University Of Sétif 2

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Legal English terminology

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LESSON 1

The concept of obligation.

(The difference between natural obligation and civil obligation).

The normal and natural effect of the obligation is **implementation**, as this implementation may be carried out by the debtor voluntarily and voluntarily, and it may also happen that it is carried out forcefully in the event that he **refrains** from **fulfilling** his obligation in the first way.

The debtor's implementation of what he has committed himself to, whether **voluntarily** or **by force**. Both of them are considered to be an in-kind implementation of the obligation. **In-kind** implementation may not be possible, so implementation will be in **exchange** for compensation, or as it is known as compensation.

This means that the creditor obtains an amount of money that replaces the original performance to compensate him for the damage he suffered. As a result of non-performance, compensation includes the loss incurred by the **creditor** and the profit he lost.

In this regard, Article 160 of the Civil Code stipulates: "The debtor is obligated to implement what he pledged, but he is not forced to implement it if the obligation is natural."

That is, the **legislator** has distinguished between two types of obligation, namely **natural obligation** and **civil obligation**, and the **basic** difference between them is due to the **legal protection** that the obligation enjoys, as civil obligation is considered a complete obligation, while natural obligation is considered an incomplete obligation given the absence of the idea of coercion. legal to implement it.

Article 161 of the Civil Code also stipulates: "In the absence of a stipulation, the judge determines whether there is a natural obligation. In any case, the natural obligation may not violate public order".

Through this article we conclude that natural obligation has two conditions: the first is the existence of a moral duty that rises in the group's consciousness to the point of acknowledging the obligation to fulfill it to satisfy **conscience** and **honor**, and the second is that the natural obligation does not conflict with **public order**.

Discuss the text.

1- **Give an appropriate title to the text?**
2- **What is obligation?**
3- **Determine the criterion for estimating the value of compensation?**
4- **Translate into Arabic the underlined words in the text?**
5- **Choose one word that expresses the difference between natural obligation and civil obligation?**

LESSON 2
In-kind implementation of obligation.

1) In-kind implementation conditions.

The implementation of the obligation in kind is the principle, as the debtor is forced, after being notified in accordance with the legal texts, to implement his obligation in kind whenever possible.
If it is impossible for the debtor to implement his obligation in kind, he is sentenced to compensate for the damage resulting from that.
Article 164 of the Civil Code deals with the conditions for in kind implementation according to the following:

1- Excusing the debtor.

An excuse is a warning to the debtor to pay, and it is a necessary procedure in real implementation, because if the debtor does not perform the implementation after the specified deadline, he will not be responsible, because it may be understood from the silence of the creditor that he accepts his debtor's behavior.

2- In-kind implementation should be possible.

The concrete implementation of the obligation must be possible, not impossible. If implementation is impossible due to an error on the part of the debtor, then implementation must be in exchange for a consideration.

However, if the impossibility is due to a foreign cause that the debtor has no hand in, then the obligation in this case is extinguished, and the debtor is not entitled to compensation. This is stipulated in Article 307 of the Civil Code.

3- In-kind implementation should not burden the debtor.

This condition, according to Algerian legislation, is represented in the idea of not arbitrarily exercising the right, in accordance with what is stipulated in Article 124 bis of the Civil Code.

2) The subject of concrete implementation:

The subject of the obligation may be in the form of performing an action, abstaining from an action, or giving something.

1- Creating or transferring the In-kind implementation (obligation to give):

The matter relates to the establishment or transfer of ownership rights, and the latter is only transferred according to the nature of the thing itself, and things are divided into things specific by type and others specific by nature.
That is, the obligation to transfer ownership or any other real right would transfer, by law, the ownership or In-kind right, if the subject of the obligation is a specific thing owned by the obligor, taking into account the provisions related to real estate advertising. (the specific thing in particular).

However, if the obligation is made to transfer a right in rem over a thing that is not specified except by its type, this right is not transferred except by separating this thing. (The thing designated by type).

2- Obligation to perform work:

It is represented by the debtor's obligation to fully perform the work that he pledged to do, for example, such as the obligation to build a wall, deliver something, or build a house.

