

THE ROLE OF THE PRINCIPLE OF LEGAL CERTAINTY IN CONSOLIDATING THE STABILITY OF LEGAL POSITIONS: A CONTEMPORARY FUNDAMENTAL PERSPECTIVE



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Abstract:

The principle of legal certainty has become one of the fundamental pillars in the construction of the rule of law, due to its vital role in safeguarding rights and freedoms and reinforcing trust in the legal system. It goes beyond merely instilling stability within the legal framework to establishing the stability of legal positions and ensuring individuals' legitimate expectations, thereby contributing to the sustainability of legal relationships and the realization of justice. The significance of this principle is further manifested in its support for the flexibility of legislation without compromising core legal principles, alongside its affirmation of the non-retroactivity of laws. This, in turn, enhances the effectiveness of legal norms and positions legal certainty as a key mechanism for maintaining the balance between the stability of the legal system and the imperatives of legislative modernization.

Key Words: Legal Certainty; Rule of Law; Stability of Legal Positions; Legitimate Expectations.

دور مبدأ الأمن القانوني في ترسيخ استقرار المراكز القانونية: رؤية تأصيلية معاصرة

ملخص:

أضحى مبدأ الأمن القانوني أحد الركائز الأساسية في بناء دولة القانون، لما له من دور جوهري في حماية الحقوق والحريات وتعزيز الثقة في المنظومة القانونية، فهو لا يقتصر على إضفاء الطابع الاستقراري على النظام القانوني فحسب، بل يتعدى ذلك إلى ترسيخ استقرار المراكز القانونية وضمان التوقعات المشروعة للأفراد،

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مما يسهم في استدامة العلاقات القانونية وتحقيق العدالة، وتتجلى أهمية هذا المبدأ في دعمه لمرونة التشريعات دون المساس بالثوابت القانونية، إلى جانب تكريس مبدأ عدم رجعية القوانين، وهو ما يعزز من فاعلية القاعدة القانونية ويكرّس الأمن القانوني كأداة أساسية في ضبط التوازن بين استقرار النظام القانوني ومتطلبات التحديث التشريعي.

الكلمات المفتاحية: الأمن القانوني، دولة القانون، استقرار المراكز القانونية، التوقعات المشروعة.

Le rôle du principe de sécurité juridique dans la consolidation de la stabilité des situations juridiques : une approche fondatrice contemporaine

Résumé :

Le principe de sécurité juridique est devenu l'un des fondements essentiels de l'État de droit, en raison de son rôle crucial dans la protection des droits et des libertés, ainsi que dans le renforcement de la confiance dans le système juridique. Il ne se limite pas à conférer une stabilité formelle à l'ordre juridique, mais vise également à consolider la stabilité des situations juridiques et à garantir les attentes légitimes des individus, contribuant ainsi à la pérennité des relations juridiques et à la réalisation de la justice. L'importance de ce principe se manifeste également dans son appui à la flexibilité des législations sans porter atteinte aux fondements du droit, ainsi que dans sa consécration du principe de non-rétroactivité des lois, ce qui renforce l'efficacité de la norme juridique et érige la sécurité juridique en outil fondamental pour assurer l'équilibre entre la stabilité de l'ordre juridique et les exigences de la modernisation législative.

Mots clés : sécurité juridique ; État de droit ; stabilité des situations juridiques ; attentes légitimes.



Introduction:

The principle of legal certainty is fundamental to any legal system that seeks to be applied and strengthened, as it serves as a cornerstone for building trust and stability within society. Achieving this principle requires laws to be clear, accessible, and consistent, ensuring that each individual has the right to progress within a stable and organized legal environment.

The primary goal of any legal rule is to promote individual rights and protect their legal positions. Therefore, these rules must be stable and consistent, avoiding sudden changes that could disrupt their stability. The core idea behind the principle of legal certainty is to provide necessary protection for rights and freedoms, while ensuring stability and preventing unexpected fluctuations. Thus, the legal system must be capable of adapting to social, economic, and political developments, while maintaining the principle of legal certainty and continuously keeping up with progress.

This study is important as it highlights the potential impact of continuous changes on the stability of legal positions and emphasizes the importance of safeguarding these positions from negative effects without compromising individual interests. Certainty is the foundation of a rule-of-law state, and individuals must feel that their legal positions and rights are safeguarded and cared for by public authorities. This strengthens legal rules and ensures protection for individuals from any unexpected actions by public authorities.

