

Philippe Azouaou

**L'indisponibilité
des compétences
en droit public interne**

mare & martin

Droit public

Lindisponibilit Comptences Droit Public Interne

SJ Ball



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-à-dire comme une norme de droit positif qui fixe des interdits 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-à-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.

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'indisponibilité des compétences en droit public interne Philippe Azouaou, 2012 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.

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

fran aise de droit des collectivité s locales a tenu ses journe s d études annuelles l Universit de Pau et des Pays de l Adour Le th me choisi est au coeur des nombreuses lois de r forme des collectivité s territoriales des derni res ann es loi de r forme des collectivité s de 2010 loi MAPTAM de 2014 loi NOTRe de 2015 Le l gislateur y recherche une nouvelle voie de rationalisation des comp tences locales au lieu d essayer encore de d m ler l enchev trement des comp tences locales il tente de jouer sur leurs modalit s d exercice Cependant cette volont de rationalisation est parfois supplant e par la cr ativit des collectivité s 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 r viser tout le cours de Droit du num rique les d finitions conna tre les erreurs viter les points essentiels retenir des exercices corrig s pour v rifier ses connaissances des rep res bibliographiques pour aller plus loin 1 index

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Indisponibilités et théorie du droit Frédéric Planckeel,2004 La nature d institutions aussi confirm es que les clauses d inali nabilit ou l inali nabilit du domaine public demeure une nigme L incompatibilit des indisponibilit s avec les fondements traditionnels du droit des biens n y est pas trang re C est donc abstraction faite de la th orie du droit que peut tre induite une summa divisio alors que l indisponibilit r elle se rapporte directement au bien affect son

propriétaire même le gard des tiers l'indisponibilité subjective se contente de supprimer le pouvoir du propriétaire Ces deux modèles permettent non seulement de développer pour la première fois une théorie générale des indisponibilités mais encore de dévoiler l'essence des notions fondamentales de propriété de bien de capacité juridique de droit personnel et de droit réel Ces concepts s'avèrent même être au cœur d'un système logique et universel il transcende le système juridique tout en constituant sa substance technique spécifiée en fonction des principes propres chaque Etat Cette mise en quation du système juridique invite ainsi reconsidérer l'ensemble de nos concepts techniques et ouvre la voie une unification théorique des divers systèmes nationaux

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