3- The obligation to abstain from doing something:

It is the opposite of the obligation to do something, meaning that in this case the idea of actually implementing it requires not doing it at all. An example of this is the obligation not to divulge a professional secret, the obligation not to unfairly compete.

Discuss the text.

1- Fill in the following table.

the opposite (…….)	The word (……)	
		التنفيذ العيني
	principle	
		الحق.
	forced	
		ممكن.

2- What are the types of obligation?

3- Determine whether the following statements are true or false and correct the incorrect ones :

- In all cases, the debtor is forced to implement his contractual obligation in kind.

- If the specific implementation of the obligation is impossible due to an error on the part of the debtor, then this obligation shall be extinguished.

-The warning procedure is mandatory in all cases before requiring the debtor to implement the obligation.

LESSON 3.

Implementation of an obligation through compensation

The implementation of the obligation through compensation is not resorted to except when it is impossible to implement the obligation in person, which is considered the basis as previously mentioned, and this implementation occurs whether due to complete failure to implement it or due to delay in implementation, which is what is stipulated in Article 176 of the Civil Code.

1) **Cases of resorting to enforcement through compensation:** There are cases in which resorting to enforcement through compensation is inevitable, which can be summarized as follows:

1- The impossibility of implementation by the debtor's action or error, noting that if the subject of the obligation is an amount of money, then implementing the obligation always remains possible.

2- If the implementation in kind would burden the debtor.

3- If specific implementation is not possible or inappropriate unless it is issued by the debtor, and the latter does not do so.

4- If the creditor requests implementation by way of compensation and the debtor does not refuse it.

2) Conditions for the creditor's entitlement to compensation:

The conditions for the creditor's entitlement to compensation are the same as the conditions for civil liability. In addition to the necessity of the error and damage and the causal relationship between them, the condition of a warning must be present, which places the debtor in the position of a negligent person in carrying out his obligation.

3) **Compensation assessment:** Compensation shall be in one of the following three ways:

1- Judicial compensation.

Since compensation must include every damage suffered by the creditor, that is, it includes the loss suffered by the creditor and the gain he lost, which is what Article 182 of the Civil Code stipulates: "If compensation is not determined in the contract or in the law, then the judge is the one who estimates it." Compensation includes the loss suffered by the creditor and the gain he lost, provided that this is a natural result of failure to fulfill the obligation or delay in fulfilling it. Damage is considered a natural result if the creditor was not able to avoid it by making a reasonable effort".

2- Agreementual compensation (penal clause).

Conventional compensation is an agreement in advance between the contracting parties to estimate the compensation that the creditor is entitled to if the debtor breaches his obligation in the future, whether this breach is non-performance or delay in it. Therefore, in order for this agreement to be considered a penal condition, it must be concluded before the breach of obligation, whether it is contained in the contract itself. Or in a subsequent agreement, but if this agreement is signed after the breach occurs, it represents a reconciliation and is not a penal condition, and one of the most important characteristics of the penal condition is that it is subordinate to the original obligation, and that it is a reserve obligation that is not decided unless the original is implemented, and it is only considered an arbitrary estimate of compensation. This is what Article 183 of the Civil Code stipulates: "The contracting parties may determine in advance the compensation by stipulating it in the contract or in a subsequent agreement".

3- Legal compensation.

If the subject of the obligation is an amount of money and the debtor delays in fulfilling it, the text of the law specifies the compensation resulting from this delay, and that is in the form of interest, but this type of compensation is not stipulated in the civil code, and what is more, the legislator has prohibited an interest-bearing loan between individuals. It is without compensation, but this

does not apply to financial institutions that grant interest-bearing loans on the basis that they contribute to activating the cycle of economic activity.

Discuss the text.

1) **Fill in the blank with the appropriate word to complete the legal meaning of the phrase according to the following**: (before, the creditor, subordinate, replaced by money, for the original obligation, breach of obligation)

   - The burden of proving non-performance of the obligation falls on the .....

   - The subject of legal compensation is always ..... and is stipulated by law.

   - The penal condition is concluded .....

   - Agreementual compensation .....

2) **Translate the following legal terms and expression** :

1- To the Arabic.

