

Laurent Eck

L'abus de droit en droit constitutionnel

Préface de Thierry Debard

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Abus De Droit En Droit Constitutionnel

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Abus De Droit En Droit Constitutionnel:

L'abus de droit en droit constitutionnel Laurent Eck (juriste).),2006 Notion labor e il y a plus d'un siècle par la doctrine et la jurisprudence privatistes l'abus de droit a connu un important essor dans la plupart des disciplines et des systèmes juridiques Toutefois il n'a pas encore véritablement gagné le droit constitutionnel en apparence r tif son accueil De ce constat découlent les questions de l'existence et de la pertinence de cette notion au sein de cette branche du droit Ces interrogations supposent non seulement de dégager les traits particuliers que l'abus de droit est susceptible de présenter mais aussi d'envisager le rôle que ce dernier peut jouer dans la pratique et la théorie juridiques constitutionnelles En accordant une place au droit constitutionnel subjectif et en définissant rigoureusement l'abus il est possible de retenir cette qualification l'gard de nombreuses conduites se manifestant tant en droit institutionnel que dans le domaine des droits fondamentaux Notion h t rog ne et g om trie variable son efficacité contentieuse apparaît limitée malgré une incontestable autonomie comme moyen d'invalidation par rapport d'autres techniques telles que la fraude à la constitution la violation de la constitution les détournements de pouvoir et de procédure En outre l'interdiction de l'abus de droit se révèle être un principe immanent au système constitutionnel dont l'usage devant rester exceptionnel permet aussi bien d'assurer la correction du droit que de protéger certaines valeurs de la constitution notamment la juridisation des rapports politiques et la protection de la démocratie Ainsi peut être bauch e une th orie de l'abus de droit en droit constitutionnel Droit constitutionnel suisse Giorgio Malinverni, Michel Hottelier, Alexandre Flückiger, Maya Hertig, 2021-09-03 L'ouvrage présente une vue d'ensemble du droit constitutionnel suisse S'il se concentre sur le droit fédéral tel qu'il se dégage de la Constitution du 18 avril 1999 il ménage une large place au droit cantonal et prend systématiquement en compte la dimension internationale du droit constitutionnel dont l'importance ne cesse de croître Le second volume porte sur les droits fondamentaux Apr s une partie introductive qui distingue les trois grandes catégories de droits fondamentaux que connaît l'ordre constitutionnel suisse savoir les libertés les garanties de l'Etat de droit et les droits sociaux chaque liberté et chaque droit sont présentés en détail dans leur développement historique sur un fondement théorique et la lumière de la jurisprudence du Tribunal fédéral et de la Cour européenne des droits de l'homme Depuis la parution de la troisième édition de l'ouvrage en juin 2013 plusieurs changements sont intervenus dans l'ordre constitutionnel suisse Certaines révisions de la Constitution fédérale proposées ou acceptées par le peuple et les cantons concernent de manière directe le régime des droits fondamentaux Plusieurs lois ont subi des modifications substantielles Code pénal loi sur la nationalité loi sur les étrangers ou encore loi sur les pensions La jurisprudence aussi bien fédérale qu'européenne a considérablement voulu et enrichi le domaine des droits fondamentaux Entièrement revue et complétée cette quatrième édition du Droit constitutionnel suisse présente l'ensemble de ces innovations

L'abus de droit en droit constitutionnel Laurent Eck (jurist), 2011 The Equilibrium of Parliamentary Law-making Viktor Kazai, 2024-08-01 This book is a response to the dangers posed to constitutional democracy by the continuous growth

of executive power and the simultaneous decline of parliaments role in policy formation These phenomena are often manifested in the manipulation and even the violation of the rules of parliamentary law making called irregularities If left without consequences these irregularities can ultimately lead to the elimination of the procedural constraints imposed on the ruling political forces to prevent their arbitrary exercise of power This work investigates the constitutional significance of the irregularities of parliamentary law making and explores the role that courts play in the remedy of these flaws The analysis is premised on the concept of equilibrium This explanatory concept denotes an ideal state in which parliamentary law making complies with the requirements of constitutionalism and judicial review is conceptualized as a mechanism suitable to achieve this aim The volume places the judicial review of the regulation and the practice of parliamentary law making at its center and discusses all the relevant legal concepts institutions and doctrines It combines theoretical analysis with case law centered comparative research covering a large number of decisions delivered by apex courts operating in various jurisdictions Due to this methodological choice the book aims to simultaneously contribute to the scholarly discourse and provide useful information to practicing lawyers and policymakers working in the areas of constitutional law and politics and comparative law