Based on the data provided, we can frame the issue as follows:

To what extent does the principle of legal certainty contribute to the consolidation of the stability of legal positions?

To answer this question, a descriptive approach was adopted to explain the content of the principle of legal certainty by describing its concept and importance in protecting individual rights and legal positions. The study then utilized an analytical method to examine the key requirements for improving the role of legal certainty to ensure better stability of legal positions.

1. The Principle of Legal Certainty and the Promotion of Stability in Legal Positions

2. The Requirements for Implementing Legal Certainty to Achieve the Stability of Legal Positions in the Contemporary Context

THE FIRST TOPIC:

The Principle of Legal Certainty and Enhancing the Stability of Legal Positions

Legal certainty is a foundational element in building the rule of law, and it represents stability and consistency within the legal framework. Its core aim is to protect individual rights and provide a minimum level of security and predictability. Achieving legal certainty requires public authorities to commit to maintaining stable



legal relationships and ensuring the consistency of complex legal positions, fostering a sense of security and trust among all parties involved in legal relations¹.

To thoroughly examine the concept of legal certainty, this section is divided into two parts. The first part focuses on the principle of legal certainty, exploring its conceptual framework and components, while the second part addresses the stability of legal positions, seeking to understand how to reinforce this stability to effectively and comprehensively achieve legal certainty.

First requirement: The Principle of Legal Certainty

The concept of legal certainty can be understood from two perspectives. The first is broad, encompassing general peace, tranquility, and overall stability in an individual's life. However, our focus will be on the second, narrower perspective, which is the safeguarding of individuals' legal positions within a legal state. This narrower interpretation emphasizes securing legal positions regardless of the individuals' different statuses, necessitating a clear definition of legal certainty in its specific, narrow sense.

First section: Definition of the Principle of Legal Certainty

Although the principle of legal certainty is widely invoked, it has not been precisely defined in a comprehensive manner. It is generally used as a broad framework encompassing a set of principles aimed at ensuring the stability of the legal system².

The difficulty in defining this principle lies in the fact that legal certainty is multifaceted, carries diverse meanings, and is present across many fields. It encompasses the principles of clarity, the applicability of legal texts, non-retroactivity, and the separation of powers.

Thomas Piazzon defines it as the ideal of a reliable, accessible, and comprehensible law that enables legal subjects to reasonably foresee the legal consequences of their acts or behaviors, while respecting the legitimate expectations already established by them and promoting their fulfillment³.

As Fromont defines the principle of legal certainty, on the one hand, justice or equity encourages modifying legal rules and situations to continuously improve the

¹SAUD, A. M. (The Extent to Which the Principle of Legal Security is Established in International Law), Al-Mustansiriyah Journal for Arab and International Studies, College of Law, University of Urok, 2022, p. 369.

² VEDEL, G. (Excess of Legislative Power and Excess of Administrative Power), CCC, No. 1, December 1996, P117.

³PIAZZON, T. Legal Certainty, Doctoral Thesis, Deferions, Doctorate and Notary Collection, Vol. 35, 2009., p. 188.



legal order or adapt it to a changing society, which is reflected in the principle of mutability; on the other hand, legal certainty requires stability and is therefore expressed by the opposite principle, namely the respect for the existing state of affairs¹.

In this regard, Jean-Louis Bergel links the principle of legal certainty to three essential elements:

1. Clarity of the law and accessibility.
2. Stability of rights and legal positions.
3. Predictability of the legal consequences of acts and conduct².

In a report by the French Council of State, the principle of legal certainty was described as

"The principle of legal certainty requires that citizens, without having to make insurmountable efforts, be able to determine what is permitted and what is prohibited by the applicable law. To achieve this, the enacted norms must be clear and intelligible, and must not be subject, over time, to excessively frequent or, above all, unforeseeable changes "³.

In conclusion, the principle of legal certainty can be understood as ensuring the stability and consistency of the legal positions of natural and legal persons, through legislation that guarantees the clarity of these positions and protects them from unexpected changes. This clarity contributes to the establishment of stable legal relationships within a reliable and predictable legal system.

Second section: The Importance of the Principle of Legal Certainty

The importance of legal certainty is reflected in:

1. Facilitating the knowledge of rights and obligations:

The text indicates that the deterioration in the quality of legal texts, along with the multiplicity and complexity of laws, makes it difficult for citizens to know their rights and obligations and to act accordingly.

