

**University of Mohamed Lamine Debaghine – Sétif 2**

**Faculty of Law & Political Sciences**

**Department of Law**

**English Terminology Lessons**

**Addressed to Second Year Master Students**

**(Public Law – Public Administration)**

**The Lessons are Based on Texts Selected and Treated by**

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## Text 1

### Independent Administrative Authorities (Part 1)

#### Introduction:

Not so long ago the term “regulatory state” was considered a neologism of American origin and of dubious relevance to the European context. The skepticism was understandable since statutory regulation hardly played a role in the political economy of the Keynesian welfare state. Public ownership of key industries, especially of the public utilities, was supposed to make economic regulation superfluous; while the political significance of social regulation, such as environment and consumer protection, was minimal by comparison with traditional social policy. That yesterday’s neologism is used more and more frequently today not only by scholars but also by policy-makers and by the media, is a clear indication of the importance which regulatory policies have achieved in recent years. The rise of regulation as a distinctive mode of policy making is due to several factors, among which privatization.

The failure of public ownership, not only to keep pace with technical developments but even to provide effective consumer protection, explains the shift to an alternative mode of public control whereby the utilities and other industries deemed to affect the public interest are left in private hands but are subject to rules developed and enforced by specialized agencies. Such bodies are usually established by statute as independent administrative authorities, independent in the sense that they are allowed to operate outside the line of hierarchical control by the departments of central government. **These authorities are now considered to be the sign of modern economic regulatory systems. They proliferated since the 1980s and it is believed that they are enhancing the efficiency of regulation.**

#### Genesis of Independent Administrative Authorities:

From a historical perspective, the American experience is the oldest in terms of creation of the IAAs category. When the Congress removed the Interstate Commerce Commission (ICC) from the Interior Department in 1889, it gave the Commission, as an institution, substantive and organizational powers. Other multi-member agencies were modeled on the structure of the (ICC),

they were called: "Independent Regulatory Agencies".

Then the IAAs category appeared in Britain. Huge number of bodies of this kind was created by government under the name of "Quasi-Autonomous Non-Governmental Organizations" (QUANGOs). The French legislator was the first to use the term "Independent Administrative Authority" (*Autorité Administrative Indépendante; AAI*), on the occasion of the creation of the National Commission on Data Processing and Liberties (*Commission Nationale de l'Informatique et des Libertés; CNIL*) in 1978.

### **Reasons for the Establishment of Independent Administrative Authorities in Comparative Law:**

The main reasons for establishing the IAAs category in the American experience, from the start, it was intended for the Congress to gather tasks that were primarily under the executive's responsibility.

In Britain, QUANGOs must be established by an Act of parliament, or in special cases, by virtue of an Act of parliament. The reason of this demand is that QUANGOs operate at a distance from Ministers. In order to counteract the decrease in accountability to Parliament once QUANGOs is established, it is necessary to obtain at least parliamentary consent beforehand.

The motives behind establishing QUANGOs were not consistent. The history of each body was unique. Nonetheless three reasons have been frequently cited for the establishment of QUANGOs in recent years: the first objective of successive governments was to decrease the size of the public sector. Secondly, Ministers can concentrate on the strategic aspects of their role by creating agencies outside of departments. Thirdly, in the 1990s it was acknowledged that public dissatisfaction with politics necessitated Parliament seeking out other trusted bodies to solve sensitive issues.

In France, three essential motives have been induced to establish the IAAs: to provide the public with a stronger guarantee of the State's impartiality; to make it easier of people of different backgrounds and skills, and specially professions, to participate more broadly in regulating a specific field of activity or in treating a sensitive issue; to ensure that State intervention is effective in terms of speed, adapting to changing needs and markets and ensuring continuity of action.

## Text 2

### Independent Administrative Authorities (Part 2)

#### Definition of Independent Administrative Authorities

In comparative law, the term of “Independent Administrative Authorities” can be used in other formulations such as: "*Independent Regulatory Agencies*" in the United States of America and *Quasi- Autonomous Non Governmental Organizations*" in Great Britain. In all cases, these bodies represent an untraditional model of administration aimed at making the administrative action more effective and independent from the political influence. Such objectives are considered particularly relevant in order to face the challenges given by markets in continuous technological progress and no longer manageable by the traditional model of administrations.