- Burden of proof : …….
- Superior force : …….
- Benefits : …….
- Economic activity : …….

2- To English.

- العقد:……
- القروض:……
- التعويض:……
- التنفيذ العيني:……

LESSON 4.

The concept of civil and administrative procedures law.

1) Definition.

Procedures mean the external form of the dispute, that is, it is the set of rules that must be followed when resorting to the judiciary.

As for the Civil and Administrative Procedures Law, it is a set of legal rules that regulate the judicial authority, its formation, and determine its jurisdiction, and outlines the procedures that must be followed when requesting judicial protection. The legal basis is Law No. 08-09 of February 23, 2008, which includes the Civil and Administrative Procedures Law.

2) Content of the Civil and Administrative Procedure Code.

The Civil and Administrative Procedures Law includes a group of topics, which are as follows:

1- Judicial organization rules:

These are the legal rules that define the judicial bodies, so they show the different courts, their composition and grade, between the court of first instance, the court of appeal and the court of cassation, as well as the methods of appointing their members with a statement of their rights and duties, the bodies and persons who can assist the judiciary in performing their duties, Such as lawyers and experts, the Algerian judicial organization includes the regular judicial system and the administrative judicial system.

2- 2- Jurisdiction rules:

They are the set of legal rules that show how disputes are distributed among the various judicial authorities. Each judicial authority determines its share of the disputes that it decides, as this is embodied through the rules of regional jurisdiction and the rules of specific jurisdiction.

3- Rules of litigation procedures:

They are a set of procedural rules that indicate how to resort to the judiciary, how to conduct judicial litigation, investigate and plead in it, issue judicial rulings, methods of appealing them, and other procedural rules.

3) Lawsuit (a means of protecting the right or legal position).

According to the Algerian legislator, a lawsuit is a claim of a right before the judiciary, which is stipulated in the text of Article 3 of the Codification of Civil and Administrative Procedures: "Every person who claims a right may file a lawsuit before the judiciary to obtain and protect that right," as the lawsuit is characterized by a set of characteristics as follows:

1- **The lawsuit is a right:** because it entitles its owner to resort to the judiciary to obtain legal protection through a judicial ruling.
2- **The right to sue is subject to extinction**: in the event that its owner does not claim it within the time period specified by the law.
3- **The right to the lawsuit is transferable:** Since it is based on the right, the latter is transferable in all aspects of disposal.

A table of the most important terms in the text

The word in English.	**The word in Arabic.**
	الإجراءات
Judiciary	
	الحماية القضائية
Judicial organization	
	قواعد الاختصاص
Judicial dispute	
	المرافعة

Investigation	
	طرق الطعن
Lawyers	
	الخبراء
Appeal	
	النقض
court	**محكمة**

LESSON 5.

Conditions for accepting the legal case.

1) Interest in the case.

The principle is that the application of the law in social life is carried out automatically by those to whom it is addressed, and this is what allows every person to enjoy his legally Consecrated right without being subjected to any attack.
However, this is not always the case, as a person may be exposed to an attack on this right, and his need for this is necessary. Status to legal protection.

Interest can be defined as the benefit, advantage, or advantage that a person obtains as a result of a ruling given to him for what he requested.

Accordingly, this interest does not arise except by claiming the existence of the right and the occurrence of an assault on him before the judiciary.

This capacity must also be legitimate, meaning that it is established and protected by the text of the law, which is expressed in Article 13 of the Civil and Administrative Procedures Law: “No person may litigate unless he has an interest recognized by the law.”

The interest must also be present and current, meaning that the harm has actually occurred to the person himself, his money, or another person or money under his guardianship.

2) The capacity in the case.

What is meant by this is that the capacity that proves the owner of the right being attacked, and the lawsuit consists of two basic elements, the first is the plaintiff, who is the person who files the lawsuit, and the second is the defendant, who is the person against whom the lawsuit is filed, and the interest is required to be personal and direct.

3) The permission.

Article 13/3 of the Code of Civil and Administrative Procedures stipulates: "...the lack of permission also automatically arises if the law stipulates it." According to this text, the condition of permission is considered one of the conditions for accepting the case whenever this permission is necessary, and it is a license granted to someone who is not qualified, such that It is granted to him by litigation.