Legal certainty is essential to ensure the clarity and accessibility of laws.

2. Ensuring legal predictability:

The proliferation and complexity of legal texts increase the unpredictability of the legal order and negatively affect citizens' legal expectations. Legal certainty contributes to the stability of rules and the foreseeability of the legal consequences of actions.

3. Improving the quality of the law:

¹ FROMONT, M. The Principle of Legal Certainty, A.J.D.A., Paris, 1996., p. 178.

² BERGELLA, J.-L. (Legal Security), Revue du Notariat, Vol. 11, No. 2, 2008.p. 274.

³ Conseil d'État, Legal Security and Complexity of Law, Public Annual Report 2006, Studies and Documents of the State Council, La Documentation Française, Paris, 2006, p. 281.



The text shows that legal certainty is linked to the quality of legislation and administrative implementation, ensuring that laws are clear and coherent, which contributes to a more effective and stable legal system¹.

4. Legal certainty is considered an essential condition for protecting acquired rights and ensuring justice and security by preventing the retroactive application of laws.

5. Legal certainty, a guarantee for the protection of legitimate expectations: it brings together a set of principles related to the clarity and comprehensibility of legal norms. Among these principles, the protection of legitimate expectations remains the main innovation, indeed representing a true revolution in this field².

Second requirement: Legal Positions

Legal positions are considered a foundation for the stability of the legal system, as they represent a primary source of legal certainty and societal balance. They define the boundaries of rights and obligations and ensure the objective and fair application of the law.

First section: Definition of Legal Positions

A legal position refers to the set of rights enjoyed and obligations borne by an individual. Due to the close link between legal position and vested rights, some have defined a vested right as a legal position, considering it to be the legal status by which an individual's legal benefit is protected from cancellation or modification.

Legal positions come in two types³:

- Regulatory Legal Positions: Also known as objective legal positions, these refer to the general nature of their content. They are characterized by homogeneity and uniformity among individuals who meet the necessary legal conditions to acquire them. The content of these legal positions is determined by general legal procedures such as laws and regulations. An example of this type is the status of a public employee.

- Individual Legal Positions: These legal positions are characterized as personal positions, as they are inherently individual in nature. This individuality grants them a

¹SAIDI, A. Legal Certainty in Moroccan Public Law, Doctoral Thesis in Law, Mohammed V University, Doctoral Studies Center in Law and Economics, Rabat, 2020/2021, p. 35.

²DALIL, B. Administrative Law and the Principle of Legal Certainty, Doctoral Thesis in Law, Paris-Ouest Nanterre La Défense University, Doctoral School of Law and Political Science, 2015, p. 390.

³ The difference between them lies in the fact that objective legal positions can be modified, as they are based on the laws and regulations that define their existence, without affecting vested rights. In contrast, personal legal positions are not subject to modification due to their individual nature, which is unaffected by legal changes, making them immune to any interference.



distinctive character, causing their content to vary according to each person and their specific circumstances.

From the classification of legal positions, it is clear that the concept of rights emerges from them, as legal positions represent a collection of rights and obligations, whether individual or collective. Consequently, a vested right can arise from either regulatory or individual decisions, underscoring the significance of these positions in shaping the legal concept of rights.

Second section: The Relationship Between Legal Certainty and the Stability of Legal Positions

The principle of legal certainty constitutes a fundamental safeguard for the stability of legal positions, as it enables individuals to clearly understand their rights and obligations and protects them from the consequences of sudden changes in legal rules. The stability of legal positions can only be achieved within a legal system characterized by clarity, consistency, and predictability, which in turn strengthens trust between citizens and institutions. Conversely, the absence of these qualities in legal texts leads to the disruption of individuals' legal positions and undermines their confidence in the law and its institutions, whereas adherence to the principle of legal certainty remains an essential condition for preserving these positions and ensuring their stability.

Algerian judicial precedent has firmly established the link between legal certainty and the stability of legal positions through several landmark rulings, most notably:

*The decision of July 30, 2012¹, in which the Council of State rejected the appeal filed by the Minister of Finance seeking to annul a notarized deed registered since 1964, affirming that legal situations that have remained stable for more than 45 years must not be disturbed.