From this perspective, the term “regulatory” is referred to “The method of permanent adaptation through the various interventions that ensure a balance between the forces involved in an unstable system, with the promulgation of the laws and the conclusion of contracts, and the control of their implementation». In France, the *Conseil d’Etat* confirmed in its report (2001) that “the IAAs have in common to act in the name of the State without being subordinated to the Government, and, for the better exercise of their missions, they benefit of guarantees that enable them to act in full autonomy, without having their actions being directed or censored, except by the judge”.

Given that context, the IAA can be defined as “Bodies which act in the name of the State without being subordinated to the government and benefit from full-independence guarantees (without their action being directed or censored, except by the Courts) in the exercise of their mission. Their powers vary in scope and, in certain cases, the IAAs combine powers of regulation, individual authorization, control, injunction, sanction and even appointment, and are limited in other cases to a simple power of influence”.

#### Elements of Independent Administrative Authorities:

**A-** The distinctive feature of Independent Authorities is their **independence**. They are indeed separated from political circuit and from the relevant interests of the economic sectors; they are requested to regulate acting like a third and

impartial subject. The independence concerns the authorities' organization and functions:

As for organization, a principle of clear separation between administration, political powers and stakeholders must be observed. In particular, the independence is mirrored by the requirements and the procedures to appoint the members of the several authorities, as well as by their incompatibilities, the mandate's length and the prohibition of renewal (in many cases a renewal is allowed just for one time).

The appointment-mechanisms may involve the parliament, the government, or both of them, however, when the government takes part into the appointment of the designated members, the authorities' independence is usually reduced.

Authorities' members must have scientific and technical capacities with reference to the specific sector involved; the incompatibilities are very rigorous since, during the tenure, it is forbidden to carry on advisory activities, other public tenures and working activities in the public or private sector. Generally, the mandate length is longer than one parliamentary legislature and the renewal is forbidden.

On the operational side, the independence is necessary in order to guarantee full impartiality of the agencies' action without influence from the government and from the regulated subjects.

From this point of view, independence means:

- 1- Organizational autonomy, whereby the authorities regulate their own structure and staff;
- 2- Financial autonomy, whereby they operate using their own resources without being dependent on the government;
- 3- Accounting autonomy, which allows them to use their own funds and make their own balance applying different rules from the ones followed by the State government.

The independence requirements have to be respected not only formally, but also in the every-day activities carried out by the authorities.

### Text 3

#### Characteristic Elements of Independent Administrative Authorities

**B-** The second point concerns the second characteristic element: that it is an "administrative" body. This corresponds to the traditional idea that regulation is the mechanism by which the State intervenes in the economy, in the image of a kind of deconcentration of ministries, in the Scandinavian model of the agency

If we allow ourselves to be enclosed in this vocabulary, we conclude that this administrative body makes an administrative decision which is the subject of an appeal before a judge. Thus, in the first place, this would be a first instance appeal and not a judgment since the administrative authority is not a court.

Secondly, the natural judge of the appeal should be the administrative judge since it is an administrative decision issued by an administrative authority. But in France the Ordinance of 1 December 1986 *sur la concurrence et la libéralisation des prix* (on competition and price liberalization), because it intended precisely to break the idea of an administered economy in order to impose price freedom on the idea of economic liberalism, required that attacks against the decisions of economic regulators taking the form of IAA are brought before the Court of Appeal of Paris, judicial jurisdiction.

Some great authors were even able to conclude that the Paris Court of Appeal had become an administrative court. But today the procedural system has become extremely complex, because according to the IAA and according to the different kinds of decisions adopted, they are subject to an appeal either to the Court of Appeal of Paris or to the *Conseil d'État* (Council of State). If one observes the successive laws that modify the system, one finds that after this great position of principle of 1986, the administrative judge gradually takes again its place in the system, in particular in the financial regulation. Is it logical

to conclude that we are returning to a spirit of regulation defined as an administrative police and an economy administered by the State?