4) Provide the formal conditions for filing a lawsuit (mandatory data in the petition for opening a lawsuit)

Article 15 of the Code of Civil and Administrative Procedures stipulates that a set of data must be available in the petition to open the case. These conditions are:

-Determine the judicial authority.

-Appointment of opponents.

-Determine the subject of the judicial request.

-Methods upon which the lawsuit is based.

An Assignment:

1- Use the underlined words in the text in useful legal sentences.

2- What are the principles of Algerian judicial organization?

LESSON 6.

Judicial decisions

1) Definition of judicial decision.

The judicial decision is the decision issued by the properly constituted court regarding a dispute that was filed in accordance with the correct procedural rules, and represents the final stage in which this dispute is concluded. Thus, the judicial ruling embodies the operative part of the judicial authority in the case before it, whether it is for the benefit of the plaintiff or for the benefit of the defendant.

The issuance of the judicial decision passes through several different stages, after the opponents have exhausted their right to defend themselves through their lawyers, by presenting various arguments and evidence to prove their rights, so that the judge then reaches the stage of closing the pleading, and thus referring the case to deliberation, and determining the date on which it will take place. Pronunciation of the judicial decision.

2) Division of judicial decisions.

Judicial decisions are divided in terms of their legal authority into the following types:

1- Final decisions and Non-final decisions:

The final decision is the one that resolves the subject of the case or part of it and has the authority of the matter decided. As for the non-final decision, it is the one issued in branching issues, the decision of lack of jurisdiction or invalidation of the judicial claim procedures and does not have the authority of the matter. It is decided.

2- Initial decisions and final decisions:

Initial decisions are those issued by the court of first instance and are subject to appeal before the Judicial Council of Appeal. However, in some cases the court can decide on them initially and finally, meaning that decisions at the level of the court of first instance are not subject to appeal. There is no appeal, but the final decision is the one that does not accept any method of appeal**.**

3- Decisions in attendance and decisions in absentia:

The decision is made in person if the opponents personally attend the ruling session, or at least represented by their lawyers. As for the decision in absentia, it is the one in which the defendant or his legal representative does not attend despite the validity of his being instructed to attend.

3) Pronunciation of the judicial decision.

The pronouncement of a judicial decision is the recitation of its words or content orally in full, and this is recorded in a special record for this session, as the phrases of this decision must be clear to indicate its content, and it is required that this pronouncement take place in a public session, even if the deliberation takes place in secret, under penalty of invalidity.

It should be noted that the judicial decision may be issued by an individual judge if the judicial authority is the court of first instance, or by a group if the matter involves a decision from various bodies of appeal.

The text of the decision must also be written after it is pronounced, and a number of mandatory statements must be taken into account, and this must be done in accordance with a set of legal controls, covered by Articles 275 and 276 of the Civil and Administrative Procedures Law.

4) Appealing the judicial decision.

Appealing a judicial decision aims to review the latter in terms of the law or in terms of the subject matter or both. Appeal is also considered the legal means

of expressing dissatisfaction with the opponent exercising this right protected by legislation, in order to provide sufficient guarantees to the opponents to protect them from possible errors.

The methods of appealing decisions are divided into two parts, the first is the normal appeal methods, which includes appeal and opposition, and the second section includes the cassation appeal, seeking reconsideration, and the objection of third parties outside the dispute, and the difference between them is that the first stops the implementation of the decision if it is exercised or during the deadlines for filing it, and the second does not stop. Implementing the decision during the appeal stage, as a general rule.

Exercise: Fill in the blank in the phrase with the appropriate word according to its meaning**:**

1 -The decisive decision in the dispute, in whole or in part, is: .....
2 -The decision issued on a partial issue only is: .....
3 -The final and in absentia decision is subject to appeal by: .....
4- The final decision is: .....

LESSON 7.

The concept of international law

1) Definition of international law.

