

Faculty of Law



DROI2301 Legal Theory

[30h+15h exercises] 4.5 credits

This course is taught in the 1st semester

Teacher(s): Olivier De Schutter
Language: French
Level: Second cycle

Aims

This course seeks to encourage critical reflection on the law, and more precisely on the function of the law in a free market society based on the exercise of individual freedom (freedom to conduct a business, freedom of contract, personal autonomy). The theme of the course is therefore the relationship between freedom and security, and between the general interest and the self-determination of the individual.

Main themes

This course proposes a general reflection on the law. It focuses on the classical questions of legal theory, such as the ethical foundation of legal norms and the sources of legal obligation (the question of values in the law, the obligation to obey the law, etc.), questions of legal interpretation (relationship between legal theory and theory of language), and the question of the definition of legal concepts. The course is based on lectures and, wherever possible, other teaching methods requiring more active participation by students, including the organisation of discussions in sub-groups on certain specific topics.

Content and teaching methods

The course takes the form of an oral presentation combined with classroom discussions. A documentation file is made available to students if they wish to complete or verify the notes taken in class.

The course is based on the homology which exists between the current debates on the need to better regulate globalisation and market mechanisms, and older debates which accompanied the emergence of political and economic liberalism. Emphasis is on the role of the judge in preserving the autonomy of the sphere of the market, and the way this question has been discussed in American legal thought.

The focus is on the links between legal reasoning and economic analysis: the hypothesis of the course is that the preservation of the autonomy of the market against interference by the State is based on an idealised representation of the economic relationship and, therefore, of the conditions under which contractual freedom is being exercised.

Other credits in programs

ISP20 Licence à durée réduite en philosophie (4.5 credits)