C- Finally, the third term is the name itself: "authority". It means in the first place an entity whose power holds before in its "authority". But it marks that it is not a jurisdiction, that it takes unilateral decisions. It was without counting the European Court of Human Rights (ECHR) and the judicial judge! Indeed, Article 6§1 of the European Convention on Human Rights states that everyone has the right to an impartial tribunal in civil and criminal matters. The notion of "criminal matter" does not coincide with the formal traditional concept of criminal law but refers to the broad and concrete factual concept of repression.

Thus, by a reasoning which goes backwards, an organization, whatever the qualification that a State has formally conferred on it, which has an activity of repression, acts "in criminal matters". From this alone, in the European sense, it is a "tribunal". This automatically triggers a series of fundamental procedural guarantees for the benefit of the person who is likely to be the subject of a decision on his part. In France, a series of jurisprudence, both of the *Cour de cassation* (Court of Cassation), the *Conseil d'État* (Council of State) or the *Conseil constitutionnel* (Constitutional Council) has confirmed this jurisdictionalization of the AAI.

## Text 4

### **The Establishment of the Independent Administrative Authorities in Algeria**

After independence, Algeria adopted politically the one-party system and the socialist system economically, and this approach was clearly stated in both the 1963 Constitution and the 1976 Constitution. This system continued until the late 1980s when the State exercised various economic functions such as investment, production, distribution, import and export. However, the application of the socialist system has resulted in several deviations and a clear failure.

With the promulgation of the 1989 Constitution, the transition towards a 'Regulatory State' was politically initiated by the adoption of the multi-party system and the adoption of market economy rules. This trend was reinforced by the 1996 (Art. 122) and the 2016 (Art. 104) constitutional amendments. This shift was translated by assigning the mission of regulation to the IAAs; following the privatization and deregulation and the creation of IAAs; by introducing new laws of a different nature which are flexible and adaptable.

In this regard, the Algerian legislator is hesitant about the legal nature of new regulatory bodies that it has created and their description as IAAs. Even though the idea of establishing the category of IAAs has not been clearly enshrined in the Constitution, the legislation has remained the main source of their establishment. As a result, a large number of legal texts have been promulgated to the creation, the suppression, the re-creation and the replacement of these bodies in all fields. Among numerous examples, the following may be mentioned:

- The Supreme Media Council; *le Conseil supérieur de l'information*, created in 1990 and abrogated in 1993.
- The Competition Council; *le Conseil de la concurrence*, created in 1995 and replaced in 2003.
- The Regulatory Authority of the Post and Telecommunications; *l'Autorité de régulation de la poste et des télécommunications*, created in 2000 and replaced in 2018.



## **The rationale behind establishing Independent Administrative Authorities in Algeria**

The economic structural reforms in most countries have prompted the creation of IAAs; these bodies are intended to provide neutral regulatory oversight in liberalized or privatized sectors. Algeria is no exception. It's obvious that the sectors and activities in which such bodies exist are particularly those that have recently been subjected to competition rules and have undergone profound changes in the framework of reform and modernization. The objective is to attract foreign investors and improve the standard of living of individuals, through providing guarantees of Impartiality, Professionalism and Efficiency, detailed below:

- Impartiality: the objective of the legislator is to give the public the guarantee of the impartiality of the state. The purpose of this guarantee is to eliminate the fears of the political and administrative authorities.

- Professionalism: The purpose of the legislator is to involve professionals and experts in the process of drafting rules applied in the technical and sensitive fields. Determining the requirement of competence and professionalism of the members is supposed to give more credibility to attract economic operators, which is a guarantee to ensure its continuity.

- Efficiency: The legislator aims to achieve the highest degree of efficiency that is expected to be available to IAAs, compared to the traditional work of the administration and the judiciary. In this context, the regulatory bodies should have competent, nonpolitical, professional staff-expert in relevant economic, accounting, engineering, and legal principles and familiar with good regulatory practices. The regulatory bodies should also operate in a statutory framework that fosters competition and market-like regulatory policies and practices. Lastly, it should be subject to substantive and procedural requirements that ensure integrity, independence, transparency, and accountability.

