

Christian Dahlman
Eveline Feteris *Editors*

Legal Argumentation Theory: Cross- Disciplinary Perspectives

Legal Argumentation Theory Cross Disciplinary Perspectives Legal Argumentation Theory Cross Disciplinary Perspectives

Frans H. van Eemeren, Bart Garssen



Legal Argumentation Theory Cross Disciplinary Perspectives Legal Argumentation Theory Cross Disciplinary Perspectives:

Legal Argumentation Theory: Cross-Disciplinary Perspectives Christian Dahlman, Eveline T. Feteris, 2012-09-12 This book offers its readers an overview of recent developments in the theory of legal argumentation written by representatives from various disciplines including argumentation theory philosophy of law logic and artificial intelligence It presents an overview of contributions representative of different academic and legal cultures and different continents and countries The book contains contributions on strategic maneuvering argumentum ad absurdum argumentum ad hominem consequentialist argumentation weighing and balancing the relation between legal argumentation and truth the distinction between the context of discovery and context of justification and the role of constitutive and regulative rules in legal argumentation It is based on a selection of papers that were presented in the special workshop on Legal Argumentation organized at the 25th IVR World Congress for Philosophy of Law and Social Philosophy held 15-20 August 2011 in Frankfurt Germany **Legal Argumentation Theory**, 2012-09-15 Fundamentals of Legal Argumentation Eveline T. Feteris, 2017-07-10 This book is an updated and revised edition of Fundamentals of Legal Argumentation published in 1999 It discusses new developments that have taken place in the past 15 years in research of legal argumentation legal justification and legal interpretation as well as the implications of these new developments for the theory of legal argumentation Almost every chapter has been revised and updated and the chapters include discussions of recent studies major additions on topical issues new perspectives and new developments in several theoretical areas Examples of these additions are discussions of recent developments in such areas as Habermas theory MacCormick's theory Alexy's theory Artificial Intelligence and law and the pragma dialectical theory of legal argumentation Furthermore it provides an extensive and systematic overview of approaches and studies of legal argumentation in the context of legal justification in various legal systems and countries that have been important for the development of research of legal argumentation The book contains a discussion of influential theories that conceive the law and legal justification as argumentative activity From different disciplinary and theoretical angles it addresses such topics as the institutional characteristics of the law and the relation between general standards for moral discussions and legal standards such as the Rule of Law It discusses patterns of legal justification in the context of different types of problems in the application of the law and it describes rules for rational legal discussions The combination of the sound basis of the first edition and the discussions of new developments make this new edition an up to date and comprehensive survey of the various theoretical influences which have informed the study of legal argumentation It discusses salient backgrounds to this field as well as major approaches and trends in the contemporary research It surveys the relevant theoretical factors both from various continental law traditions and common law countries **Language and Legal Judgments** Stanisław Goźdz-Roszkowski, 2024-02-06 Integrating research methods from linguistics with contemporary legal

argumentation theory this book highlights the complexities of legal justification by focusing on the role of value laden language in argument construction and use The combination of linguistic analysis and the pragma dialectic approach to legal argumentation yields a new way of perceiving and understanding the phenomenon of evaluation one that offers theoretical and practical gains Analyzing a vast corpus of judicial opinions from the US Supreme Court and Poland s Constitutional Tribunal the book paints a clear picture of complex linguistic choices made by judges to assess and support arguments in the justifications of their decisions The book will be of interest to scholars in Law Linguistics and Rhetoric as well as to judges and practicing lawyers engaged in the art of argumentation

Prototypical Argumentative Patterns Frans H. van Eemeren, 2017-08-14 Prototypical Argumentative Patterns reports about a research project started at the University of Amsterdam in 2012 In this project distinctive argumentative patterns have been identified in argumentative discourse in the political the legal and the medical domain These patterns consist of constellations of argumentative moves in which in order to deal with a particular kind of difference of opinion in defence of a particular type of standpoint a particular argument scheme or combination of argument schemes is used in a particular kind of argumentation structure The composition of these prototypical argumentative patterns can be explained by referring to the institutional characteristics of the communicative activity types in which they occur By exploring the relationship between argumentative discourse and the institutional context Frans van Eemeren Bart Garssen Corina Andone Eveline Feteris and Francisca Snoeck Henkemans have provided a new and illuminating perspective on the context dependency of argumentative discourse

