PROGRAMME

International Workshop

SEMANTICS AND LOGIC OF LEGAL LANGUAGE

April 27–28, 2018

Faculty of Philosophy of Tomsk State University

The workshop addresses topical issues in semantics and logic of legal language. The working language is English.

Friday, 27 April 2018

14.00—15.30 Room 306 (4th building)

Dr. Marc Andree Weber (University College Freiburg, Germany)

"The Relevance of Philosophical Theories of Vagueness to Legal Interpretation"

Abstract: In my talk, I want to explore whether — and if yes, to what extent — philosophical work on vagueness is of help for legal scholars. In order to discuss this issue, we should distinguish between conceptual clarifications about the nature of vagueness and related phenomena on the one hand and various philosophical theories of vagueness on the other. With regard to many of those clarificatory matters (which I take to include specifications about the differences between semantic vagueness and similar phenomena such as ambiguity, generality, and pragmatic vagueness), philosophers widely agree with each other; controversies here mainly arise about how to best define different kinds of vagueness. The situation is different when we consider distinct philosophical accounts on vagueness, such as supervaluationism, contextualism, and degree theories; here, it is a matter of much controversy which theory is to be preferred. I will argue that, while knowledge of what precisely vagueness is bears importance for anyone who works with legal texts, the question of which philosophical theory can best explain vagueness has surprisingly little impact on legal interpretation. In particular, I will explicate why approaches of Scott Soames and Stephen Schiffer to the point that specific theoretical ideas about vagueness and meaning are relevant to understanding what legal interpretation can and cannot be are unconvincing.

15.30—15.45 Coffee Break

15.45—17.15 Room 306 (4th building)

Dr. Elena Lisanyuk (St Petersburg State University, Russia)

"Post-truth and legal argumentation in F. Dostoevsky"

Abstract: In my talk I discuss post-truth in its social-communicative and formal philosophical aspects. In the first part of the talk the post-truth is defined as a special social-communicative regime of information assessment in which the existence of alternative truth is possible functionally and ontologically. Legal argumentation illustrates the post-informational inversion, the key property of this post-truth regime. In the second part, I develop a three-component algorithm of arguments' evaluation corresponding to the post-truth, which allows for alternative evaluation of not only arguments coherency but of the truth-values of their premises and conclusions, too. The algorithm employs Kripke fixed point semantic and V. Finn's many-valued argumentation logic. As examples, I reconstruct legal argumentation in Dmitry Karamazov's and

Rodion Raskolnikov's cases in F. Dostoyevsky's *The Karamazov's brothers* and *Crime and Punishment*.

Saturday, 28 April 2018

12.00—13.30 Room 306 (4th building)

Dr. Anton Didikin (Institute of State and Law, Russian Academy of Sciences, Russia)

"Law as a Linguistic Phenomenon: Analytic Approach"

Abstract: Law as a regulator of behavior of subjects can not be reduced fully to other ways of regulating behavior in society. Grounds of legally significant actions allows to define the context of the application of legal rules. Every legal term, following the argument of L. Wittgenstein, when it is used depends on the "context of use" and of those conventions of usage that exists at the moment. It follows that the interpretation of the rules cannot be based solely on principles of logic and to be absolutely neutral. On the one hand, "we follow the rule blindly" (Wittgenstein), but at the same time, repeatability of the behaviour of others and the opportunity to observe them (by analogy with mathematical rules of addition or multiplication) promotes "learning" and following the rules. Ascription of legal language and the principle of "imputation" in condition of the legal interpretation of the facts, allow us to formulate the important notion that outside of language constructs social reality does not exist. Attempts to analyze the non-legal factors such as factors influencing the development of the law commonly referred to arguments not of law but of other phenomena. Legal terms not only describe the empirical facts, but to encourage them to commit actions. In my presentation, I am going to examine some arguments from analytic legal philosophers on linguistic content of legal rules without any social determination and formulate the important statements on linguistic nature of legal reality.

13.30—13.45 Coffee Break

13.45—15.15 Room 306 (4th building)

Dr. Mikhail Antonov (National Research University "Higher School of Economics", St.-Petersburg, Russia)

"Truth in Legal Interpretation"

Abstract: Legal process is usually based on the idea that "correctness" or "truth-value" of legal interpretation can be checked by superior instances. Most of theories accept there being a kind of "truth" or "correctness" in law (be it moral, logical, pragmatic, or other), but disagree about how to establish this "truth". Legal interpretation implies at the same time cognitive (judge chooses applicable legal rules and applies them for deciding and for justification of her decision) and volitive (judge expresses her will as to how distribute the contested rights and obligations, somehow connecting her volition with the applied legal rules) aspects. Realist legal scholars focus on this latter perspective and argue that "truth" is what the supreme court says is true. Another extremity is legal formalism which focuses on the cognitive aspect and implies that legal texts contain meanings which are invested into these texts by lawmakers and are ready to be extracted by a set of dogmatic methods. Legal philosophy oscillates between these extremities of formalism and realism. The purpose of this paper is to discuss some of these philosophical oscillations and their implications for legal practice: how judges (lawyers) can find and justify "correct" or "true" answers in legally relevant situations. The paper will be limited to discussing the methodological solutions elaborated in positivism (Hans Kelsen and Eugenio Bulygin), non-positivism (Ronald Dworkin and Robert Alexy), and realism (Alf Ross and Michel Troper).

15.15—15.30 Coffee Break

15.30—17.00 Room 306 (4th building)

Dr. Vitaly Ogleznev (Tomsk State University, Russia)

"Ascriptive Legal Language and Its Origins in Speech Acts Theory"

Abstract: In my talk I will discuss Herbert Hart's theory of an ascriptive language as it has been developed in his influential early paper "The Ascription of Responsibility and Rights" (1949). In the first part I will argue that the theory of ascriptive legal utterances, which is grounded on Austin's and Searle's theory of a speech act, provides the methodological basis for Hart's analytical approach to philosophical and legal issues. In the second part I claim that *an ascriptive* is a specific speech (illocutionary) act. In the third part the matter concerns the original linguistic formula of an ascriptive that accurately reflects its nature. I will elaborate on the interpretation of ascriptive speech acts in legal language by evaluating the influence of philosophy of language on the formation of modern legal philosophy, along with evaluating the contribution of conceptual development of legal philosophy in the speech acts theory.