A Comparative Look at Regulation of Corporate Tax Avoidance Karen B. Brown, 2011-12-09 This volume provides a fascinating look at the anti tax avoidance strategies employed by more than fifteen countries in eastern and western Europe Canada the Pacific Rim Asia Africa and the United States It surveys the similarities and differences in anti avoidance regimes and contains detailed chapters for each country surveying the moral and legal dimensions of the problem The proliferation of tax avoidance schemes in recent years signals the global dimensions of a problem presenting a serious challenge to the effective administration of tax laws Tax avoidance involves unacceptable manipulation of the law to obtain a tax advantage These transactions support wasteful behavior in which corporations enter into elaborate circuitous arrangements solely to minimize tax liability It frustrates the ability of governments to collect sufficient revenue to provide essential public goods and services Avoidance of duly enacted provisions or manipulation to secure tax benefits unintended by the legislature poses a threat to the effective operation of a free society for the benefit of a small group of members who seek the privilege of shifting their tax burden onto others merely to compete in the world of commerce In a world in which world treasuries struggle for the resources to battle terrorist threats and to secure a decent standard of living for constituents tax avoidance can bring economies close to the edge of sustainability As tax avoidance is one of the top concerns of most nations the importance of this work cannot be overstated

Droit constitutionnel. La Ve République Michel Clapié, 2025-09-02 Cet ouvrage appr hende la Ve r publique comme un ensemble de r gles de pratiques et d usages tablis pour gouverner parce que le gouvernement des hommes est d abord affaire de pouvoir et de volont pas de comp tences attribu es L ouvrage se divise en deux grandes parties l architecture du r gime autour des pouvoirs ex cutif et l gislatif puis la m tamorphose du r gime cons quence de la mutation du Conseil constitutionnel et d une alt ration de la logique des

institutions que heurte de plein fouet l'intégration européenne. Cet ouvrage s'adresse aux étudiants en Licence 1 de droit aux étudiants des écoles de commerce aux étudiants en IEP aux candidats aux concours administratifs

Etudes de droit constitutionnel hongrois Attila Rácz, 1987 *The Constitutional Dimension of Contract Law* Luca Siliquini-Cinelli, Andrew Hutchison, 2017-04-06 One of the hallmarks of the present era is the discourse surrounding Human Rights and the need for the law to recognise them. Various national and supranational human rights instruments have been developed and implemented in order to transition society away from atrocity and callousness toward a more just and inclusive future. In some countries this is done by means of an overarching constitution while in others international conventions or ordinary legislation hold sway. Contract law plays a pivotal role in this context. According to many this is done through the much debated civilising mission of the contract, a notion which itself constitutes the canon of the Western liberal principle of civilised economy. The movement away from the belief in the absolute freedom of contract which reached its zenith in the nineteenth century to the principles of fairness and justice that underpin contract law today is often deemed to be a testament to this civilising influence. Delving into the interplay between human rights policies, constitutional law and contract law from both theoretical and practical perspectives, this first volume of a two book collection offers a totally new reappraisal of the subject by gathering a collection of essays written by contract law scholars from Europe, South Africa, Canada and Australia. Instead of providing the reader with a sterile compilation of positivistic norms and policies on the impact of fundamental rights and constitutional law issues on contract law's development, the authors build on their personal experience to analyse specific topics related to contracting that include a constitutional dimension. The book fills an important void in comparative law scholarship and in so doing represents the starting point for further debate on the subject.

Citations juridiques en droit civil - Licence, Master Bertrand Sergues, 2023-12-22 Le recueil indispensable pour trouver la citation d'accroche dans un devoir de droit civil et faire la différence. Un ouvrage indispensable pour trouver une citation juridique en droit civil pour rédiger une phrase d'accroche pour illustrer un sujet. Ce livre référence plus de 800 citations classées en plus de 60 thématiques. Ces thématiques correspondent à la totalité des grandes notions développées en cours de droit civil : introduction au droit, droit de la famille, droit des personnes, droit des biens. Elles sont d'une aide très précieuse dans la rédaction des preuves écrites. Contrairement aux grandes citations du droit civil, est l'assurance d'aborder sereinement les examens universitaires.

Legitimate expectations in Luxembourg tax law Fatima Chaouche, 2019-06-25 This book is the result of a 4 year research project conducted at the Faculty of Law of the University of Luxembourg. It explores the legal value and enforceability of tax circulars and tax rulings in Luxembourg domestic law in light of the principle of legitimate expectations and related principles. After studying the historical roots of both interpretative acts, this research questions the level of protection taxpayers enjoy when relying on circulars and tax rulings and contains a review of decades of administrative case law to assess the judicial discourse on taxpayers' rights to certainty. This book further investigates the case of circulars and

tax rulings that contain interpretations of tax laws that are contrary to the law contra legem and builds upon the existing normative framework to introduce proposals addressing issues of uncertainty and inequality taxpayers are likely to suffer when relying on such interpretative acts Prix Pierre Pescatore de la Faculté de Droit de Luxembourg cole doctorale de droit

Bodily and Spiritual Hygiene in Medieval and Early Modern Literature Albrecht Classen, 2017-03-20 While most people today take hygiene and medicine for granted they both have had their own history We can gain deep insights into the pre modern world by studying its health care system its approaches to medicine and concept of hygiene Already the early Middle Ages witnessed great interest in bathing hot and cold swimming and good personal hygiene Medical activities grew over time but even early medieval monks were already great experts in treating the sick The contributions examine literary medical historical texts and images and probe the information we can glean from them The interdisciplinary approach of this volume makes it possible to view this large field in a complex and diversified manner taking into account both early medieval and early modern treatises on medicine water bathing and health Such a cultural historical perspective creates a most valuable bridge connecting literary and scientific documents under the umbrella of the history of mentality and history of everyday life The volume does not aim at idealizing the past but it definitely intends to deconstruct modern myths about the dirty and unhealthy Middle Ages and early modern age

