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# FALLACIES IN LEGAL REASONING

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**ABSTRACT**

Towards the end of his sociology of law, Max Weber says about the legal layman, whose legal thinking is 'word-bound': 'He tends above all to become a word-rabulist when he believes he is arguing "juristically". In addition, it is natural for him to draw conclusions from the individual to the individual: the legal abstraction of the 'expert' is far removed from him." Such patronising legal arrogance seems to spring only from the pen of a habilitated lawyer. In fact, the lay approach described in this way appears approach described above all appears to be a manifestation of a deep-rooted mistrust of specialised legal argumentation and a defiant reaction against it. The understandable defence reaction to what is perceived as a hair-splitting interpretation can easily lead to a lay imitation of a supposedly legal approach. Added to this is a technical jargon that is only seemingly accessible, which resembles everyday language in the absence of a meta-language of jurisprudence, without necessarily being synonymous with it. Weber's observation, especially from the lawyer's point of view, is not without a certain plausibility in terms of everyday theory. Speaking of the logic of law, it would be useful to list the traps of 'fallacy' into which jurists frequently fall, together with examples.

**Keywords:** Logical Rationality, fallacy, methodology.

**INTRODUCTION**

The doctrine of syllogistic conclusions goes back to *Aristotle* (Aristotle, 2007). A *syllogism* is a logical conclusion in which a *conclusion* follows from two *premises* (*praemissa maior* and *praemissa minor*). Both the premises and the conclusion have the structure of (logical) judgements. A classic *example in terms of* form is given below in relation to a legal context, for which it is assumed that the offence of robbery simultaneously realises the offence of theft, but not vice versa in general on the connection between the class logic used there and syllogistics. *Praemissa maior: All robbers are thieves Praemissa minor: Some murderers are robbers Conclusio:Some murderers are thieves.*

Within the three sentences used above, the structure of the respective judgement can now be formalised by identifying two *predicates* (robber or thief; murderer or robber; murderer or thief) in each judgement and distinguishing the *form of the judgement* in which the two predicates are used.

**METHODOLOGICAL AND LOGICAL RATIONALITY**

It is that which can represent the "highest degree of methodological-logical rationality " and thus set the standard for that which legal methodology also presupposes. First of all, this is the application of the legal principle to the actual facts, i.e. to what is conventionally referred to as "subsumption",from which a legal consequence can be derived, "by means of legal logic". In Karl Engisch's words, the legal proposition and the facts of the case thus experience a "constant interaction, a shifting of the gaze back and forth between the superset and the facts of life”(Engisch, 1963).

Luhmann also takes up this topos in a description that is quite reminiscent of Weber: "By dogmatising the subject matter of law - and that means first of all: by working through it conceptually and classically - it is achieved that the often-described wandering back and forth of the gaze between norms and facts does not remain without guidance, is not only committed to the decision-making situation, but also to the legal system and does not spiral out of the legal order. "(Luhmann, 1974).

This, too, ultimately corresponds to the syllogistic procedure, in the context of which the facts of the case are subsumed to the law, i.e., in Weber's words, to the legal proposition, in such a way or made manageable accordingly through mediating deduction that the concrete legal decision can be made without interruption, i.e., without introducing further premises or inadmissible ad hoc hypotheses, but under circumstances of exceptions confirming the rule,. This procedure also prevents the erroneous conclusion that Weber, as stated at the beginning, considers appropriate for the layman, namely that conclusions are drawn from the individual to the individual.

This is linked to a widespread method of argumentation, the method of which - if one can speak of it at all - Weber characterises as follows and which differs only in the circle of recipients: "The methodology of journalistic theorists has always proceeded and continues to proceed today to a large extent in such a way: that as a

consequence of a contested legal construction, it points out practically absurd consequences of the same and thus considers them to have been proven. " This procedure is similar to that of jurisprudence.