The concept of international community is linked to international law, which in turn is defined as a set of customary rules and principles and conventions that regulate the relations of members of the international community, or it is a set of general, abstract, and binding legal rules that regulate the relations of states among themselves, and with all its other persons, such as global and regional international organizations, both general and specialized.

2) The concept of the state.

The state is an international entity based on free will and independence, and enjoys a special organization, as several elements must be present for the

establishment of this entity, namely the human element, which means the presence of a group of people, and secondly the organizational element, which means the authority that moves this entity by urging it to make decisions and responsibility, and thirdly. It is the self-interested element and is intended to achieve the collective interest of the individuals belonging to it.

3) Sources of public international law.

Either the sources of public international law are original or alternative, as follows:

1- The original sources: They are international agreements, custom, and general principles of law.

-International agreements: They are called treaties, agreements, or charters. They represent an agreement between a group of countries regarding the rights and obligations or the organization of a specific subject within the framework of international relations, governed by public international law, and are in the form of a document written in an official format.

-International norms: It is a set of unwritten rules and provisions that arose through the repeated actions of states over a long period until they became binding on them and with their consent. That is, it is an implicit agreement resulting from realistic practice.

- General principles of law: are the basic rules on which the internal laws of states are based.

2 -Precautionary sources: They are represented in judicial rulings, the doctrines of legal scholars, and the principles of justice and fairness.

-International judicial rulings: Judgments or judicial precedents can be used as a precaution, especially in similar cases.

Jurisprudence of international law: It includes the ideas and opinions of leading authors in public international law, who analyze the legal rules and clarify their

various meanings, and thus facilitate the process of understanding and application in the field of international justice.

- Principles of justice and fairness: This relates to the general principles of justice in a particular case, without any change to the applicable law

LESSON 8.

The state.

The state is considered a major person of public international law, and an influential actor in the course of international relations, as well as being the first addressee of the rules of international law.

Accordingly, the state is a group of people who live permanently and stably in a specific place, owing allegiance to a ruling authority, which has sovereignty over this territory and these people. People.

1) Methods of the establishment of the state

The state is established in a fair manner if its basic pillars are met according to the social perception, or it may be established by separation from the original states, for example the separation of Pakistan from India in 1947, or it may be established by the union of several countries, or because of the application of the principle of the right of peoples to self-determination and independence as a result of liberation movements.

2) Pillars of the state.

The basic pillars of the state can be unanimously agreed upon as follows:

1 -The people:

It is a group of individuals residing in a specific territory, who enjoy rights but do not perform the obligations resulting from that.

2 -The region:

It is an essential element for the existence of the state, and the establishment of the state cannot be imagined without geographical space. It includes both the land part, which is represented by the land part and what is above and below it, of wealth and minerals, and the marine part for coastal countries, which includes rivers, inland waters and seas, as well as the air space part. Which is above the land and the sea, and all the riches found in the latter.

The study of the state's territory from the point of view of public international law aims to determine the relationship of this state with its territory, how to draw its borders, and to explain the elements of this territory as well as how it acquired it.

Where borders are drawn according to natural features such as mountains, hills, rivers and seas, or according to artificial features such as erecting columns, wires and fences, or relying on lines of longitude and latitude in astronomical geography.

3- Political power:

It means the political organization capable of maintaining public order and imposing the rule of law within the borders of the state’s territory. That is, it is the decision-making authority and therefore represented in the state’s sovereignty over itself.

There are institutions of governance in every country that assume the functions of political authority, and these institutions are what confirm the unity of the people and the region, as these ruling institutions take different forms, such as republics and dictatorships.

The political authority of the state is exercised through governments, which are considered the sum of public authorities in each state, and this government must be effective through its ability to maintain order and security in the state as well as implement its obligations at the international level.

4 -Recognition:

It means acknowledging something, and therefore recognition includes all legal actions issued by the unilateral will of any person of public international law, aimed at acknowledging the existence of a specific international situation and recognizing its legitimacy.

LESSON 9.

Administrative Law.

1) Definition.

Administrative law, according to its expanded concept, is a set of legal rules that govern public administration, in terms of organization, activity, and management of funds therein, and all disputes that result from that.

