

TABLE OF CONTENTS

	P R E F A C E	VII
	T A B L E O F C O N T E N T S	XI
I	I N T R O D U C T I O N	1
	1. Internal and External Viewpoint	3
	2. The Problem of Knowledge in Legal Reasoning. Preliminary Comments	11
	3. The Three Traditions within the Theory of Law	25
	3.1. Some General Remarks	25
	3.2. On the Natural Law Tradition	27
	3.3. On Legal Positivism as a Background Theory of Legal Thinking	29
	3.4. On Empiricism	33
II	O N J U D I C I A L D E C I S I O N - M A K I N G	41
	1. Three Approaches to Decision-Making	43
	2. On the Justification of the Decision	53
	2.1. Logical-deductive Justification	53
	2.1.1. On the So-called Isomorphism	53
	2.1.2. A Closer Evaluation of the Syllogism Theory ..	60
	2.1.2.1. On the Concept of Gap	60
	2.1.2.2. On the Establishment of the Relation- ship between the Factual Statement and the Description of the Facts	63
	2.2. Justification of Decisions by Means of Analogy	70
	2.3. The Problem of Legal Induction	78
	2.4. On Argumentation	85
	2.5. Axiological Questions	113

2.6. On the Importance of Social Knowledge for Juridical Decision-Making	122
2.7. Final Remarks.....	129
3. On the Understanding and Explanation of the Behaviour of the Judge	134
3.1. Introduction	134
3.2. Knowledge and Human Behaviour	139
3.3. On the Relationship Between Intentionality and Following the Rule	145
3.4. An Outline of the Theory of Action	147
3.5. On the Validity of Practical Reasoning	157
3.6. On the Assumption of Necessity in Practical Reasoning	160
3.7. The Application of the Theory of Action to Judicial Decision-Making	163
3.7.1. Is a Judicial Decision an Act? Preliminary Linguistic Analysis	163
3.7.2. An Analysis of the Decision by Means of the Theory of Action.....	166
3.8. Supplementary Remarks	169
3.9. On the Covering Range of Practical Reasoning	175
3.9.1. Institutionalized Behaviour	175
3.9.2. Explanations Provided by Legal Systematics ..	183
3.9.3. A Summarizing Survey	189
3.10. On the Significance of the Theory of Action in the Study of Society	198
3.10.1. Introductory Remarks	198
3.10.2. On the Limitations in the Application of the Theory of Action — A Specification	205
3.10.3. How to Take Social Dependencies into Consideration in Explaining Behaviour?	208
3.10.4. Practical Reasoning as a Model of Explaining the Action of Organizations	211
3.10.5. Summary	219
III ON LEGAL DOGMATICS	225
1. A Clarification of the Starting Point. The Relationship Between Legal Theory and Legal Dogmatics	227
2. Clarification of the Object of Study	230
3. On Predictions in Legal Science	235
3.1. General Remarks	235
3.2. The Specific Nature of Juridical Predictions	237

3.3. Examination of Alf Ross's views	243
3.4. On Predicting Acts	246
3.4.1. Prediction in Cases where the Content of the Applicable Legal Provision is Known	247
3.4.2. The Purport of the Text of Law is not Precisely Known	248
3.4.2.1. The Cases of Imprecision	249
3.4.2.2. The Cases of Ambiguity	250
a. There is Only One Previous Decision .	251
b. There are Two or More Previous Decisions	256
c. Predictions that Cannot be Based on Earlier Judicial Decisions	260
3.4.3. Final Remarks	262
4. Legal Dogmatics	266
4.1. The Systematizing Task of Legal Dogmatics	266
4.1.1. General Remarks	266
4.1.2. A Reformulation of the System. Discussion of Systematization in the Light of an Example .	270
4.1.3. On the Relationship Between Systematization and Its Object	276
4.2. On Determining the Content of Legal Regulations ..	282
4.2.1. General Remarks	282
4.2.2. The Propositions Clarifying the Content of the Legal Regulation	285
4.2.2.1. An Elementary Case	285
4.2.2.2. Descriptive Interpretation of Law	285
4.2.2.3. The Formulation of the System	287
a. Clarification of the Basic Concepts ..	287
b. How the Starting Points of System For- mulation are Determined?	292
c. The Technical Norm as the Basic Sen- tence of System Formulation	304
(1) Clarification of the Starting Point .	304
(2) Secondary Technical Norms	307
(3) Primary Technical Norms	308
d. Non-Descriptive, i.e. Ordinary Interpre- tation Sentences	312
REFERENCES	323
ABBREVIATIONS	339
BIBLIOGRAPHY	341
INDEX	351