It is an argument ad absurdum, as is known in methodological theory. I t i s a permissible argument in principle, insofar as it is able to show that a specific method of interpretation leads to unacceptable consequences and thus appeals to an unspoken consensus. Its force and legitimacy therefore depends not only on the fact that the result found is unacceptable in terms of evaluation, but also that all possible interpretations have really been exhaustively analysed. The situation is similar on a rhetorical-hermeneutical level, for example, insofar as it is not a matter of a law, but an interpretation of it that is perceived as absurd or an interpretative view, so that the problem can indirectly touch on the question of the falsification of legal theories. It is therefore in line with the requirement of intellectual honesty that a particularly absurd reading is not manipulatively singled out from the outset, as Weber insinuates using the example of journalistic theorists.(Bydlinski, 1995).

Thus, conclusions must be drawn from the general to the individual, which paradoxically implies that the general is considered from the individual. The latter is also important in legal work when it comes to securing individual case decisions by binding them back to principles.(Popper, 1994).

This background also explains the preceding paradox: "What is the general? The individual case. What is the particular? Millions of cases. " Incidentally, the intervening reflection illustrates that, contrary to first appearances, Weber could not have been condescendingly referring to the underdeveloped mind of the legal layman with the dictum quoted at the beginning, but rather that he was concerned with a lack of legal technicality, which recognises the general in the individual in a methodical logical procedure, i.e. rationally, because it proceeds according to principle. Paradoxically, this is also shown by the negative reversal into the irrational, as it were, which appears as an exuberant consequence of the rational: "All, including and especially the irrationalist varieties of turning away from the purely logical legal system developed in common law science are, on the other hand, also consequences of the self-exuberant scientific rationalisation and unconditional self-reflection of the legal system.

This surprising turn of events echoes the conclusion of the lecture "Science as a profession": "Anyone who cannot bear this fate of the times in a manly way must be told: he had better return, silently, without the usual renegade advertising, but simply and simply, to the wide, mercifully open arms of the old churches. They don't make it difficult for him. Somehow he has to make the 'sacrifice of the intellect' - that is unavoidable - one way or another. " The fact that Weber m a d e this statement in Economy and Society shortly before the passage on natural law just discussed speaks in favour of this connection: "A religiously bound natural law of the (Catholic) dogmatists offers itself as a substitute, as does the attempt to gain objective standards from the 'essence' of law. " Against this background, it is interesting to note Joseph Ratzinger's observation, which seems to respond to Weber: "Both in antiquity and the Middle Ages, as well as in the contrasts of modern times, the doctrine of the state appealed to natural law, which can recognise the recta ratio. But today this recta ratio no longer seems to respond, and

natural law is no longer regarded as the only thing that can be recognised, but rather as a special Catholic doctrine. This signifies a crisis of political reason, which is a crisis of politics as such. " This already anticipates Weber's view of natural law, which will be discussed below.(Weber, 1922).

It is also important that Weber thinks in terms of entitlements and authorisations when dealing with subjective rights, which for him are "sources of power": "This legally guaranteed and limited power over their actions corresponds sociologically to the expectations: 1. that others will do something specific or 2. that they will leave something specific undone - the two forms of 'entitlements' - or 3. that one may do something oneself without interference from third parties or leave something undone at will: 'authorisations'.

If these insights and postulates are applied to what is perhaps the most practical area of legal methodology, namely legal education, in which all those in this country have always been and will be taught, including in Weber's time.

If we look at those who go from being laymen to lawyers, we see a peculiarity that is only surprising at first glance: What Weber treats and presupposes with the appropriate abstraction is basically nothing other than what legal training trains and depicts in expert opinion. So that lawyers do not just "parley" about legal problems, but can solve them concretely, so that they do not just talk about things, as it were, but about things, the strict method of expert opinion, which follows the laws of "legal logic",is not only sensible, it is required. It is then - quite in the sense of what has been discussed so far - the representation of the inner system of the private law order, because it represents its inner consistency and lack of contradictions and thus ensures what Weber assigns to the systematic task, namely, in Weber's words quoted at the beginning, "to combine and rationalise the individual recognised rules of law by means of logic into a coherence of abstract legal propositions without contradictions".