Administrative law, in its narrow sense, means the set of legal rules distinct and different from the rules of private law, which govern public administration and everything related to it. It is responsible for organizing the administrative authority and determining its nature, whether it is centralized and links regional employees with directives and orders from their administrative superiors, or decentralized, with each body carrying out its duties under the supervision and control of the guardian authority.

Administrative law also regulates administration in accordance with the above concept through the ideas of administrative control, public facilities, and management methods, which are manifested through issuing administrative decisions and concluding deals, and finally it regulates administration disputes.

2) Characteristics of administrative law.

Administrative law is characterized by a set of characteristics that give it a distinctive character and make it an independent law with a special personality, which we mention as follows:

1- **novelty of The administrative law:** It came into existence at the hands of the French Court of Conflict and the Council of State, starting from the stage

in which the Council of State recognized the decision-making authority and was no longer merely a body of opinion and suggestion, meaning that before 1872 there was no possibility of talking about the branch of "administrative law", and therefore this law was a result of the circumstances. And the political changes that France went through.

2- **Administrative law continues to be flexible and developed :**This is based on the idea that this law is concerned with public administration and its activity, meaning that it cannot know stability due to the changing nature of this administration, in line with the general needs of its targets.

3- **Administrative law is not codified :**Codification is a formal compilation of the most important legal principles regarding a specific issue in a legislative system, which is not what administrative law is characterized by, especially given its flexibility and thus the possibility of its constant change.

4- **Administrative law Judicial law** :There is no doubt that the judiciary played the main role in the emergence of administrative law, by refusing to subject the various administrative disputes that were presented to it to private law, and providing an alternative every time, until it was granted special texts called administrative law.

3) Sources of administrative law.

Despite the judicial source for the emergence of administrative law, it has other sources from which its rulings are derived, including legislation, which we summarize as follows:

1- Legislation:

What is meant here is the set of official texts of varying degrees, strength, and source, which are concerned with public administration in their organization, whether it is related to basic legislation (the constitution), or ordinary legislation, for example the laws that govern the Council of State or administrative courts, or those related to public transactions or organization.

Administrative, or related to regulatory legislation, including presidential and regulatory decrees, decisions and circulars.

2- Custom:

Custom in this case means what is done by the administrative authority in exercising its administrative powers in a successive manner, and in a way that represents a binding rule that must be followed, which is what the administrative judiciary has confirmed in many disputes. This custom has several types, including the interpreted custom, and here it is assumed that there is a legal text or Regulatory has more than one meaning, and then this custom intervenes to remove ambiguity, or its role may be modified, and it occurs in the event that legislation does not address a specific issue.

3- Judiciary:

is the set of provisions and principles approved by the administrative judicial authority, as distinct and unusual provisions in the field of private law relations.

1- What is the source of administrative law?
2- What is the nature of administrative authority?

LESSON 10.

The principle of Legitimacy.

The rule of law cannot be achieved except by the submission of both individuals and the state to the law, especially the submission of the executive Authority represented by the government to the legal rules established within the state, which is known as “administrative legitimacy.”

1) Definition of legitimacy.

The principle of legitimacy means the rule of law, or achieving conformity with the law, or the supremacy of the law as expressed by the Algerian Constitution. Accordingly, the principle of administrative legitimacy is the conformity of the

administration's actions with the law in its broad sense, as it includes all the legal rules that fall within the legal system of a particular country, whether their source. Legislation or regulation at all levels.

2) **Sources of legitimacy.** The legal rules with which management actions must comply find their source in the following

1- The Constitution:

The supremacy of the Constitution as the supreme law in the state makes it the basis for every legal rule that follows it in rank. This entails the obligation of the legislative authority to take into account the rules of the Constitution when enacting laws, and the same applies to the executive authority during the exercise of its executive powers, such as non-arbitrary use of power/impartiality. Administration/non-expropriation of property except with fair compensation.

2- Treaties:

Treaties ratified by the President of the Republic in accordance with the conditions stipulated in the Constitution are superior to the law, and the administration in this regard is obligated to take into account the provisions of the treaties that fall within the scope of its administrative function.

