

The relationship between judicial security and legal security

Adel BOUFENAYA^{1,*} 

¹ Faculty of Law, University of Algiers 1 (Algeria), boufenayaadel71@gmail.com

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Abstract:

Judicial security and legal security are fundamental concepts for ensuring justice and protecting rights within any legal system.

Judicial security refers to the guarantees related to the administration of justice through the judicial system. This involves the credibility and independence of judicial bodies, ensuring fair trials, and the prompt resolution of cases. In other words, it concerns the integrity of judicial procedures, the impartiality of judges, and the transparency of the judicial system.

Legal security, on the other hand, refers to the stability and assurance that laws are applied consistently and fairly. It pertains to the clarity of laws and their accessibility to everyone, as well as the need for laws to remain stable and not change arbitrarily or without justification. This includes protecting individuals from arbitrary or unexpected changes in laws that might affect their rights or interests.

The relationship between judicial security and legal security lies in their mutual contribution to building a strong and just legal system. Judicial security ensures that judicial procedures are carried out transparently and fairly, while legal security ensures that individuals are aware of their rights and obligations and that laws are applied consistently and continuously. Thus, achieving judicial security enhances legal security and vice versa, fostering confidence in the legal system and ensuring societal stability.

Keywords: Judicial security, Legal security, legal system, protecting individuals.

*Corresponding Author

I. INTRODUCTION

The fundamental criterion on which all the foundations of progress and stability within any State are based stems from an idea inherent throughout history, namely the State of Law. the State in which the latter is the ultimate separation and limitation of all disputes, as well as interactions between members of society or between different societies law ", where the various aspects of life are currently measured on the extent to which the application of legal norms is subject and respected and the extent to which the legislative texts of all their sources are adhered to, Starting with the Constitution, which constitutes a reflective picture of what will be customs and customs, which are essentially the sum of the principles and provisions of customary law that prevailed in the past.

Judicial security and legal security are interconnected and essential components that promote justice and maintain the stability of the legal framework. To gain a deeper understanding of how these concepts relate to one another, it is beneficial to examine each one closely and analyze their interaction in fostering an effective and equitable legal system.

Judicial security involves several vital elements that uphold the integrity of the judicial system. A central component of this security is the independence of the judiciary, which ensures that courts and judges can make decisions free from external influences, including political or economic pressures. This independence is fundamental to achieving justice, as it allows judges to issue rulings based solely on legal principles and the facts of the case, without fear of repercussions or favoritism.

Another essential facet of judicial security is the guarantee of fair trials, which encompasses the rights to legal defense and the opportunity for all parties to fully present their evidence and arguments. Furthermore, timely resolution of cases is crucial to maintaining judicial security, as delays in the judicial process can result in unjust outcomes and adversely affect those involved.

Legal security, on the other hand, pertains to providing a stable and clear legal environment. This includes the clarity and precision of laws, which helps individuals and institutions understand their rights and obligations clearly. Sudden or arbitrary changes in the law can undermine legal stability and lead to a lack of confidence in the judicial system. Therefore, the stability and consistent application of laws are essential for maintaining legal security.

The relationship between judicial security and legal security is reflected in how these elements complement each other to ensure an effective legal system. Judicial security provides the necessary guarantees for implementing laws fairly and transparently, which enhances trust in the judicial system. Conversely, legal security ensures that the laws being applied are fair, clear, and stable, which improves the effectiveness of the judicial system and facilitates better justice.

When judicial security is effectively achieved, it becomes easier to apply laws fairly and insightfully, thereby reinforcing legal security. At the same time, when there is a stable and clear legal system, it contributes to the integrity of the judiciary and leads to more effective justice.

Thus, the relationship between judicial security and legal security is complementary, with each reinforcing the other. Achieving judicial security enhances confidence in the legal system and enables the realization of legal security, while the stability and clarity of laws contribute to the effectiveness of the judiciary and result in more comprehensive justice.

II- The concept of judicial security and legal security

Judicial Security and Legal Security are two interrelated concepts crucial for maintaining a robust legal system.