## SPECIFIC LEGAL CONCLUSIONS AND THE RISK OF FALSE CONCLUSIONS

### *Argumentum A Fortiori*

In legal contexts, the *argumentum a fortiori*, also known as the "first right conclusion", is often used. As its name implies, this argument is based on a"stronger" (fortior) statement to a "weaker" statement. So if for example, is argued as follows: A justified aggressive emergency intervention leads to a liability for damages on the part of the beneficiary of the encroachment. If this is the case, then in the event of an encroachment in the case of a (through no fault of one's own) erroneously imagined emergency situation, such an obligation to pay damages must exist *all the more. - It remains* to be seen whether this obligation to pay damages really exists or should exist. What is important is the structure of the argument as a first-right argument. All lawful encroachments on property in a state of aggression oblige the owner to pay compensation. *All property encroachments carried out in a supposed state of aggression are (at least objectively) unlawful. All encroachments on property carried out only in an alleged state of aggression oblige ("all the more") to pay damages.*

In order for this to become a valid conclusion, at least one further premise is required, which could be that, from the perspective of the victim of the intervention, it is irrelevant whether the intervention was unlawful or lawful, and that if the victim of the intervention could even have prevented the intervention (unlawful intervention), the right to damages must be stronger than if the victim of the intervention should not have prevented the intervention (lawful intervention). Once this (additional) premise has been established, the conclusion is valid and can be summarised as follows:

*All lawful interventions in property in a state of aggressive emergency are liable for damages. All property encroachments carried out only in a supposed state of aggression are (at least objectively) unlawful. All unlawful interventions justify the claim for damages even better than lawful interventions. So All encroachments on property carried out only in an alleged state of aggression oblige ("all the more") to pay damages.*

***The Analogy - Argumentum A Simile***

While the *argumentum a fortiori* discussed above infers the "stronger" from the "weaker", the *argumentum a simile infers the "similar"* (a simile) from the one "similar" to the other. - A special case that will not be discussed further here is the *argumentum a pari*, in which a conclusion is drawn from the "same"(Herberger & Simon, 1980).

Such a "similarity conclusion" is referred to by lawyers as a *conclusion by analogy*. It is characterised by the fact that a legal regulation (or legal consequence) that is found in the law is transferred to another similar (analogous) situation that is not regulated by law. An example of this would be the analogous application of the provision on emergency excess to cases in which the offender is in a defensive emergency situation (so-called defensive emergency excess).

The following case is an *example* of a defensive emergency excess: A is attacked by the bloodhound B, which threatens to bite him on the leg. A is so frightened that he shoots the dog with a pistol he is carrying, although - as A also recognises - it would have been perfectly sufficient to fire a "warning shot" to make the dog flee. - In this case, Criminal Code is in any case not *directly* applicable because criminal law requires the (objective) existence of an *emergency situation,* which is not given in the case of an "attack" by a dog according to the prevailing opinion. However, A exceeds the limits of the necessity of defence against danger, as he does not use the mildest means available to him to avert danger ("warning shot"). Therefore, A is *not* justified according to Civil Code. The only possibility would be to exonerate A under the aspect of defensive necessity, because he is at least affected by the so-called asthenic affect of fear.

As the legislator has not provided a specific regulation for the defensive necessity offence, the question arises as to whether Criminal Code can be applied by analogy. An analogy requires an "unintended regulatory gap" that can be filled on the basis of a "general legal concept". The legal considerations that can lead to an analogy are therefore complex. With reference to the example, it could be argued that defensive emergency situations and

self-defence situations are similar with regard to the threat to the interests of the endangered person and that, in the presence of asthenic affects in both situations, it appears understandable (excusable) that the endangered person goes beyond the limits of the necessity of averting danger. Furthermore, it could be argued that, against this background, it would be unconvincing if the defensive emergency excess were not also exonerated (in the presence of an asthenic affect) ("unlawfulness of the loophole"). Finally, the The "general legal principle" states that in an exceptional psychological situation of the offender (in particular in the case of considerable danger to him or his legal assets), which hinders him to a relevant extent in his freedom to decide on lawful behaviour, the transgression of legal limits may be exonerated.

