



# **Théorie bidimensionnelle de l'argumentation juridique (Penser le droit t. 16) (French Edition)**

*Stefan Goltzberg*

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Depuis les années 1950 les théories de l'argumentation ont insisté sur le fait que le raisonnement juridique ne se réduisait pas à de la pure logique. Le syllogisme, la définition, le modus ponens ne suffisaient décidément plus à dessiner le contour des arguments. De strictement logique, la théorie de l'argumentation est devenue, ou redevenue, topique : tous les arguments sont perçus comme pouvant être défauts.

Le présent ouvrage réagit contre ce qui est devenu un réductionnisme topique, selon lequel tout argument est susceptible d'être réfuté par une objection. À cette fin, est élaborée une théorie de l'argumentation bidimensionnelle qui identifie l'orientation et la force comme dimensions constitutives de l'argument et qui rend compte de deux types d'objections : celles qui sont réhabilitatoires et celles qui, paradoxalement, renforcent la thèse qu'elles sont censées renverser.

L'approche qui est proposée fait la part belle aux marqueurs de l'argumentation : mais, malgré, même si, sauf si, du moins, au moins, etc. Ceux-ci permettent à l'auteur d'exposer la présomption et l'argument a fortiori selon un traitement novateur, qui fait le pont entre la philosophie, la linguistique et la pratique des juristes. Pour attester de la pertinence empirique de la théorie, plusieurs cultures juridiques sont convoquées et, le cas échéant, confrontées : le droit continental, le droit anglo-saxon, le droit talmudique.

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