1- The concept of judicial security:

The concept of judicial security has become increasingly important in the last 10 years, especially in European countries that are members of the European Union, after it emerged that the jurisprudence of the European Court of Human Rights and the European Court of Justice is pushing for the absence of retroactive laws rationed temporize or interpretative laws and exposes the negative effects of any change in jurisprudence on the stability of intercitization among citizens. (Rafał Mańko, October 2023)

Defining concepts and providing clear definitions can be one of the most challenging processes in knowledge acquisition. This challenge intensifies when we encounter broad concepts that encompass various psychological, social, and economic dimensions. Such concepts often overlap with numerous related terms, leading to confusion and uncertainty in the minds of recipients. The interpretation of these terms can vary greatly among individuals, influenced by their background, experiences, and interests.

Judicial security is a key element that reflects trust in the judicial system and its outcomes. It underscores the judiciary's traditional role in applying the law (*Dire le droit*) to the cases presented before it. This trust is further enhanced by the assurance of the quality of judicial performance and its accessibility to all.

This judicial security is not the responsibility of a particular judicial authority, but rather is encumbered by the various branches of the judiciary, whether ordinary or specialized, and even exceeds the limits of the national judge in some cases. As in the case of European court judges, for example.

Therefore, judicial security now has to be understood from this expanded level in two respects:

- It is considered to be a preventive barrier to persons against each other's excesses and to prevent management from going beyond them.
- It also protects public authorities against arbitrary and malicious litigation of litigants.

2) The concept of legal security:

The concept of legal security and the concept of legal certainty since the popularization of Gustav Radbruch's views in Poland (i.e. from the end of the 1930s. when the first translations of Radbruch's works by Czesław Znamierowski appeared), are constantly present in the legal discourse. The concepts gained a special importance after the introduction of the democratic state of law into the Polish legal system. The Polish Constitutional Tribunal derives from the principle of a democratic state of law many principles, including, among others, the principle of legal security with which other rules are related to varying degrees, also derived from art. 2 of the Constitution¹ – namely: the principle of legal certainty, the principle of protection of citizens' trust in the state and its law, the principle of protection of acquired rights, the principle of protection of interests in progress, the principle of non-retroactivity, the principle of appropriate *vacatio legis*, or more generally – the principle of correct legislation. The semantic scopes of these

principles partly overlap and cross each other, and their mutual relations are not clearly defined. According to me, defining the concept of legal security will allow to clarify and organize many issues related to the mutual relationship of these principles.

Legal security is a very important legal and philosophical value. The philosophy of law is searching for answers to the question concerning the nature of law and its importance in human life. The object of its interest are the relationships of man in the relation to positive law and natural law. The philosophy of law is thus closely related to the philosophy of man. Adoption of legal and philosophical perspective on its inseparable connection with the philosophy of man makes it clear that the right to legal security, treated here as an aspect of the broader right to safety, constitutes the natural right of the individual, which should first of all find its protection in the state (although in our times it is realized also in international forums and also within the European Union) through its existing order of positive law.

Legal security refers to the clarity and stability of the legal system, ensuring predictability and consistency in the application of laws and regulations. It requires that legal texts be clear and well-defined, avoiding arbitrary or unjustified changes. This concept aims to provide a stable legal environment on which individuals and businesses can rely for planning their activities and making decisions with confidence. Legal security also enhances trust in the judicial system and the ability to anticipate potential legal outcomes, contributing to economic development and reducing legal risks. Thus, legal security forms a crucial foundation for protecting individuals' rights and ensuring a reliable and sustainable legal environment.

III. Components of judicial and legal security

➤ Judicial Security Components

The elements of judicial security include a set of essential elements that ensure the effectiveness and independence of the judicial system and its ability to deliver justice in a fair and reliable manner.

a)- Independence of the judiciary

The independence of the judiciary is one of the most important elements. Judges must be able to make their decisions without external influence or political or economic pressure, ensuring that judgements are made solely on the basis of law and facts.

It is also one of the fundamental pillars of judicial security, a concept that refers to the need to separate the judiciary from the executive and legislative powers to ensure the justice and impartiality of the judicial system. The independence of the judiciary includes a range of elements that contribute to the integrity and effectiveness of the judicial system.

- **Institutional independence:** The judiciary means that the judicial system has an administrative and financial structure independent of other authorities. Courts and tribunals must not be subject to any interventions or pressure from the executive or legislature. This independence ensures that judges can make their decisions based on law and facts without being influenced by political or economic pressure.
- **Functional independence:** means that judges must be able to perform their functions without interference or influence from any external party. This requires the protection of judges from unlawful pressures and personal influences that may affect their decisions. Judges must have adequate job security, so that they are not subject to threats or threats of recusal because of their judicial decisions.

