

Explicating the Concept of Legal Competence

Torben Spaak

1 Introduction

In everyday language the term ‘competence’ can mean *proficiency* or *authority*. A person can be a competent decision maker in the sense that as a rule he makes good and right decisions, but he can also be competent in the sense that he has the authority to make certain kinds of decision. My concern here is with competence in the sense of authority.¹ The concept of legal competence, thus conceived, is a normative concept, in the sense that a person has competence by virtue of a norm, and that the exercise of competence changes a person’s normative position.

In this article, I argue (i) that we need a concept of legal competence to be able to discuss questions of legal validity and invalidity in a clear and fruitful way. I also defend an explication of the competence concept, according to which (ii) a person, *p*, *has* the competence in regard to a legal position, *LP*, if, and only if, there is an action, *α*, and a situation, *S*, such that if *p* in *S* performs *α*, and thus goes about it in the right way, *p* will, through *α*, change *LP*; and (iii) *p exercises* his competence by performing a special type of act, which is such that it depends for its legal effect on having been performed with the (actual or imputed) intent to bring about the said effect. In addition, I argue (iv) that we should distinguish (a) between autonomous and heteronomous competence, and (b) between norm-creating and regulative competence.

I begin with a few words about concepts and the explication of concepts in general (Sections 2 and 3). I then turn to consider the concept of legal competence, beginning with a look at what some distinguished legal scholars have said about this concept (Section 4), and proceeding to consider a difficulty in their (and mine) understanding of the concept that arises when the concept is applied to the

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¹ I use, as the reader will have noticed, the term ‘legal competence’ and not the term ‘legal power’ to designate the concept in question, and in doing so I follow what might be called a Scandinavian, perhaps even a European, tradition within the philosophy of law. See Lars Lindahl, *Position and Change* (Dordrecht 1977) 194.

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The Concept of Legal Competence Torben Spaak,1994 Explains the concept of legal competence or power This book then discusses the analysis and definition of legal concepts in general the relation between the concept of competence and in validity what it means to exercise competence different types of competence and competence norms **EBOOK: Crafting and Executing Strategy: The Quest for Competitive Advantage: Concepts and Cases** Arthur Thompson,Alex Janes,Margaret Peteraf,Ciara Sutton,John Gamble,A. Strickland,2013-02-16 Crafting and Executing Strategy has been revised and updated specifically with its European readers in mind Building upon the success of previous editions it continues to explain the core concepts and key theories in strategy and illustrate them with practical managerial examples students can really relate to Brand new features have been developed to encourage readers to go beyond learning and to apply their knowledge to from a diverse range of real life scenarios including global brands SMEs public sector and not for profit organizations **Strategic Management of International E-Commerce Firms** Marius Müller,2025-09-30 In this book Marius M ller explores the distinct virtual and physical internationalization strategies of today s leading international e commerce firms By revealing previously unknown determinants of e commerce firms online geographic scope foreign direct investments and international performance he contributes novel insights into how these digital firms successfully coordinate their virtual and physical presence across borders Finally he highlights the complex interplay between these international strategies and dynamic host country factors *Fundamentals of Marketing* Paul Baines,Sophie Whitehouse,Sara Rosengren,Paolo Antonetti,2020-12-29 Based on the bestselling Marketing by Baines Fill Rosengren and Antonetti Fundamentals of Marketing is the most relevant concise guide to marketing combining the most essential theories with a global range of practitioner insights *Bulletin de L'Association Canadienne Pour Les Études Du Folklore* Folklore Studies Association of Canada,2007 **Business Periodicals Index** ,2004 *Psychology and the Legal System with Infotrac* Wrightsman,Nietzel,William H. Fortune,1998 This engrossing text examines the legal system through the use of psychological concepts methods and research results It seeks to clarify the basic dilemmas that persist in the legal system and looks at the ethical moral legal and psychological gray areas of the law including coverage of such topics as competence to stand trial pretrial publicity and resulting changes in venue criminal profiling civil case law and civil procedures the rights of children capital punishment the psychology of criminal trials the insanity defense expert forensic testimony and analysis of eyewitness identification and lineup procedures This thoroughly updated edition balances discussion of the legal system with psychological theory concepts and research This edition includes compelling new coverage of many topics research issues and recent trials

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