Argument Types and Fallacies in Legal Argumentation Thomas Bustamante, Christian Dahlman, 2015-04-07 This book provides theoretical tools for evaluating the soundness of arguments in the context of legal argumentation It deals with a number of general argument types and their particular use in legal argumentation It provides detailed analyses of argument from authority argument ad hominem argument from ignorance slippery slope argument and other general argument types Each of these argument types can be used to construct arguments that are sound as well as arguments that are unsound To evaluate an argument correctly one must be able to distinguish the sound instances of a certain argument type from its unsound instances This book promotes the development of theoretical tools for this task

Between Text, Meaning and Legal Languages Jan Engberg, 2023-12-04 This collection on legal interpretation in a broad sense presents state of the art linguistic approaches that are applied for studying interpretation and meaning generation in various legal settings It covers different aspects of the concepts like judicial dissent court argumentation investigating sociological meaning or comparing legal meaning in comparative law Scholars can turn to the volume for methods and findings to ground their own inquiries and students will find guides to topics and methods in the field of law meaning generation and language

Scrutinizing Argumentation in Practice Frans H. van Eemeren, Bart Garssen, 2015-10-30 Scrutinizing Argumentation in Practice contains a selection of papers reflecting upon the use of argumentation in real life contexts The first five sections are devoted

to argumentation in a specific institutional context scientific controversies argumentation in politics argumentation in a legal context argumentation in education argumentation in an interpersonal context The last section deals with strategic maneuvering as a vital concept in studying argumentation in practice The contributors are Francesco Arcidiacono Michael J Baker Sarah Bigi Marina Bletsas Stephanie Breux William O Dailey Marianne Doury Claudio Duran Frans H van Eemeren Lindsay M Ellis Jeanne Fahnestock Eveline T Feteris Bart Garssen Anca G Salma I Ghanem Sara Greco Edward A Hinck Robert S Hinck Shelly S Hinck Henrike Jansen Takayuki Kato Susan L Kline Pascale Mansier Bert Meuffels Celine Miserez Caperos D Arcy Oaks Sachinidou Paraskevi Anne Nelly Perret Clermont H Jos Plug Takeshi Suzuki and David Zarefsky

Language Use, Education, and Professional Contexts Barbara Lewandowska-Tomaszczyk, Marcin

Trojszczak, 2022-04-06 This present book addresses language and its diverse forms in an array of professional and practical contexts Besides discussing the intricacies of specialized settings such as legal medical technical or corporate the collection also focuses on the role of education in relation to professional contexts ranging from challenges in professional university teaching and translation didactics to business environment requirements *Legal Meanings* Janet Giltrow, Frances

Olsen, Donato Mancini, 2021-09-07 This collection is about how law makes meaning and how meaning makes law Through clear methodology and substantial findings chapters expose the deficits of literal meaning and the difficulties in ordinary meaning in international legal contexts and in more immediate social ones as well as in courtrooms Further chapters in this volume see the challenges to national and international commitments to all speakers sharing a common meaning The Type Theory of Law Marko Novak, 2016-05-10 This volume presents a Type Theory of Law TTL claiming that this is a unique theory of law that stems from the philosophical understanding of Jung's psychological types applied to the phenomenon of law Furthermore the TTL claims to be a universal general and descriptive account of law To prove that the book first presents the fundamentals of Jungian psychological types as they had been invented by Jung and consequently developed further by his followers The next part of the book describes how the typological structure of an individual determines their understanding of law It then addresses the way in which inclusive legal theory can be understood based on this typology Finally the book describes the TTL in general and descriptive terms and puts it into context All in all the book shows how the integral or inclusive approach to understanding the nature of law is not only in tune with our time but also relevant for presenting a more persuasive picture of law than the older exclusivist or dualist approaches of strict natural law and rigid legal positivism did **A Discourse Perspective on Bunreacht na hÉireann** Davide Mazzi, 2020-08-11 Constitutions tell

us something about the shared values cherished by nations who adopt them By reason of their significance for the countries where they are in force constitutional texts may be approached from various perspectives including political science and legal theory In this book a different angle is taken on the matter As its object of study the Constitution of Ireland is investigated from a discourse perspective In particular the volume fields the following research questions Why has the