3- Legislation:

Legislation here means the laws established by the legislative authority in the state, which is Parliament, where all public bodies in the state, in addition to individuals, are obligated to respect its provisions. On this basis, the judge has the right to nullify the actions of the administration in the event that they violate a legislative text.

4- Laws issued by the executive authority:

The Constitution allows the President of the Republic to issue orders in legally prescribed cases, which are known as presidential orders. Either the matter

relates to regulations or what is expressed in regulations, regulatory decisions, or subsidiary legislation, and they are issued by the executive authority.

5- General principles of law:

It should be noted that the emergence of general principles of law goes back to the French judiciary, and they are principles that are not originally codified, as the judiciary derives them from various legal texts, including treaties, and these principles are adhered to protect rights and freedoms from the danger of being infringed upon, including Respecting defense rights, ensuring the right to appeal administrative decisions, ensuring the principle of equality between candidates for public office, freedom of opinion and expression, freedom of belief, and publicity of sessions.

6- Judicial decisions:

The Algerian judiciary has settled that rulings issued to invalidate administrative decisions have absolute authority for the matter decided, and this authority is that they apply to the convicted person and to others who did not appeal the administrative decision, and it also applies in the face of all administrative authorities, whether they are adversaries. In the case or not, and whether the matter relates to decisions of the administrative judiciary or the decision of the criminal judiciary.

Terminology table

The term in English	In Arabic
executive authority	السلطة التنفيذية.
administrative authorities	السلطة الإدارية
Constitution	الدستور
Treaties	المعاهدات
legitimacy	المشروعية
submission	الخضوع
decision	القرار

criminal judiciary	القضاء الجزائي
government	الحكومة
convicted	المدان

LESSON 11.

Centralization and decentralization.

Administrative organization in the state takes two forms: centralization and decentralization, which are considered two aspects that reflect the nature of political and administrative systems, as it is not possible to imagine the existence of one of them without the existence of the other. Despite their conflict, each of them seeks to meet the needs of citizens in the best conditions.

1) Administrative centralization.

Administrative centralization is considered the first system that countries have followed in administration and governance, and it is based on indivisibility. In the administrative field, it means unifying administrative activity by restricting administrative powers and functions to the level of the central administration located in the political capital of the state. Administrative centralization is based on several pillars, As follows:

1. **Concentration of the administrative function in the hands of the central authority:** In this system, authority to direct the administrative function is concentrated in the hands of the executive authority in the capital, and it is assisted in this by its affiliated bodies in the regions under the supervision and control of the central authority, as there are no local or utility public legal persons in this system. Independent from the central authority, and therefore there is no elected local council or public bodies that can manage public facilities. The authority to make decisions and perform public facilities is concentrated in the hands of members of the central authority (ministers) or

their representatives subordinate to them and appointed from among them under their control and supervision.

2. **Subordination:** The central system is based on gradation in the positions of the administrative apparatus, which requires that central government employees be gradually and progressively subordinate, such that the lowest levels in it are subordinate to the higher levels above them, all the way to the top of the administrative ladder, which is the minister**.**
3. **Presidential authority:** Presidential authority is considered the most important pillar of the central system, and it means the recognized right of administrative heads, which is regulated by law to achieve effectiveness and continuity in administrative work. That is, it is the legal relationship that exists between the president and the subordinate during the exercise of administrative activity, and this is in accordance with administrative subordination and the imposed duty of obedience. On the subordinate, on the other hand, this authority is not absolute and is not of one degree of power, but rather is affected by the person in authority, his position in the administrative hierarchy, and the type of job he exercises.

2) Administrative decentralization.

In addition to the administrative centralization method, countries have adopted another method, which is administrative decentralization, which is based on distributing administrative functions between the central government in the capital and the local administration in the regions. These persons have an independent legal personality and are subject to the control of the central government.