The Court of Justice of the European Union and the Politics of Law Sabine Saurugger, Fabien Terpan, 2017-08-24 The Court of Justice of the European Union CJEU is one of the central institutions of the EU and has played a decisive role in European integration As one of the most powerful international courts at a time when political systems around the world are becoming more judicialized it is a key actor to understand in world affairs Yet it is not without controversy As both an interpreter of law and as a political power influencing policy making through its bold case law it has become increasingly criticized in recent years for its perceived activism and distance from the European people Combining the perspectives of a legal scholar and a political scientist this important new text gives a uniquely broad ranging account of the CJEU It introduces readers to the role and function of the Court and explains how it fits into the broader political system and historical evolution of the European Union It examines the constitutional contributions made by the Court and the part it plays in policy making in areas such as the environment gender equality and human rights Drawing on the latest research the book takes full account of recent changes to the place of the Court in the European political system and shows how new forms of governance such as the open method of coordination have had a significant impact on the role the Court is able to play

Traité théorique et pratique de la responsabilité civile délictuelle et contractuelle (1) Henri Mazeaud, Léon Mazeaud, 1938-01-01T00:00:00Z Cet ouvrage est une r dition num rique d un livre paru au XXe si cle d sormais indisponible dans son format d origine Le droit constitutionnel de la Belgique Oscar Orban, 1911 Les transformations de la responsabilité Léon Husson, 1947-01-01T00:00:00+01:00 Cet

ouvrage est une r dition num rique d un livre paru au XXe si cle d sormais indisponible dans son format d origine Peut-on

juger Poutine ? Mathilde Philip-Gay, 2023-05-10 Injustifiable au regard du droit international la guerre que mène Poutine contre l'Ukraine constitue la plus grande remise en question de l'ordre mondial depuis 1945 la tête des juristes universitaires et chercheurs français qui la suite de l'ancien Premier Ministre britannique Gordon Brown et du juriste Philippe Sands appellent la création d'un tribunal spécial pour juger les crimes d'agression contre l'Ukraine Mathilde Philip Gay raconte le combat actuellement mené pour juger les responsables du crime d'agression contre l'Ukraine Mais pourquoi juger le chef d'état russe alors que George Bush ne l'a pas fait pour la guerre en Irak Quelle sanction risque-t-il vraiment Vladimir Poutine peut-il être jugé par une juridiction internationale en Ukraine La Haye chappera-t-il au jugement par l'amnistie ou par une autre solution politique Mathilde Philip Gay montre qu'en laissant faire les dictateurs c'est toute la crédibilité l'efficacité et la légitimité du système juridique international qui se trouvent en danger Ne pas punir cette nouvelle agression c'est préparer les conflits mondiaux de demain accepter qu'il n'y ait alors plus aucun recours juridique c'est céder la loi de la guerre Il faut donc reposer les grands principes du droit international afin de juger ceux qui ont déclenché l'invasion de l'Ukraine et en premier lieu Poutine Mathilde Philip Gay est professeure des universités en droit public à l'Université Jean Moulin Lyon 3 vice-Présidente chargée de galit la cité et lutte contre toutes les discriminations

Criminalising Hate Speech Eric Heinze, 2024-12-31

Never in history have crises surrounding free speech raged with greater ferocity than we are witnessing today This is the world's first book to gather detailed country by country studies devoted entirely to the problem of hate speech spanning more than twenty nations The introductory chapter summarises various key concepts followed by a composite of the questions that were originally put to each of the Special Rapporteurs The chapters then provide the Rapporteurs detailed analyses of each country with several of the authors supplementing these with additional helpful insights In particular the abundance of case studies will help to dramatize the controversies that have been sparked by hateful expression in ways that continue to be relevant far beyond the borders of any one nation The chapters explain national legislation and case law tracking the challenges posed by growing extremism and social polarisation which is now more acute than ever before in our age of electronic media The authors also align these national developments with norms and procedures of leading international human rights bodies such as the UN Committee on Racial Discrimination the UN Human Rights Committee and the European Court of Human Rights This collection will be invaluable for beginners as no prior knowledge is required At the same time given the chapters depth and breadth it will supply a research tool for advanced scholars lecturers and researchers in the areas of free speech human rights comparative law criminal law constitutional law and political theory as well as media and communications studies Eric Heinze is Professor of Law and Humanities at Queen Mary University of London He is currently a Trustee of the London based Media Diversity Institute and recently served as General Rapporteur on the Criminalisation of Hate Speech for the Académie Internationale de Droit Comparé

Les élections municipales & politiques ... J. B. Daure, 1900

Die Haftung der Massenmedien, insbesondere der Presse, Gesellschaft für

Rechtsvergleichung. Fachgruppe für Zivilrechtsvergleichung, Gerald Dworkin, John G. Fleming, 1972
de Toulouse ,1910

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