Constitution been such a key document for the Republic What was and is the impact of the Constitution on Irish public discourse at both a popular and a specialised level How was the Constitution represented and argued by the Irish press upon its enactment How has it entered the argumentation of Irish judges across the decades as they have been required to pronounce on the compatibility of proposed legislation with its norms By combining a wide range of analytical approaches the book establishes a workable integrated and highly flexible methodological framework for the study of the relationship between Ireland's founding charter and the country's public sphere *Modern Legal Interpretation* Marko Novak, Vojko Strahovnik, 2019-01-24 Legalism or legal formalism usually depicts judges as resolving cases by allegedly merely applying pre-existing legal rules They do not seem to legislate exercise discretion balance or pursue policies and they definitely do not look outside of conventional legal texts for guidance in deciding new cases For them the law is an autonomous domain of knowledge and technique What they follow are the maxims of clarity determinacy and coherence of law This perception of law and adjudication is sometimes designated as an orthodox lawyering However at least in certain cases it is very difficult to say that legalism is not an inappropriate theory or a method of legal interpretation Different theories have attested that legal interpretation is much more than just legalism which appears to be far too naïve In the framework of modern legal interpretation the following questions can be raised Is it possible to integrate legalism in a coherent theory of legal interpretation Is legalism as a distinctive theory of legal interpretation still a feasible theory of interpretation How can such a formalist approach withstand a critique from Dworkinian moral interpretivism or accusations of being a myth masking political preferences from legal realists These and many other issues about legal interpretation are discussed in this book by prominent legal philosophers and legal theorists Proof, Evidence and Hate Crime Tshepo Bogosi Mosaka, 2025-07-18 Proof is the property of a disputed fact being established inferentially from an extant fact This book explicates the structural components of this phenomenon in the context of hate crimes across various jurisdictions around the world It departs from the orthodox conception of evidence and proof as being a general value neutral or non-normative and epistemic subject and offers a relativistic conception of this area of law The core argument is that proof is both semantically and methodologically determined by three conditions of materiality process and probativity This argument is then justified by the context-specific application of this relativistic theory of proof to hate crimes This theoretical application of proof is sustained throughout the book using multiple examples and illustrations of hate crimes around the world The discussion both at the level of proof and hate crimes while focusing on the grounds of race religion and ethnicity specifically is framed in jurisprudential cross-jurisdictional and interdisciplinary terms The book will be of interest to academics and researchers working in the areas of criminal law legal philosophy and procedural law Statutory Interpretation Douglas Walton, Fabrizio Macagno, Giovanni Sartor, 2021-01-21 Combining pragmatics dialectics analytics and legal theory this work translates interpretative canons into patterns of natural argument *The Decision-Making Process of Investor-State Arbitration Tribunals* Mary Mitsi, 2018-12-28

In the course of a single investor state dispute an arbitrator may make numerous decisions from interpreting the treaty or national laws to taking into account case law customs and policies In practice this process raises important issues regarding the consistency of decisions and the predictability and legitimacy of the decision making process in general Investment arbitration tribunals have developed a specialised process of legal decision making adapted to the interpretational needs that arise in the context of an investor state dispute and to the transnational characteristics of the investment arbitration framework This is the first book to offer an in depth analysis of the transnational characteristics of investment arbitration and to analyse the interpretive arguments of investment tribunals and the way they use treaties precedent policies general principles of law and customary law in their decision making process Drawing on publicly available arbitral case law supplemented with personal interviews with investment arbitrators the author touches on such concepts and practices as the following an overview of various decision making genres of arbitral tribunals attitudinal economic strategic and legal the legal argumentation triptych of language rhetoric dialogue the specific language arbitrators have developed when interpreting the law how arbitrators use the concepts standards rules principles and rights the importance of the legal reasoning of arbitral awards and the role of rhetoric therein concepts of acceptability audience and legitimacy limitations of the public international law interpretive methodology enshrined in the Vienna Convention interpretation of precedents customary law general principles of law and policies the way national and international legal orders interact in the context of interpretation and how decision making is connected to the issues of predictability consistency and the rule of law The core of the book proposes a novel full edged dialogical network theory for analysing the interpretation process As an exemplary demonstration of developing theory to keep up with practice this unique book provides a deeply engaged means for enhancing the practice of international arbitration Its introduction of a new field of interdisciplinary analysis employing legal argumentation theories is sure to provide inestimable guidance for institutions and policymakers especially in light of recent proposals for the creation of a permanent investment arbitration court Given that unveiling the legal decision making process is critical for the well being of the whole dispute resolution procedure and that being aware of how arbitrators interpret the law can constitute a roadmap for counsel s arguments and approaches when dealing with cross border disputes the topic of this book is relevant for both academics and practitioners and its significance can only grow as recourse to investor state arbitration continues to expand