*The decision of December 27, 2012², which upheld the principle that administrative decisions creating rights for third parties—provided they were not issued as a result of fraud or deception—are immune from challenge once the legal time limits for appeal have expired, thereby consolidating the protection of acquired rights and ensuring the stability of legal transactions.

The German Constitutional Court went further by linking the principle of legal certainty to the principle of legitimate expectations, considering it a fundamental guarantee for the stability of legal situations. This approach was consolidated in

¹ Council of State, Decision No. 063457 dated 30/07/2012, available at: [<https://cutt.us/vpwkk>], accessed on 10/09/2025 at 16:24

² Council of State, Decision No. 072515 dated 27/02/2012, available at: [<https://cutt.us/IK8W3>], accessed on 10/09/2025 at 16:24.



1961¹ when the Federal Constitutional Court of Germany—by way of comparison—affirmed the constitutional status of this principle, not as an independent norm, but as a *derived principle* stemming from one of the constitutional requirements embodied in the rule of law enshrined in Article 20 of the Basic Law of the Federal Republic of Germany². The Court held that, for citizens, legal certainty is above all reflected in the protection of legitimate expectations. Since then, a strong connection has been established between legal certainty and public trust.

The principle subsequently acquired a universal dimension when the European Court of Justice (ECJ)—by way of comparison—delivered its ruling on this principle in 1962. As a court that functions in many respects as a constitutional tribunal, the ECJ is entrusted with monitoring the implementation of European treaties and interpreting their ambiguous provisions. In one of its judgments, the Court held that "the principle of legal certainty, and in particular the principle of legitimate expectations as an integral part thereof, must be applied to all acts adopted by the Member States of the European Union for the purpose of implementing European law"³.

The European Court of Justice—by way of comparison—has emphasized the importance of the concept of trust in defining legal certainty, by requiring that European law serve as the foundation for actions undertaken by its Member States, provided that such trust is legitimate. Accordingly, where the enactment or amendment of legislation leads to the removal of certain elements on which individuals had relied in shaping their legal positions, the legislator is obliged to incorporate safeguard measures and transitional provisions to protect those individuals from the adverse effects of sudden changes in their legal status.

THE SECOND TOPIC:

Prerequisites for Enhancing Legal Certainty to Ensure the Stability of Legal Statutes in the Modern Context

Legal rules are a critical tool for achieving legal certainty, as they regulate individual behavior and define actions within society. The quality of law is measured by the clarity and stability of its rules, as well as the ease of access to them. Given the close relationship between rights and freedoms on one hand and the law that governs

¹ Federal Supreme Court (Switzerland), Civil Division, Judgment of 19 December 1961, Case No. 87-II-320, *Turicaphon AG and Others v. Novomat AG and Piano-Eckenstein AG*, available at: https://www.bger.ch/ext/eurospider/live/de/php/clir/http/index.php?lang=de&type=show_document&highlight_docid=atf://87-II-320:fr&print=yes (last accessed 10 September 2025, 16:24).

² FAVOREU, L., et al. *Droit des libertés fondamentales*, 6th ed., Dalloz, Paris, 2012., p. 393.

³ ECJ, 12 July 1957, *Algera v. Common Assembly*.



them on the other, clarity in legal rules and accessibility are essential to ensure individuals' confidence in their rights and legal positions.

Ensuring legal certainty is particularly urgent in areas of law that are not codified, such as administrative law, which is characterized by continuous change and instability. There are those who argue that the lack of codification in administrative law results in vagueness, instability, and a lack of clarity, leaving individuals in a state of fear and insecurity regarding their acquired rights and established legal positions¹.

If stability is one of the primary goals of law, then security must be among its most prominent attributes. This requires moving beyond theoretical discussions of the principle of legal certainty to its practical implementation. Achieving this necessitates addressing a set of requirements, including those stemming from laws related to legal aspects and those arising from judicial practices related to judicial aspects.

First requirement: Legal Requirements

The aim of legal certainty is to develop legislation that complies with the constitution and human rights standards, with the goal of protecting rights and freedoms. Thus, the state bears a legal responsibility to ensure compliance with these requirements in its legislation, which in turn enhances trust in the legal system and promotes justice and equality. Some of the most important requirements include:

First section: The Principle of the Rule of Law

The principle of the rule of law refers to the idea that "the actions and final decisions of public authorities are valid and produce legal effects only to the extent that they conform to the higher legal rules that govern them. When these actions violate such rules, they become unlawful, and individuals with a vested interest have the right to seek their annulment and compensation before the competent courts."².

