



Ontological Mutation Of The Interpretative Process Used By The European Court For Human Rights

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Abstract

Starting from the idea that man's world exists only passed through language, the structuralists emiologists start by analysing the significant systems and the texts that, according to the principle of referential self-closure and intertextuality, refer only to themselves and to nothing else. The main representatives of this trend of thinking, Claude Levi-Strauss, Michel Foucault – who researched the “epistems” as large forms of the order of knowledge, the neo-psychoanalyst Jacques Lacan – for whom the unconscious is structured as a language, and the epistemologist of social sciences and humanities, Louis Althusser – who theorised the process of theoretical practice. The research of the legal language used replaces the analysis of the discourse, which reverberates also in the methods used, so that it is imperious to apply the deciphering procedures marking the heterogeneity of organisations between profound significations and its superficial landmarks. The consequence resides in the fact that the synthesis gains pre-eminence compared to analysis, triggering the fact that to some apparently superficial indices corresponds the profound constitution of certain complex principles of organisation. This interpretation is consequently supported with solid arguments. The archaeology of the knowledge of the correct meaning of the legal norm is semiologically oriented because we deal here with a reading treating the legal components not as mere elements, but similarly with the significant systems. What results is not longer interpretative, allegoric or hermeneutic, no longer seeks behind the discovered meaning another hidden meaning, but it is pure epistemology, as it is interested in the value of truth.

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