These bodies would be instrumental in the development and stability of legal texts by providing recommendations and proposals on legal issues related to regulating fields and their involvement in public policymaking matters will be significant.

Independent Administrative Authorities	السلطات الإدارية المستقلة
Regulatory state	الدولة الضابطة
Welfare state	دولة الرفاه أو الرفاهية
Public utilities	المرافق العامة
Economic regulation	الضبط الاقتصادي
Environment protection	حماية البيئة
Consumer protection	حماية المستهلك
Policy-makers	صانعو السياسات
Privatization.	الخصوصية
Public ownership	ملكية عامة
Public interest	مصلحة عامة
Specialized agencies.	وكالات متخصصة
Hierarchical control	الرقابة السلمية (التسلسلية)
Central government	الحكومة المركزية
Efficiency of regulation	كفاءة أو فعالية الضبط
American experience	التجربة الأمريكية
The Congress	الكونغرس (البرلمان الأمريكي)
Interstate Commerce Commission (ICC)	لجنة ما بين الولايات للتجارة
Substantive powers	سلطات موضوعية
Organizational powers	سلطات تنظيمية
Multi- member agencies	وكالات متعددة الأعضاء
Quasi-Autonomous Non- Governmental Organizations" (QUANGOs)	التنظيمات غير الحكومية شبه المستقلة
Legislator	المشرع
National Commission on Data Processing and Liberties	اللجنة الوطنية للمعلوماتية والحريات
Comparative Law	القانون المقارن
Executive's responsibility	مسؤولية السلطة التنفيذية
Act of parliament	قانون صادر عن البرلمان
Accountability	المساءلة
Parliamentary consent	موافقة البرلمان
Successive governments	الحكومات المتعاقبة
Public sector	القطاع العام
Public dissatisfaction	استياء الجمهور أو العامة
Trusted bodies	أجهزة موثوق بها
Guarantee	ضمانة
State's impartiality	حياد الدولة
State intervention	تدخل الدولة
Changing needs	الاحتياجات المتغيرة
Independent Regulatory Agencies	الوكالات الضابطة المستقلة

Promulgation	إصدار (القوانين)
Conclusion of contracts	إبرام العقود
Implementation	التنفيذ
Autonomy	الاستقلالية
Continuity of action	استمرارية العمل
Directed	موجهة
Censored	تحضع للرقابة
Individual authorization	الترخيص الفردي
Injunction	الأمر القضائي
Sanction	عقوبة (جزاء)
Appointment	تعيين
Power of influence	قوة التأثير
Impartial subject	شخص محايد
Requirements	شروط (متطلبات)
Stakeholders	المساهمون (أصحاب المصلحة)
Procedures	إجراءات
Incompatibilities	حالات التنافي
Mandate's length	مدة العهدة
Prohibition of renewal	حظر تجديد (العهدة)
Appointment-mechanisms	آليات أو إجراءات التعيين
Designated members	الأعضاء المعيّنون
Scientific capacities	القدرات العلمية
Technical capacities	القدرات التقنية
Advisory activities	أعمال استشارية
Tenure	فترة الولاية (العهدة)
Organizational autonomy	الاستقلال التنظيمي
Financial autonomy	الاستقلال المالي
Accounting autonomy	الاستقلالية المحاسبية
Own funds	الأموال الخاصة بها
Own balance	الميزانية الخاصة بها
Deconcentration	عدم التركيز (الإداري)
Appeal	الاستئناف
First instance	الدرجة الأولى (عن المحاكم)
Judgment	الحكم القضائي
Administrative judge	القاضي الإداري
Judicial jurisdiction	القضاء العادي
Conseil d'État (Council of State)	مجلس الدولة
Financial regulation	الضبط المالي
European Court of Human Rights (ECHR)	المحكمة الأوروبية لحقوق الإنسان
Criminal matters	المسائل الجنائية
Criminal law	القانون الجنائي (قانون العقوبات)

