rights in Latin America on the occasion of a case before the Constitutional Court of **Ecuador**.

So much for this week. All the best, and take care
Max Steinbeis

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