

LES PRINCIPALES BRANCHES DU DROIT

DROIT PRIVÉ

- Droit civil
- Droit des affaires
- Droit du travail
- Droit rural
- Droit international privé

DROIT PUBLIC

- Droit constitutionnel
- Droit administratif
- Droit fiscal
- Droit international public

DROIT MIXTE

- Droit pénal

Lindisponibilit Comptences Droit Public Interne

Philippe Azouaou (juriste).)



L'indisponibilité des compétences Droit Public Interne:

L'indisponibilité des compétences en droit public interne Philippe Azouaou, 2016-02-25 L'indisponibilité des compétences est un principe bien connu des publicistes car derrière cette formule sibylline se cache une interdiction très simple : les autorités publiques ne peuvent pas aliéner leurs compétences. Elle est même perçue par la doctrine majoritaire comme un principe normatif : c'est dire comme une norme de droit positif qui fixe des interdictions aux autorités publiques. La première partie de cet ouvrage montre que cette conception doit être rejetée car ce principe n'est consacré par aucun texte ni par aucune décision de justice. Par ailleurs, il est impossible de déterminer avec précision sa portée : c'est dire les mécanismes juridiques qu'il interdit. Le principe d'indisponibilité des compétences doit donc être envisagé d'une toute autre manière si l'on veut pouvoir y faire référence de manière pertinente. La deuxième partie de l'ouvrage est consacrée à la construction d'un principe d'indisponibilité des compétences qui soit utile à la science du droit. C'est ainsi qu'il a été tenté pour exprimer le dynamisme du système juridique. Autrement dit, le nouveau principe d'indisponibilité des compétences met en lumière l'opération de création du droit. Il structure le système juridique et la hiérarchie des normes. Il en est un principe en ce sens qu'il en fait comprendre une propriété essentielle et caractéristique.

L'indisponibilité des compétences en droit public interne Philippe Azouaou (juriste).), 2015 L'indisponibilité des compétences est une formule sibylline qui cache une idée extraordinairement simple : les compétences ne peuvent être aliénées. Les juristes utilisent cette idée soit comme argument soit comme justification. Elle sert aujourd'hui d'argument par exemple pour contester la validité des contrats de mandat. Elle est utilisée également pour justifier toutes les jurisprudences relatives à l'interdiction des délégations de compétences. La doctrine majoritaire conçoit le principe d'indisponibilité des compétences comme une norme de droit positif. Cette conception doit être rejetée. Aucune norme positive ne le consacre en tant que tel et en tout état de cause sa portée est insaisissable. Il doit donc être envisagé d'une toute autre manière si l'on veut pouvoir y faire référence de manière pertinente. Ce principe a été construit pour être utile à la science du droit. Il a été tenté de telle sorte qu'il puisse exprimer l'exigence de validité dynamique des normes juridiques. Ce principe commande que les éléments de la norme de habilitation relatifs à la dynamique du système juridique soient respectés pour qu'une norme soit produite. L'exigence de validité statique est exprimée quant à elle par le principe de légalité. Les principes d'indisponibilité des compétences et de légalité structurent le système juridique. Ils en sont les principes en ce sens qu'ils en font comprendre les propriétés essentielles et caractéristiques. Ils sont appliqués en permanence par les autorités créatrices de droit et il revient au juge de rappeler ces dernières qu'elles ne peuvent s'en dispenser pour produire une norme.

Outsourcing Rulemaking Powers Cedric Jenart, 2022 Outsourcing Rulemaking Powers identifies the shared constitutional principles that determine the limits to the outsourcing of rulemaking powers. Through the examination of multiple countries this book argues that there should be minimal legal safeguards to which all rules must heed in particular those made by autonomous public or private actors.

L'exercice des compétences locales entre rationalisation et créativité Maylis Douence, 2018-11-06 En novembre 2017 1

Association française de droit des collectivités locales a tenu ses journées d'études annuelles à l'Université de Pau et des Pays de l'Adour Le thème choisi est au cœur des nombreuses lois de réforme des collectivités territoriales des dernières années loi de réforme des collectivités de 2010 loi MAPTAM de 2014 loi NOTRe de 2015 Le législateur y recherche une nouvelle voie de rationalisation des compétences locales au lieu d'essayer encore de démultiplier l'enchevêtrement des compétences locales il tente de jouer sur leurs modalités d'exercice Cependant cette volonté de rationalisation est parfois supplantée par la créativité des collectivités territoriales

Libre disponibilité des droits et conflits de lois Bénédicte Fauvarque-Cosson, 1996 **Fiches de Droit du numérique** Yvon Laurier Ngombé, 2024-01-16 30 fiches pour réviser tout le cours de Droit du numérique les définitions connaître les erreurs éviter les points essentiels retenir des exercices corrigés pour vérifier ses connaissances des repères bibliographiques pour aller plus loin 1 index

Revue de l'arbitrage, 1976 *Une possible histoire de la norme* Karim Benyekhlef, 2008 Journal des tribunaux, 1911 **La propriété publique** Philippe Yolka, 1997 LA THEORIE DE LA PROPRIETE PUBLIQUE EST FORMALISEE A LA FIN DU XIXIEME SIECLE MAYER HAURIOU ELLE DESIGNE COMME PROPRIETES PUBLIQUES LES BIENS SOUMIS A LA PROPRIETE DES PERSONNES PUBLIQUES ET AFFECTES A L'USAGE PUBLIC DEFINITION ORGANICO FONCTIONNELLE CETTE THEORIE EMPORTE DEUX CONSEQUENCES PRATIQUES LE PROPRIETAIRE PUBLIC DISPOSE DE POUVOIRS DE GESTION DOMANIALE QUI ONT LA PROPRIETE POUR UNIQUE FONDEMENT L'OCCUPANT DU DOMAINE PUBLIC PEUT BENEFICIER DE DROITS REELS ADMINISTRATIFS LES FAIBLESSES DE LA THEORIE CLASSIQUE ONT CONDUIT A REMETTRE EN CAUSE LE PRINCIPE D'UNE PROPRIETE PUBLIQUE AU PROFIT D'UNE CONCEPTION PUREMENT FONCTIONNELLE MAIS CETTE EVOLUTION SUSCITE LA RESERVE C'EST PLUTOT LA DISSOCIATION DE L'ELEMENT ORGANIQUE ET DE L'ELEMENT FONCTIONNEL QUI PERMET DE RESOUDRE LES DIFFICULTES SOULEVEES PAR L'APPROCHE CLASSIQUE IL S'AGIT D'EVOLUER VERS UNE PROPRIETE PUBLIQUE DEFINIE DE MANIERE ORGANIQUE DISTINCTE D'UNE DOMANIALITE PUBLIQUE RECENTREE AUTOUR DE LA NOTION D'AFFECTATION SE DESSINE AINSI UNE EVOLUTION DE LA PROPRIETE PUBLIQUE QUI NE CORRESPOND PLUS AU SEUL DOMAINE PUBLIC MAIS A L'ENSEMBLE DES BIENS PUBLICS UNE TELLE REDEFINITION MET EN LUMIERE UN SOCLE DE REGLES COMMUNES A CES BIENS

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