Repression	الردع
Tribunal	المحكمة
Procedural guarantees	الضمانات الإجرائية
Jurisprudence	الاجتهاد القضائي
<i>Cour de cassation</i> (Court of Cassation)	محكمة النقض (في فرنسا)
Constitutional Council	المجلس الدستوري
Jurisdictionalization	إضفاء الطابع القضائي (على تنظيم ما)
One-party system	نظام الحزب الواحد
Economic functions	الوظائف الاقتصادية
Investment	الاستثمار
Production	الإنتاج
Distribution	التوزيع
Import and export	الاستيراد والتصدير
Multi-party system	نظام التعددية الحزبية
Market economy	اقتصاد السوق
Constitutional amendments	التعديلات الدستورية
Assigning a mission	إسناد مهمة
Suppression	إلغاء
Re-creation	إعادة إنشاء
Replacement	استبدال
The Supreme Media Council	المجلس الأعلى للإعلام
The Competition Council	مجلس المنافسة
The Regulatory Authority of the Post and Telecommunications	سلطة ضبط البريد والمواصلات (الاتصالات)
Economic structural reforms	الإصلاحات الهيكلية الاقتصادية
Professionalism	الاحترافية
Requirement of competence	شروط الاختصاص وفي سياق النص ورد بمعنى شرط الكفاءة
Credibility	المصداقية
Economic operators	المتعاملون الاقتصاديون
Integrity	النزاهة
Transparency	الشفافية
Accountability	المساءلة
Stability of legal texts	استقرار النصوص القانونية
Recommendations	التوصيات
Proposals on legal issues	المقترحات حول المسائل القانونية

## Text 5

### Centralization as a Mode of Administration

In any organization, there are two ways of administration: centralization and decentralization. There is a hierarchy of formal authority in centralization for making all the organization's important decisions. Decentralization means that decision-making is delegated to the lower levels of the organization.

What is Centralization?

Centralization is an organizational structure that gives the ability of decision-making responsibilities to higher management. Few selected members are given the authority to create and determine strategies and goals. In centralization, the type of organizational structure allows higher management to create the rules including procedures that are used to communicate with lower-level employees. Lower-level employees have to obey the rules made by the higher management organization without doubting the rules and regulations.

**Advantages and Disadvantages of Centralization:** There are numerous advantages and disadvantages of Centralization as detailed below:

#### **Merits of Centralization:**

Centralization has a very important role in providing a disciplined environment in an organization. The higher level of management doesn't only look after taking essential decisions for the organization; they are also the hearing aid for the employees when they face problems regarding work. Whenever the employees of middle- to lower-level management face a concern regarding work and need a few changes, they can go to the higher-level management authorities. Centralization makes decision-making and problem-solving easier, as it helps keep them in proper order.

All the middle- to lower-level employees are workers under higher management authorities. Whatever work they are given by higher-level management, they keep a check on them because every lower-level worker is answerable to higher authorities. So, in fear of supervision, they tend to do their daily duties properly. It is one of the reasons for a better quality of work and high productivity.

The highest level of management has more experience than other people. They tend to have more business experience and knowledge. They have an idea

of how to deal with specific situations and how not to. With their knowledge based on their experience, they tend to be better decision-makers for the centralized organization.

Every organization has a plan or a vision that they want to see accomplished in the coming years. For success in the future, it can't be expected from the efforts, but if they have centralized or higher-level authorities that have the power to decide for the company's good. They can decide on their vision for the future with full focus. They will help the workers of the company achieve the goals for this company.

Whenever more people are involved in the decision-making process, more time will increase the decision-making process. And it will tend to make it slow because more people will give more opinions and views about certain objectives. So, a centralized organization will have only the top management for decision-making while the employees will be responsible for only work, not for decision-making.

In a centralized organization, the higher authorities are those who started the business. So, they save money by not hiring any other business experts for the decision they need to make.

### **Demerits of Centralization:**

Subordinate authorities function under the direction of their superiors, who possess the authority to make decisions as needed. In a centralized organization, authority rests with the decision-maker. Workers usually follow their regulations when working for them. Their output is not creative under these kinds of circumstances. Their productivity is most negatively impacted by the centralized organization's controlled structure.