The effective protection of individuals' rights and freedoms cannot be achieved merely by regulating their relations with one another; it also requires that the law govern their relationship with the state, thereby safeguarding their legal positions and ensuring their stability. Such protection further entails the consolidation of acquired rights through the various sources of legal norms—beginning with constitutional provisions, followed by ordinary legislation, and extending to administrative and regulatory decisions issued by the competent authorities—which together constitute the integrated framework of the state's legal system with its different levels and binding force.

¹AWABDI, A. Administrative Law: The Administrative System, 4th ed., University Publishing House, Setif, p. 111.

²JARF, T. The Principle of Legitimacy and the Criteria for the State's Subordination to Law, Modern Cairo Library, Cairo, 1963, p. 5.



The relationship between the principle of legal certainty and the principle of the rule of law is harmonious, as this harmony is reflected in the respect for individuals' rights and freedoms without infringement.

Thus, to achieve legal certainty in any society, the sovereignty of the law must prevail, and there must be higher rules binding public authorities in their actions. This contributes to fostering satisfaction, stability, and confidence in the existence of law, its sovereignty, and its effective application. The issue here is not merely a violation of the law but the existence of laws that lack sovereignty, leading to a loss of trust in the law and undermining the principle of legal certainty.

Second section: Clarity and Accessibility of the Law

The clarity of the law means that the legal rules addressed to individuals should be easy to understand and comprehend, free from ambiguous meanings and unclear language. They should be easily grasped by the general public. Clear language and understandable phrases in the law allow individuals to recognize their rights and obligations¹.

This requirement constitutes a principle of constitutional value, rooted in Article 139 of the 2020 constitutional amendment², which mandates that the legislator fulfill its constitutional jurisdiction in the legislative domain adequately. Therefore, enacting unclear or ambiguous legal provisions constitutes a negative incompetence (*une incompétence négative*), rendering these provisions liable to be declared unconstitutional.

From the above, it is clear that the principle of clarity of laws and ease of access to them are essential elements in ensuring that individuals enjoy their constitutional rights. Laws do not take effect merely upon their enactment; they must be clear and specific before they are applied, and they should be easily accessible thereafter. If legal rules are ambiguous, this creates confusion in judicial proceedings and opens the door to interpretation, which can sometimes violate the principle of separation of powers and lead to the loss of individual rights.

It should be noted in this context that the ambiguity of a legal rule often stems from its generality and broad scope. The more a rule is drafted in vague terms that can bear multiple interpretations, the more it becomes subject to debate and reinterpretation. This may at times result in attributing meanings to the legal text that differ from the legislator's intent, thereby exposing individual rights to the risk of threat or loss, and ultimately undermining the principle of legal certainty.

Third section : The Principle of Non-Retroactivity of Laws

¹MUHSIN, A. Z. (Balancing the Idea of Legal Security and the Principle of Retroactive Effect of the Ruling of Unconstitutionality), *Kufa Studies Center Journal, Issue 18, 2010., p. 202.

² Presidential Decree No. 20-442 of December 30, 2020, concerning the promulgation of the constitutional amendment, Official Gazette No. 82, dated December 30, 2020.



The principle of non-retroactivity means that a new law cannot be applied to legal situations that have already produced their effects under the old law. In other words, the new law applies only to future circumstances and does not extend its effects to actions or legal events that occurred before it came into force.

This principle is crucial because it protects individuals' rights and ensures stability in legal relationships. By preventing new laws from affecting past actions, individuals can rely on the legal framework in place at the time of their actions, thus maintaining a sense of security and predictability in the law. Retroactive application of laws can lead to unfair consequences, eroding trust in the legal system and jeopardizing the legal certainty that individuals need to confidently engage in social and economic activities.

In summary, the principles of clarity in law and non-retroactivity are fundamental to achieving legal certainty. They ensure that individuals are aware of their rights and obligations, allowing them to act within a stable legal environment that respects past actions and provides clarity for future conduct.

1. Justifications for the Principle of Non-Retroactivity

The principle of non-retroactivity has traditionally been justified by two main considerations. The first relates to the principle of legal certainty, which requires legal actors to comply with the law based on their understanding of its directives. When the law is known and clear, it complements legal certainty and allows individuals to act with confidence and a correct understanding of the laws applied to them.