- **Financial independence:** is a critical element for ensuring the independence of the judiciary. A separate budget must be allocated to the judicial system, ensuring that it is managed transparently and effectively. This financial independence protects judges from economic dependence that may affect their decisions and enhances their ability to perform their functions efficiently.
- **Academic and training independence:** includes the provision of continuous education and training to judges to ensure better skills and understanding of the law. Judges must be free to choose educational and training programmes that are appropriate to their professional needs without external influence.
- **Judges' legal protection:** necessary to protect the independence of the judiciary. There must be laws and regulations protecting judges from any form of unlawful pressure or interference and ensuring that any attacks on their independence are punished.

b) Integrity and transparency

Impartiality and transparency are essential for achieving judicial security and ensuring the effectiveness of the judicial system.

Integrity means that judges and judicial officers work with a high professional conscience, away from corruption, manipulation and personal influences. This requires that the judicial system be impartial in all its procedures and provisions and that the judicial decision be based solely on law and facts, without external influences or personal interests.

Transparency refers to the clarity and openness of judicial processes, allowing society to pursue justice and understand how decisions are made. Transparency also means providing the necessary information about judicial procedures, judgments and legal practices, enhancing individuals' ability to verify the integrity of the judicial system and assess its effectiveness.

Integrity and transparency work together to ensure that the judicial system is corruption-free, and that individuals are able to see how legal decisions are made. This bilateral reinforces public confidence in the judiciary, encouraging individuals to resort to the courts and rely on the judicial system to resolve their disputes. Through impartiality and transparency, it is possible to ensure that justice remains unbiased and that everyone has equal access to and protection of their rights from any misconduct or prejudice.

c) Competence and legal literacy

are crucial components of an effective judicial system, ensuring that the administration of justice is fair, informed, and efficient.

- **Competence:** in the judicial context refers to the expertise and capability of judges and legal professionals in understanding and applying the law. This includes not only a deep knowledge of legal principles and procedures but also the ability to interpret laws in a manner that is just and equitable. Competent judges and legal professionals are essential for making informed decisions that adhere to legal standards and effectively address the issues at hand. They must possess the skills to analyze complex legal arguments, evaluate evidence critically, and issue rulings based on sound legal reasoning.

- **Legal literacy,** on the other hand, pertains to the general understanding of legal concepts and rights among the public. It involves the ability to comprehend basic legal principles, know one's rights and obligations, and understand how to navigate the legal

system. Legal literacy empowers individuals to make informed decisions, seek legal redress when necessary, and participate effectively in legal processes. It is crucial for ensuring that people can advocate for themselves and access justice, particularly in situations where legal advice or representation is not readily available.

Together, competence and legal literacy contribute to a robust judicial system. Competence ensures that legal decisions are made by professionals who are well-versed in the law, while legal literacy ensures that the public is informed and capable of engaging with the legal system effectively. Both elements are essential for maintaining the integrity of the judiciary, protecting individual rights, and promoting a fair and accessible legal environment.

d) Judicial security: encompasses various aspects aimed at ensuring the effective functioning of the legal system and protecting individuals' rights. One crucial component of judicial security is the provision of remedies and the establishment of mechanisms to address grievances and enforce legal rights.

Provision of Remedies

1- Access to Justice:

- **Mechanisms for Filing Complaints:** A fundamental aspect of judicial security is ensuring that individuals have accessible mechanisms to file complaints and seek redress. This includes clear procedures for submitting legal claims or grievances, ensuring that barriers to access are minimized.

- **Legal Aid and Representation:** Providing legal aid or pro bono services helps individuals who cannot afford legal representation to pursue their cases. Ensuring that everyone has access to legal resources, regardless of their financial status, is vital for achieving justice.

2 - Effective Legal Remedies:

- **Civil Remedies:** These include compensation for damages, injunctions, and specific performance, which address various forms of harm or loss. Effective civil remedies ensure that individuals who have suffered wrongs can be made whole.

- **Criminal Remedies:** For criminal offenses, remedies involve penalties such as fines, imprisonment, or rehabilitation. Ensuring that these remedies are proportionate and just helps maintain public confidence in the legal system.