Once you have successfully gone through all these argumentation steps, which already constitute the essential elements of the analogy, the actual analogy can be reconstructed relatively easily: *Any excess in an emergency situation should (in the presence of anasthenic affect) be excused in the same way as an emergency excess. Every defensive emergency excess is an excess in an emergency situation. Every defensive emergency excess should be excused in the same wayas an emergency defence excess.*

As you can easily see, the conclusion is valid. However, the decisive factor is that the legally relevant question has already been "resolved" before the two premises of this conclusion can be formulated. The decisive factor was the discovery of the "general legal idea" hidden in Criminal Code (and other provisions), as it is summarised in the first premise. However, this premise reconstruction is not a compelling *logical* conclusion, since here (as it were *inductively*) from the specific (individual cases of the emergency situation excess) to the general is "concluded", while only the reverse (i.e. the *deductive* conclusion) would be logically compelling.(Wittmann, 1978).

The second premise rather reflects the result of a valid logical conclusion (assuming that "emergency situation" is the generic term for defensive emergency situation, self-defence situation, etc.).

Ultimately, the same applies to the analogical conclusion as to the first-law conclusion: reconstruction as a logical conclusion cannot relieve us of the actual legal work that has to be done. But reconstruction has the advantage of making it very clear which premises have to be justified before an analogical inference can be considered. This is rightly emphasised by Herberger and Simon (Herberger & Simon, 1980), who also suggest another way of formalising the analogy, but which poses the same problems as here.

***The Reverse Conclusion - Argumentum E Contrario***

The so-called reverse conclusion is in some respects a (contrary) counterpart to the analogous conclusion. To return once again to the *example* of the defensive necessity offence used in the previous section: In the legal assessment of these cases, it would also be conceivable to draw the (reverse) conclusion from the fact that the law *does not* regulate the case of defensive necessity excess that an excuse for defensive necessity excess is therefore also out of the question. However, one cannot simply put forward the thesis that in legal situations

such as the one described, analogy and reverse inference are always to a certain extent on an equal footing. Herberger and Simon (Herberger and Simon, 1980) also argue against this misinterpretation; see also Schnapp (Schnapp, 2016), who correctly points out that it is also possible that both types of inference are inapplicable. Although both types of conclusions are up for debate in such situations, the persuasive power of the reverse conclusion immediately loses ground if a "general legal idea" is found which - in relation to the above example - makes the cases of the emergency defence and the defensive emergency defence appear *similar* (analogous) in a legally relevant respect. It must then be possible to derive strong arguments, for example from the legislative history, in order to dismiss an analogy out of hand.

Once the general legal idea has been formulated and recognised as a valid legal proposition, it is possible to draw conclusions from the general to the particular; the reverse conclusion has thus become, if not refuted, at least very implausible for this example. On proposals to formalise the reverse conclusion, see for example Klug (Klug, 1982).

**FALSE CONCLUSIONS**

While the legal yield in the reconstruction of the forms of argumentation described above is rather low and is essentially limited to clearly highlighting the need to justify the premises used in each case, the avoidance of so-called *false conclusions* (also called "paralogisms" when used unintentionally) is also at the centre of practical legal interest. In particular, there is agreement that a "Violation of the law of reasoning" makes a judgement contestable and it can be overturned, for example, by means of an appeal on points of law. For criminal proceedings, Section 337 of the German Code of Criminal Procedure states: "(1) The appeal on points of law may only be based on the fact that the judgement is based on a violation of the law. (2) The law has been violated if a legal norm has not been applied or has not been applied correctly."