One author succinctly summarized this close relationship between the principles of non-retroactivity and legal certainty by stating: "There is no security, not even a shadow of it, in any place where retroactive laws are accepted."¹

The second requirement relates to the principle of equality, which mandates equal treatment for similar situations. This ensures that individuals in comparable circumstances are treated consistently under the law.

The scope of the principle of non-retroactivity extends beyond just laws; it also applies to administrative decisions, which generally take effect immediately and do not extend their legal effects to the past.

2. Normative Value of the Principle of Non-Retroactivity

The normative value of the principle of non-retroactivity varies depending on whether it pertains to laws or administrative decisions².

¹AL-JUBOURI, A.-H. S. K. The Principle of Non-Retroactivity of Administrative Decisions and Its Role in Achieving Legal Security: A Comparative Study, Master's Thesis in Public Law, Faculty of Law, Middle East University, 2022., p. 76.

²COULIN, R. (Wherever the Retroactivity of Laws is Accepted, Not Only Does Security Disappear, But Even Its Shadow), quoted in Mot Myth. And Logic in the Construction of Legal and Social Realities, Law and Society, 1992, No. 22., p. 573.



- For the Principle of Non-Retroactivity of Laws: It possesses a legislative value outside of criminal law¹, stemming from its establishment within the provisions of civil law. Article 2 of the Civil Code states: "The law applies only to future events and has no retroactive effect." This legislative value of the principle of non-retroactivity means that deviations from it are not permitted, in compliance with the principle of the hierarchy of normative rules, except by provisions with equivalent legal force (legislative)².

Thus, the principle of non-retroactivity serves as a safeguard for individuals, ensuring that they are not unfairly penalized or adversely affected by laws that come into effect after their actions have already been taken. It upholds the integrity of the legal system and promotes trust in the rule of law by providing clarity and predictability for individuals navigating their legal rights and obligations.

3. Regarding the Non-Retroactivity of Administrative Decisions

As for the non-retroactivity of administrative decisions, the French Council of State has recognized it as a general legal³ principle since 1948. This means that such decisions possess a value that is both sub-legislative and supra-organizational, resulting in the inability of administrative authorities to take retroactive measures without explicit authorization from the legislator.

P. Roubier considered that the retroactivity of laws creates an unacceptable disruption in legal relations and undermines confidence in the principle of legal certainty. He is regarded as one of the leading scholars who linked this principle to the necessity of stabilizing legal positions⁴.

Second requirement: Judicial Requirements

The principle of legal security holds no real value—despite being enshrined in the constitution and legislation—if there is no independent and effective judicial

¹ The principle of non-retroactivity has constitutional value in criminal matters, explicitly mentioned in Article 43 of the 2020 constitutional amendment, stating, "No one shall be convicted except under a law issued before the commission of the criminal act."

² This means that the principle is not absolute, as it may be overridden by legislative texts that can introduce measures with retroactive effect. However, such retroactivity is constrained by two essential conditions:

1. Retroactivity must be sufficiently justified by considerations of public interest.
2. Retroactivity should not result in the deprivation of constitutional guarantees.

See: Shams Al-Din Bashir Al-Sharif, S., Laqabi, S., Intermediate in Public Economic Law, Dar Al-Huda, Setif, 2021., p. 63.

³ Conseil d'État Assembly June 25, 1948, No. 94511 Société à Responsabilité Limitée du Journal L'Aurore, available at: http://www.legifrance.gouv.fr/search/cetat?tab_selection=cetat&searchField=ALL&query=&page=1&init=true

⁴ ROUBIER, P., Transitional Law (Conflicts of Laws Over Time), Dalloz and Sirey, Paris, 1960, p. 223.



authority striving to realize it through a clear judicial policy aimed at the application of the law. The judiciary acts as the protector of rights and freedoms, characterized by its impartiality, independence, and the trust it garners from individuals.

A strong and independent judiciary is vital for societal stability, tasked with enforcing laws and resolving disputes fairly. The close link between legal security and the role of the judiciary becomes apparent here, as the judiciary significantly contributes to the realization and preservation of legal security. Therefore, the trust individuals place in the judiciary reflects its importance in safeguarding their rights and freedoms, providing reassurance regarding the cases it addresses with impartiality and justice. This leads us to discuss the judicial requirements for legal security.