A Treatise of Legal Philosophy and General Jurisprudence Enrico Pattaro, Corrado Roversi, 2016-07-13 A Treatise of Legal Philosophy and General Jurisprudence is the first ever multivolume treatment of the issues in legal philosophy and general jurisprudence from both a theoretical and a historical perspective The work is aimed at jurists as well as legal and practical philosophers Edited by the renowned theorist Enrico Pattaro and his team this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal scholar at all levels The work is divided in two parts The theoretical part published in 2005 consisting of five volumes covers

the main topics of the contemporary debate the historical part consisting of six volumes Volumes 6-8 published in 2007 Volumes 9 and 10 published in 2009 Volume 11 published in 2011 and Volume 12 forthcoming in 2016 accounts for the development of legal thought from ancient Greek times through the twentieth century Volume 12 Legal Philosophy in the Twentieth Century The Civil Law World Volume 12 of A Treatise of Legal Philosophy and General Jurisprudence titled Legal Philosophy in the Twentieth Century The Civil Law World functions as a complement to Gerald Postema's volume 11 titled Legal Philosophy in the Twentieth Century The Common Law World and it offers the first comprehensive account of the complex development that legal philosophy has undergone in continental Europe and Latin America since 1900 In this volume leading international scholars from the different language areas making up the civil law world give an account of the way legal philosophy has evolved in these areas in the 20th century the outcome being an overall mosaic of civil law legal philosophy in this arc of time Further specialists in the field describe the development that legal philosophy has undergone in the 20th century by focusing on three of its main subjects namely legal positivism natural law theory and the theory of legal reasoning and discussing the different conceptions that have been put forward under these labels The layout of the volume is meant to frame historical analysis with a view to the contemporary theoretical debate thus completing the Treatise in keeping with its overall methodological aim namely that of combining history and theory as a necessary means by which to provide a comprehensive account of jurisprudential thinking

Coherence: Insights from Philosophy, Jurisprudence and Artificial Intelligence Michał Araszkiewicz, Jaromír Šavelka, 2013-04-05 This book is a thorough treatise concerned with coherence and its significance in legal reasoning The individual chapters present the topic from the general philosophical perspective the perspective of legal theory as well as the viewpoint of cognitive sciences and the research on artificial intelligence and law As it has turned out the interchange of knowledge among these disciplines is very fruitful for each of them providing mutual inspiration and increasing understanding of a given topic This book is a unique resource for anyone interested in the concept of coherence and the role it plays in reasoning As this book captures important contemporary issues concerning the ongoing discussion on coherence and law those interested in legal reasoning should find it particularly helpful By presenting such a broad scope of views and methods on approaching the issue of coherence we hope to promote the general interest in the topic as well as the academic research that centers around coherence and law

Dispute Resolution in Transnational Securities Transactions Tiago Andreotti, 2017-12-14 This book explores the transnational legal infrastructure for dispute resolution in transnational securities transactions It discusses the role of law and dispute resolution in securities transactions the types of disputes arising from them and the institutional and legal aspects of dispute resolution both generally and regarding aggregate litigation It illustrates different dispute resolution systems and aggregate litigation methods and examines the legal issues of dispute resolution arising from transnational securities transactions In addition the book proposes two systems of dispute resolution for transnational securities

transactions depending on the type of dispute collective redress through arbitration and a network of alternative dispute resolution systems *New Frontiers in Artificial Intelligence* Yasufumi Takama, Katsutoshi Yada, Ken Satoh, Sachiyo Arai, 2023-04-05 This book constitutes extended revised and selected papers from the JSAI annual conference JSAI 2022 and the 14th International Symposium on Artificial Intelligence JSAI isAI 2022 held in Kyoto Japan in June 2022 The 18 full papers were carefully selected from 67 submissions and presented during the two events 16th International Workshop on Juris informatics JURISIN 2022 and JSAI 2022 International Session This papers present discussion on fundamental and practical issues in Juris informatics among researchers from various backgrounds such as law social science information and intelligent technology logic and philosophy including the conventional AI and Law area

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