If the judge violates logical laws in his judgement, a law within the meaning of paragraph (1) of Section 337 of the Code of Criminal Procedure has not yet been directly violated, because this obviously only refers to the *legal laws* ("of the law"), but not logical laws. However, the judge violates the requirement derived from paragraph (2) of section 337 of the Code of Criminal Procedure to apply the law *correctly.* Such a "correct application of the law" is not even possible if, for example, the reasoning of a decision is contradictory (at best, if the *reasoning of* a decision is contradictory, one may still discuss whether the violation of the law is also based on this, provided that a correct application of the law with the *same* result would also have been possible without the contradiction in the reasons for the decision). At the very least, this shows that the lawyer must also avoid violating logical rules, or as it is often called in this context: the "violation of laws of reasoning", as far as possible in order to avoid being criticised for the worthlessness of his legal reasoning.

However, the manifestations of possible false conclusions are very diverse and cannot be described conclusively. in each case with further references and many additional examples from case law. Therefore, only the (probably) most important types of erroneous conclusions are summarised here. For details, see Klug (Klug, 1982).

***The Contradiction Of Premises***

If the premises of a conclusion already contradict each other, the result of the conclusion cannot be regarded as convincing. From a purely logical point of view, there is no objection to a conclusion based on a contradictory set of premises. For the well-known rule applies: "ex contradictione quodlibet", i.e. anything can be deduced from a contradiction. At the same time, however, the combination of premises does not constitute a *convincing* argument for the conclusion, which is claimed to be the correct conclusion, while the contradiction within the premises would also allow for *any other* conclusion.

From the abundance of examples cited in the relevant literature, only the following is reproduced here: "A case of a logical contradiction in sentencing is dealt with by BGH: In the judgement of a jury court to be reviewed by the Federal Court of Justice, the crude execution of the crime and the considerable criminal energy of the accused had been assessed as increasing guilt in the sentencing. At the same time, the court had established the epileptoid nature of the accused as the cause of his offence - manslaughter - and rejected a charge of guilt for his abnormal state of mind. The Federal Court of Justice rightly saw a contradiction in the fact that the jury court took into account as increasing the punishment those circumstances which were the consequence of the offender's involuntary mental state, which led to the sentence being overturned"(Klug, 1982).

***The Lack Of Premises***

Conclusions are often drawn from some premises stated in a judgement that would actually require one (or more) *further* premise(s) and their justification. Here one can speak of a *lack of premises*, the consequence of which can be seen in the fact that the conclusion drawn is not adequately justified. Klug (Klug, 1982), for example, reports on a case in which the judgement of the court *of* first instance, which was overturned by the *BGH,* had used the fact that the defendant had noted in a letter that he had to answer to the court for "five arsons to the detriment of the savings bank" as an argument in favour of the defendant's perpetration of four arsons. The court had concluded that he must then be the perpetrator of the four arsons because he apparently even knew about a fifth arson for which he had not even been questioned. The *Federal Court of Justice* rightly described this conclusion as "not conceivably possible". This is because, on the basis of the present premises, it could at best be concluded that he was the perpetrator of the fifth arson (apparently only known to the perpetrator), but not that he was the perpetrator of the four other arsons.

***The Derivation Error***

Derivation errors, i.e. errors in the derivation of a conclusion from the premises, can occur in different ways. A derivation error occurs, for example, if the "if, then" link used in a law is not interpreted appropriately. that it is important to distinguish between (1) *a sufficient condition* ("always if"; *implication*), (2) a *necessary condition* ("only if"; *rep- lication*) and (3) a *sufficient and necessary condition* ("always and only if"; *equivalence*) if misinterpretations and derivation errors based on them are not to occur.

Klug (Klug, 1982), who *uses the* following *example*: Section 7 BGB stipulates (mutatis mutandis) that *if* X is a natural person, it can permissibly have several (residential) domiciles. From this it was partly concluded that if X is not a natural person (but a legal entity), it cannot have several domiciles. However, this conclusion is obviously wrong if one interprets the "if, then" in the sense of *implication,* as nothing can then be derived from § 7 BGB for the case of the legal person; if, on the other hand, one interprets the "if, then" in the context of the provision of § 7 BGB in the sense of *replication*, the conclusion is possible, but the interpretation appears unfounded; *Klug* therefore assumes a *petitio principii* in this respect.