First section: Guaranteeing Judicial Security

Judicial security is considered one of the essential pillars of the rule of law, serving as a guarantor of democracy and a protector of individual and collective rights and freedoms. It is the factor that instills confidence in individuals regarding the judicial authority ; when the judiciary upholds the rule of law without exception, individuals are compelled to rely on it.

Judicial security refers to "the confidence individuals have in the judicial institution and their assurance regarding the rulings issued by it when exercising its official function of applying the law and resolving the disputes brought before it."

This concept highlights the necessity for individuals to trust in the integrity and effectiveness of the judicial system, as it plays a critical role in upholding justice and ensuring that rights are protected. When individuals are confident in the judiciary, they are more likely to engage with the legal system, seek redress, and adhere to the law, thereby enhancing the overall stability and functionality of the legal framework.

The relationship between legal security and judicial security manifests in providing a functional image of the relationship between law and judiciary. Legal security is considered a theoretical concept, while judicial security represents the practical aspect of this relationship. Legal security cannot be separated from judicial security, as the judiciary plays a crucial role in realizing the principle of legal security. Without achieving justice, legal security remains limited. Legal security pertains to the relationship between the individual and the law, whereas judicial security relies on the relationship between the individual and the judicial system.

This indicates that the concept of legal security encompasses judicial security and extends beyond it. All courts work to maintain the stability of legal centers and relationships while enhancing trust and assurance for individuals in both law and the judiciary¹.

¹ DANHER, A. B. M. Legislative and Judicial Reversal and its Impact on Legal Security, Master's Thesis in Public Law, Faculty of Law, University of Sulaymaniyah, Iraq, 2022.2022, p. 23.



Second section: Judicial Control over the Constitutionality of Laws

Judicial control, exercised over laws, aims to ensure their compatibility with constitutional provisions and their non-violation of the constitution's provisions, thereby reinforcing the principle of legality and affirming the supremacy of the constitution. Moreover, this control aims to ensure that individuals exercise their rights and freedoms guaranteed by the constitution, and to apply appropriate sanctions for any violations of regulations. Consequently, strengthening judicial control is considered a fundamental means to achieve the objectives of legal security, as this control serves as an important guarantee to confirm the alignment of legislation with the requirements of legal security and ensure its stability.

Conclusion:

From the above, it becomes clear that every legislation aims to achieve a specific goal, with the fundamental objective of law in society being to maintain stability in transactions and ensure individuals' legitimate expectations, which is known as legal security. This concept has become a primary goal for every type of legislation and a target pursued by those in positions of responsibility within society. Achieving legal security represents the foundation for building a legal system based on justice and achieving it in a comprehensive and sustainable manner.

In summary, the interplay between legal security and judicial security is essential for nurturing a robust legal environment, where the rule of law prevails, and individuals can confidently navigate their rights and obligations. This symbiotic relationship ensures that the law serves its fundamental purpose of fostering order, equity, and trust within the community.

Based on the above, we have reached a set of findings and recommendations, which can be outlined as follows:

A. Findings

- Legal Security as a Fundamental Principle: Legal security is a fundamental principle imposed by reality to protect human rights and ensure stability, impartiality, and generality. It enhances trust in legal statuses and provides individuals with reassurance and safety within a rule of law framework. However, achieving this requires several essential factors, including the clarity of laws, accessibility, protection of acquired rights, and the non-retroactivity of new laws, along with the establishment of an effective judicial system to safeguard those rights. Without these requirements, discussing the existence of legal security for individuals in society becomes challenging.
- Respect for the Principle of Legal Security: Respecting the principle of legal security, in its entirety and without neglecting its details, is crucial for safeguarding acquired rights and stable legal statuses.

B. Recommendations

- Clarity of Legal Texts: Legal texts should be clear and understandable, applicable without frequent or unexpected amendments. This allows individuals



to rely on them with confidence and security, enabling them to organize their affairs easily and reassuringly. Such clarity ensures individuals' stability and protects them from surprises or abrupt actions that may threaten this stability.

- Consideration of Social Conditions: We recommend that lawmakers take into account the social conditions of the state when drafting legislative texts. Legislative texts should be developed and aligned with individuals' social realities to ensure their compatibility with the needs and aspirations of society.

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