

BUSINESS LAW : CHAPITRE 1 - LA NOTION DE DROIT

Il n'y a pas de définition unitaire du droit.

Le droit est un mode d'organisation de la société.

DROITS SUBJECTIFS :



- Prérogatives individuelles reconnues aux individus
- Il se détermine par « j'ai le droit »
- Ex : En tant que majeur, nous avons le droit de consommer de l'alcool

DROIT OBJECTIF :

- Ce mode passe par le fait que le droit « interdit de » ou « permet de ».
- Il s'agit du droit objectif

Section 1 : La distinction entre le droit objectif et les droits subjectifs

A. Le droit objectif

Pour qu'une règle de droit puisse fonctionner, il faut que les puissances publiques mettent en place des sanctions. A savoir qu'il s'agit de l'Etat.

La règle juridique est générale car elle a vocation à s'appliquer à toutes les personnes qui se trouvent dans cette situation. Elle est aussi impersonnelle car elle s'applique sans distinctions et sans discriminations.

Cette règle a aussi un caractère obligatoire, donc elle s'impose à tous ceux qui y sont soumis.

La règle juridique est assortie de sanctions qui garantissent son respect.

Cette sanction joue un double rôle : le premier étant de punir, le second est de jouer un rôle dissuasif, préventif et répressif. La sanction est aussi là pour réparer.

Ex : Accident de la route, réparation du préjudice subi par la victime garantit par le biais de l'assurance.



A. Les droits subjectifs

Il s'agit des prérogatives individuelles attribuées par le droit objectif à une personne par la satisfaction d'un intérêt personnel.

Deux sources :

- Les faits juridiques : Tous faits quelconques auxquels la loi attache une conséquence juridique qui n'a pas été nécessairement recherchée par son auteur.
- Les actes juridiques : Manifestations de volonté en vue de produire des effets de droit. Ex : les contrats.

Les droits subjectifs sont composés de :

- Droits patrimoniaux : appréciation en argent et forment le patrimoine de la personne.

La Notion Dautoriteacute En Droit

G Thomas



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