At least if one follows the view of the case law on the "demarcation" between robbery and (predatory) extortion, the conclusion is a correct sentence, since according to this view every robbery also constitutes (predatory) extortion, only that the robbery then "supplants" the (predatory) extortion at the competition level (*lex specialis derogat legi generali*). But: the conclusion does not follow logically from the premises mentioned, because their structure does not permit a *generally* valid conclusion. The fact that a correct result (from the point of view of case law) emerges here is therefore merely a coincidence and not derived in a logically appropriate manner.

***The Circular Argument (Circulus Vitiosus)***

Similar to the conclusion from contradictory premises ("ex contradictione quodlibet"), the circular reasoning (*circulus vitiosus*) cannot be criticised from a purely logical point of view, since, like that conclusion, it reflects a logically flawless deductive connection, which - can also be formulated in this way: $(p \wedge q \wedge r) \rightarrow q$. It is characteristic of circular reasoning that in a context of deduction a conclusion is drawn from a series of premises in which the proposition to be deduced, i.e. the "conclusion", is already contained.

This shortcoming is often not recognised at first glance, especially if the series of premises is extensive. As already mentioned, circular reasoning does not suffer from a formal-logical error, but from the fact that it pretends to be able to derive a proposition from premises without revealing that precisely this proposition, which has yet to be derived, already belongs to the set of premises, i.e. that nothing "new" is being deduced. If, for example, a court states that a witness is credible, but only refers to the testimony of the witness himself, whose credibility is at issue, there is at least the suspicion that the judgement on the credibility of the witness had already been made before his testimony was considered in more detail. At the very least, it would hardly seem sufficient to base the credibility of a witness's testimony solely on its "internal consistency", for example, without also asking whether it is consistent with circumstantial evidence established elsewhere.

This category does not include the so-called *hermeneutic circle*, sometimes referred to more jokingly than seriously as the *virtuous circle*, which is particularly necessary when understanding, i.e. interpreting, texts of all kinds, including legal texts. The content of a text can only be *interpreted* if it has already been understood that it is a legal text in the first place.

Furthermore, in the case of a legal text, quite apart from the language used, one must always have understood that it is a legal text and not, for example, a (modern) poem in order to be able to interpret the text appropriately. However, these and other facets of the so-called *pre-understanding* do not make an interpretation of a text erroneous, but regularly possible in the first place.

Martin Heidegger (Heidegger, 1977) formulated this connection: "*But to see a vitiosum in this circle and to look for ways to avoid it, even to see it only as an unavoidable imperfection. To 'feel' means to misunderstand understanding from the ground up* ... The crucial thing is not to get out of the circle, but to get into it in the right way. This circle of understanding is not a circle in which any kind of cognition moves, but it is the expression of the existential *pre-structure* of existence itself. The circle must not be reduced to a vitiosum, even if it is only a tolerated one ... "

***The Shift In Terminology (Quaternio Terminorum)***

The danger of a false conclusion has already been pointed out, which arises when, within a valid conclusion form, the terms used for the letters S, P and M in the premises or the conclusion are each used in different meanings, namely within one and the same placeholder (S, P or M). The most common case is that of a quaternio terminorum (quadrupling of the terms). In this case, the middle term (M) is used in the two premises with different meanings, so that instead of three terms (S, P and M), four terms now play a role in the conclusion, although its form is only intended for three terms. A typical example of a quaternio terminorum is the use of the middle term (M) in the two premises.

If you "build in" a new definition, you may arrive at an incorrect result, e.g: All agronomists are farmers, all farmers are farmers, all farmers are landlords, all landlords are restaurant owners - therefore all agronomists are pub owners.