As the worker is constantly working under rules and supervision via higher authorities, they get the feeling of slaves rather than organization employees. This leads to disloyalty, and they tend to leave when they receive a better opportunity.

Employees at lower levels need to depend on the decisions made by top management, which decreases productivity. They tend to waste time on the decision-making processes of the higher authorities.

## **Text 6**

### **Decentralization as a Mode of Administration**

What is Decentralization?

Decentralization is an organizational structure where delegates are assigned to manage the organization. They are selected by the higher authorities. The selected candidates are mostly their middle- and lower- subordinates. The decentralization type of management helps to organize daily duties. They also take part in minor decision-making. A lot of responsibilities are given to the middle and lower levels subordinates. Because of the well-distributed job roles, the higher management authorities get a chance to focus more on major business decisions.

#### **Advantages and Disadvantages of Decentralization:**

There are numerous advantages and disadvantages of decentralization as detailed below:

#### **Merits of Decentralization:**

Decentralization allows middle to lower authorities to participate in the decision-making processes. It helps to reduce the pressure of higher authorities. Higher authorities can easily focus on more important works rather than on minor decision-making processes.

Decentralization allows the employee to show their creativity and skills. It helps the employee for their power and independence.

In a decentralized organization, the decision-making process is quite quicker than centralization. From the middle to the lower level, employees are allowed to make minor decisions. Based on the situation, they can take ownership of the required action and implementation.

Decentralization motivates their employees as there are chances to show their skills without the interference of top management. This allows improving the quality of work.

#### **Demerits of Decentralization:**

In a decentralized organization, many employees are required to be hired according to their work experiences and knowledge. This criterion increases the

cost of the company, as more money is spent to hire the most eligible people for the job profile.

In decentralization, there is no uniformity because every manager has their way to make people work.

Decentralization is not effective for building small firms. It is effective because it involves a high amount of cost to run the organization.

Centralization and decentralization are opposite ways to transfer decision-making power and to alter the organizational structures.

There must be a good balance between centralization and decentralization of authority and power. It is necessary to avoid extremes of centralization and decentralization.

### **Conclusion:**

Centralization obtains consistent methods and activities and uses closer powers to work units. It can successfully handle the crisis immediately. Decentralization guarantees the dynamic work of the staff and stimulates their enthusiasm. The true realization of joint relies on a reasonable combination of centralization and decentralization. No complete centralization or complete decentralization was found in the association. It only exists in principle. Therefore, a legitimate blend of the two is required.

Centralization and decentralization are tangled points. Nor is it a reliable and correct arrangement. Professional issues, such as server organization, and non-technical issues, such as authoritative structures, can be combined or dispersed. Both topics are related to making changes. When introducing such unavoidable improvements, we recommend that you consider the following core values: understanding the clear problem you are understanding; understanding your inspiration for introducing improvements; Incorporate as much as is possible for the time being; recognize that, like any new administration, it requires careful planning; and, most importantly, listen to your clients.



Organization	منظمة (وهنا وردت بمعنى تنظيم)
Centralization	المركزية
Decentralization	اللامركزية
Decision-making	صنع القرارات
Delegated	مفوضة
Responsibilities	المسؤوليات
Ability	القدرة (الإمكانية)
Lower-level employees	الموظفون ذوو المستوى الأدنى
higher management	الإدارة العليا
regulations	اللوائح (التنظيمات)
Merits or advantages	مزايا
Demerits or disadvantages	عيوب
Decision-making processes	عمليات (إجراءات) صنع القرار
Creativity	الإبداع
Skills	المهارات
Quality of work	جودة العمل
Be hired	يتم توظيفه
Criterion	معيار
Cost	تكلفة
Eligible	مؤهل
Job profile	الملف الوظيفي
Uniformity	توحيد أو اتساق
Small firms	الشركات الصغرى
Good balance	التوازن الجيد
To handle the crisis	معالجة الأزمة
Reasonable combination	مزج معقول
Tangled points	نقاط متشابكة
Reliable arrangement	ترتيب موثوق
Unavoidable improvements	تحسينات لا يمكن تفاديها
Planning	التخطيط