

THE PRINCIPLES OF LAW AS SEEN THROUGH THE LENS OF THE GENERAL THEORY OF LAW

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ABSTRACT: *All the remarks regarding the ambiguities existing in the field of the General Theory of Law lead us inevitably to the principles of law, others than the principles intended by one lawmaker or another, a generator of substantive law. Or, the approach of the principles of law overcomes the powers of the General Theory of Law, as they have to be rationally grounded, not postulated or announced as being this or that way.*

From the beginning of the paper, we wonder and we want to clarify if there are more types of principles – mandatory, rules or creations – because, this is what the doctrinarians claim. Also, we want to clarify if there are more types of principles like, fundamental principles, general principles, secondary or particular principles. Because, this is what some doctrinarians claim also. We think that it is strange to call them principles because this is what a lawmaker, a judge or a doctrinarian considered.

Another issue that is subject of the analysis is that on the quality of the source of law attributed to the principles of law.

In this paper we will try to distinguish between the principle and the law, and between a principle in law, a principle of law, a principle of positive law and what is a material or formal legal principle.

We consider that these are questions to which we should give an answer with epistemological and pragmatic value.

KEYWORDS: *principles of law; theory of law; positive right; rules, lawmaker.*

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