Closely related to chain reasoning is a fallacy also known as *heap reasoning* (this fallacy is also often referred to as "sorites", although it should be noted that not all chain reasoning and therefore not all sorites reasoning are also fallacies). Here it is "concluded" that there are no sand heaps at all, and in this way: A grain of sand does not yet form a sand heap; if you add a grain of sand, it cannot yet become a sand heap either, because what was not a heap before cannot become a sand heap with *a single* additional grain of sand, etc. with all further grains of sand added. The meaning of the term "not yet a heap of sand" is shifted, as it were, from grain of sand to grain of sand that is added, as the number of grains of sand added is no longer communicated. The problem with such an argument lies in the fact that the term "heap of sand" is from the outset not a term with a clear-cut transition, but a vague quantity designation (such as "many" or similar). Therefore, one can only ever say about a specific quantity of grains of sand that it probably does not yet or probably already forms a heap of sand; however, this does not call into question the meaningfulness of the term "heap of sand"(Buldt and Schmidt, 1995).

In addition to those mentioned here, other erroneous conclusions or abusive uses of forms of reasoning can be identified. However, these too will not be discussed in detail here, especially as the corresponding considerations generally extend beyond the scope of the application of logical laws in the narrower sense and into the field of legal pragmatics and argumentation theory.

**DISTINGUISH BETWEEN LOGICAL FALLACIES**

We can distinguish the 'false inference' traps into which the jurist often falls by explaining them with examples.

Disconnected premises occurs when the set of facts of the abstract rule and the characteristics of the concrete case do not correspond to each other (Serozan, 2024). Example: According to the rule, breach of contract should give rise to an obligation of compensation. In the concrete case, the seller deceived the buyer during the pre-contractual negotiations. Therefore, the seller must compensate the buyer. The fallacy of the inference (conclusion) in this example is that at this point: Cheating before the conclusion of the contract is not a breach of contract; it may be considered as 'culpa in contrahendo' (misconduct during the contract negotiation phase). Therefore, it is wrong to base the seller's obligation to compensate the buyer on breach of contract.

The state of overlooking the premise that is decisive in reasoning is irrelevant conclusion. The main reasoning the decisive premise, let's say, of strict hazard liability in the event of damage caused by a hazardous undertaking overlooking the business of the damaging party, which is in fact non-determinative reliance on a secondary premise, i.e. the fault or culpability of the harmed party (Serozan, 2024).

Reciprocal generalisation: Inferring a general principle without taking into account the particulars. Example: An engagement is formed by mutual and compatible declarations of will; therefore, it is a contract. This determination is a false determination that is the product of hasty generalisation. If we take into account the relations of affection, it becomes clear that the agreement of mutual declarations does not always, without exception, constitute a contract. As a matter of fact, engagement as an incomplete source of commitment that does not give rise to the obligation to marry may well be considered „as a debt relationship independent of the performance obligation"(Serozan, 2024).

**CONCLUSION**

Speaking of the logic of law, the jurist is often involved in the traps of 'fallacy' (false inference) with examples It should be useful to list them.

Non-overlap of premises, losing sight of the main determining premise and getting caught up in a secondary premise, skipping premises in reasoning (saltus in concludendo), circular argument (circular argument = petitio principii), failing to identify the incompatibility and slipping into unrelated areas, getting caught up in the logic of subordination, hasty generalisation, concept distortion in reasoning; using the same concept in two different senses, using premise and conclusion as proof of each other in a vicious circle, falling into contradiction.

The remedy to avoid falling into such logical fallacies (traps), which may put the jurist in a difficult situation, is to filter legal reasoning through the filter of logic; the rules of methodology is to obey.

**ETHICAL TEXT**

In this article, the journal writing rules, publication principles, research and publication ethics, and journal ethical rules were followed. The responsibility belongs to the author (s) for any violations that may arise regarding the article.

**Author(s) Contribution Rate:** In this research, the author's contribution rate to the article is 100%.

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