3- Appeals and Review Mechanisms:

- **Right to Appeal:** Individuals should have the right to appeal decisions made by lower courts or administrative bodies. An effective appellate system provides an opportunity to correct errors and ensure that justice is served.

- **Judicial Review:** Mechanisms for judicial review allow higher courts to examine the legality of decisions made by lower courts or administrative bodies, ensuring adherence to legal standards and principles.

• Enforcement of Remedies:

1. Execution of Judgments:

- **Enforcement Procedures:** Once a court issues a judgment, effective procedures must be in place to enforce it. This includes mechanisms to compel compliance with court orders and ensure that remedies are implemented.

- **Monitoring and Compliance:** Ongoing monitoring of compliance with court orders and judgments is essential to ensure that remedies are not only awarded but also enforced.

2 - Redress for Non-Compliance:

- **Sanctions and Penalties:** When parties fail to comply with court orders or legal remedies, sanctions or penalties may be imposed. This can include additional fines, legal consequences, or other measures designed to ensure compliance.

- **Review and Adjustment:** In cases where enforcement challenges arise, courts or relevant bodies may review and adjust remedies to address specific issues, ensuring that the intended relief is achieved.

Providing effective remedies and ensuring their enforcement are crucial for maintaining judicial security. They ensure that individuals have recourse to address wrongs, uphold their rights, and seek justice. By implementing accessible legal mechanisms, ensuring effective enforcement, and providing opportunities for appeal and review, the legal system reinforces its credibility and effectiveness, thereby enhancing overall judicial security.

e) Execution of judgements :

Is a fundamental element of judicial security, indicating the ability to ensure that court decisions and judgements are implemented effectively and without delay. The execution process plays a crucial role in enhancing confidence in the judicial system and ensuring justice. Once the judgement has been rendered, there must be an effective mechanism to ensure that the judgement is implemented promptly and reliably, which means that the parties concerned abide by the Court's determination.

The execution of sentences involves a series of steps, including ensuring the application of the prescribed penalties, the settlement of financial damages and the implementation of judicial orders relating to the rights or obligations of the parties. This requires an administrative and legal system that ensures that the execution of sentences is not manipulated or delayed, including clear legal proceedings to claim rights and enforce orders.

Enforcement of sentences also requires competent organs, such as magistrates or executive bodies, responsible for the execution of judicial decisions. These organs must be empowered and resourced to ensure their effective functioning, thereby contributing to the achievement and clear application of justice.

Consequently, execution of sentences is one of the vital elements for ensuring judicial security, enabling individuals to rely on the judicial system for effective justice and protection of their rights. Failure to implement or delay sentences can result in a loss of confidence in the judicial system and undermine its effectiveness, underlining the importance of an integrated and effective system to ensure prompt and fair enforcement of sentences.

➤ Components of Legal Security

Are the foundations that ensure the stability and reliability of the legal system, thereby enhancing public confidence in laws and regulations and allowing individuals and businesses to predict the legal consequences of their actions. The components of legal security can be summarized as follows:

a) Clarity of Legal Texts :

Clarity of legal texts is one of the most important components of legal security. Laws and regulations should be written in clear and understandable language. This helps individuals understand their rights and obligations and predict the legal outcomes of their actions, thereby enabling informed decision-making.

b) Stability of Laws :

The stability of laws means that legal texts should be stable and not subject to sudden or unjustified changes. Amendments to laws should be made thoughtfully and under clear conditions to avoid legal uncertainty and ensure the continuity of the legal system. Stability contributes to creating a reliable legal environment that allows individuals and businesses to plan for the long term.

c) Consistency and Integration of the Legal System :

Legal security requires that the legal system be integrated and consistent, with no conflicts or gaps between different legal texts. Laws and regulations should work together cohesively, supporting the achievement of justice and legal security.

d) Transparency in Legal Processes :

Transparency means that all legal processes and policies are clear and accessible to everyone. Individuals should be able to access legal information regarding laws and judicial procedures, ensuring they understand how the law is applied and how to interact effectively with the legal system.

e) Predictability of Legal Outcomes :

Legal security necessitates that individuals can predict the effects of their actions according to existing laws. This means the legal system should apply laws consistently and fairly, allowing individuals and businesses to make informed decisions based on anticipated outcomes.

f) Protection of Individual Rights :

Ensuring the protection of individual rights is a fundamental element of legal security. The legal system should guarantee that individuals' rights are not violated or subjected to unfair treatment, and there should be legal avenues available to challenge any infringement of their rights.

g) Justice and Fairness :

The application of laws should be done in a fair and equitable manner, which enhances trust in the legal system. Laws must be applied in ways that respect human rights and achieve justice for all, contributing to overall legal security.