It must be noted that the method of decentralization has two aspects. The first is political, represented by enabling local bodies elected by the people to manage their affairs in their own hands, which achieves the principle of administrative democracy. The second is legal, embodied in the distribution of the administrative function in the state between the central agencies and

independent bodies of a central or local nature, which It would bring the administration closer to the citizen. The decentralized system is based on the following pillars:

1. **Recognizing the existence of local interests distinct from national interests:** The policy of decentralization is based on a balanced distribution of powers and tasks, according to a logical division of responsibility within the framework of state unity, where the central agencies undertake to carry out national tasks (national defense, security, foreign affairs, public policy in the field of Education and the economy), while local agencies such as the municipality and provinces are responsible for looking into local issues (transportation, water distribution, city cleanliness).
2. **Recognizing the existence of local bodies:** This means that local bodies are independent from the central authority, and this independence gives them the right to make administrative decisions and manage their affairs without the intervention of the central apparatus, by recognizing them as a legal personality and the official norms of separating them from the state. It also gives them the ability to acquire Rights and obligations, and what achieves this independence is reliance on the electoral method in selecting its members.
3. **Submission of independent agencies to the guardianship of the central authority:** Based on the principle of the state's constitutional, political and national unity, the matter requires the existence of a relationship between the central administration and the decentralized administration units in a form of control or administrative guardianship that differs in essence from the presidential authority that exists between the president and the subordinate under the central system.

LESSON 12.

Administrative activity.

Administrative activity means the administrative work undertaken by the public administration in carrying out its functions, which are represented in administrative control and public facilities. These actions can be defined as every legal or physical action issued by one or more members of the administrative authority or by one or more workers of this authority in their exercise of the administrative function. These actions can be divided into two types: administrative decisions and administrative contracts.

1) Administrative decisions:

Administrative decisions are administrative actions issued by the administration of its own volition and represent one of the legal means of exercising the administration's activity, aiming to create a legal effect by creating, amending, or canceling a new situation. The administrative decision has a set of characteristics as follows:

1- **An administrative decision is a legal act:** it is an act that results in legal effects (general and specific), that is, it establishes rights and obligations, and leads to a change in legal positions, whether by establishing, amending, or canceling it. An example is closing a commercial store or building a public road.

2- **The administrative decision is a decision of a unilateral nature**: because it is issued by a single will coming from the administrative authority, and this is done without the participation of the people addressed by this decision.

3- **The administrative decision is a decision of an executive nature**: What is meant by the executive nature of the administrative decision is its binding force towards those concerned with it, meaning that the issued decision is implemented automatically immediately upon its issuance without the need for the permission of the administrative judge.

4- **An administrative decision is a decision issued by an administrative authority**: that is, it is of an administrative nature, meaning that it was issued due to the administration's activity, as its organization and practice are subject to the provisions of public law and fall within the jurisdiction of the administrative judiciary.

The administrative decision ends by stripping it of its content and thus ending all its legal effect, either in a natural way, such as the end of the purpose for which it was issued, or in an unnatural way, as in the case of its cancellation by the administration or by the judiciary.

2) Administrative contracts.

The administration also carries out its activity through administrative contracts, and it must be noted that the administration may deal with others as an ordinary individual and not as someone with authority and sovereignty. In this case, the contracts it concludes are subject to private law. It may also contract as a person with authority and sovereignty, which are administrative contracts. Which is defined, according to the Algerian legislator, as a contract to which the state, municipality, or public administrative institution is a party.

Due to the large amount of management activity, we find many forms of administrative contracts, including, for example:

1- **Public Works Contract**: It is a contract between a public law person and an individual or company under which the contractor undertakes to undertake construction, restoration or maintenance work in exchange for a price specified in the contract.
2- **Supply contract**: It is an agreement between a public law person and an individual or company whereby the individual or company undertakes to supply certain movables to a legal person, necessary for a public facility, in exchange for a specific price.

3- **Concession contract**: A contract that grants the right to an individual or company to manage and exploit a public facility, commissioned by the state or one of its administrative units and in accordance with the established legal conditions.
4- **Public loan contract:** This is an agreement between the administration on the one hand and one of the companies on the other hand, under which the latter undertakes to pay an amount to this administration in exchange for an annual interest specified in the contract.
5- **Transaction contract:** A written contract in the sense of applicable legislation, concluded in exchange for economic transactions with economic operators in accordance with the stipulated legal conditions, with the aim of meeting the needs of the contracting authority in the field of works, supplies, services and studies.