Together, these components provide a stable and predictable legal environment, enhancing confidence in the legal system, encouraging adherence to laws, and improving the effectiveness of the legal system as a whole.

III- The relationship between judicial security and legal security

Legal security comes from a human being's inherent right to safety and tranquility. and thus legal security requires that everyone has the right to stability of the Persian base, be safe from sudden adjustments that can affect stability security is thus the shining face of the law, and therefore any guarantee of the application of legal security is the key and central entry point for ensuring judicial security, which is a preventive barrier to persons

against each other's abuses on the one hand. by applying the principles of legal security. and thus it can be said that judicial security is linked in some way to legal security (Cherneva Boyka Ivaylova, 2017), which leads us to question: What are the manifestations of the relationship between legal and judicial security?

The relationship between judicial security and legal security is intrinsic and complementary, as both concepts are vital for the overall effectiveness and credibility of the legal system. Here's an exploration of how these two forms of security interrelate:

1- Definition and Scope:

a) Judicial Security:

refers to the effectiveness and integrity of the judiciary in administering justice. It encompasses elements such as the independence of the judiciary, the fairness and transparency of judicial processes, and the ability of the courts to enforce their decisions. Essentially, it focuses on the quality and reliability of judicial actions and decisions.

b) Legal Security:

pertains to the stability, clarity, and predictability of the legal system. It involves having clear, stable, and coherent laws that individuals and businesses can understand and anticipate. Legal security ensures that laws are consistently applied and that legal rights are protected.

2- Interdependence (Mutual Reinforcement):

a) Judicial Security Enhancing Legal Security: An independent and effective judiciary upholds and enforces laws consistently, thus reinforcing the predictability and stability that are central to legal security. When courts can make fair and unbiased decisions, it helps maintain the reliability of the legal system and assures individuals and businesses that their rights will be upheld.

b) Legal Security Supporting Judicial Security: A stable and predictable legal framework allows judges to make informed decisions based on well-defined laws. This clarity helps prevent arbitrary rulings and supports the judiciary's role in administering justice fairly, thereby strengthening judicial security.

3- Practical Implications:

a) Implementation and Enforcement:

- **Judicial Security:** The ability of the judiciary to effectively implement and enforce judgments is crucial. For example, if a court issues a ruling but there are significant delays or obstacles in enforcing that ruling, it undermines judicial security and can lead to a loss of confidence in the system.

- **Legal Security:** Clear and stable laws ensure that the legal system is predictable, which facilitates better legal planning and compliance. When laws are subject to frequent or unpredictable changes, it can undermine both legal and judicial security by creating uncertainty.

b) Trust and Confidence:

- **Judicial Security:** Public trust in the legal system is heavily influenced by the perceived fairness and independence of the judiciary. If people believe that the courts are impartial and capable of delivering justice, it enhances their confidence in the legal system as a whole.
- **Legal Security:** Consistent and transparent legal frameworks build public confidence by ensuring that everyone knows the rules and understands the legal

consequences of their actions. This trust is foundational for the effective functioning of the judiciary.

4- Addressing Issues:

a) Challenges in Judicial Security:

Issues such as corruption, lack of independence, or inefficiencies in the judicial process can undermine both judicial and legal security. For instance, if judges are influenced by external pressures, it can lead to inconsistent application of laws, which damages legal security.

b) Challenges in Legal Security:

Frequent changes in laws or ambiguities in legal texts can create uncertainty and undermine the stability of the legal environment, making it difficult for the judiciary to apply the law consistently and effectively.

IV- Conclusion:

Judicial security and legal security are deeply interconnected. Effective judicial security ensures that laws are applied fairly and consistently, which supports and enhances legal security. Conversely, a stable and predictable legal framework provides the judiciary with the necessary context and clarity to make sound decisions. Together, these elements work to create a reliable, fair, and just legal system that protects individual rights and promotes trust and confidence in the rule of law.