

LAW AND LEGAL SYSTEM

Algerian law is based on the Constitution, laws and regulations, international conventions and treaties, as well as the texts adopted by pan-African organizations (Arab Maghreb Union and African Union) of which Algeria is a member. Algerian law developed since the independence of Algeria in 1962.

CONSTITUTION:

It is the fundamental law of the country. It contains all the rules of constitutional law which specify the State's form and organization, powers, prerogatives and relations, and the rights and duties of citizens.

LAWS AND REGULATIONS:

It is the body of legal texts (laws, ordinances, regulations, decrees, bylaws) written and adopted by the main legislative power (Parliament) and the exceptional legislative power (the Executive) of the State.

INTERNATIONAL CONVENTIONS AND TREATIES:

These are the conventions and agreements written and concluded with States or international or pan-African organizations. These conventions and agreements comprise generated legal effects governed by the international law. Such international conventions and treaties must be ratified by Algeria.

In the hierarchy of laws, international conventions and treaties are superior to Algerian national laws.

LAW:

It is about the legal texts issued from the two chambers: People's National Assembly (APN) and the Council of Nation (CN).

ORDERS:

In case of People's National Assembly vacancy or during Parliament's recess periods, the President of the Republic may legislate by order. The written texts shall be submitted to the two Chambers of Parliament for approval at their next session. Orders shall be decided by the Council of Ministers.

REGULATIONS:

These are matters other than those reserved to the law under the regulatory power of the President of the Republic.

DECREES:

These are a general or individual enforceable document signed by the President of the Republic (Presidential Decree) or by the Prime Minister (Executive Decree).

DECISION (BYLAW):

It is an enforceable decision of general or individual scope issued by one or more ministers (ministerial or interministerial decision) or other administrative authorities (province, municipality, public administrative institution having the power to that effect).

JURISDICTIONAL ORGANIZATION:

The Constitution of Algeria establishes the orders of courts. The highest judicial court is the Supreme Court. The highest administrative court is the Council of State. In order to settle disputes between the two jurisdictions, the constitution provides for the jurisdictional court.

LEGAL ORDER:

- **Tribunal:**

It is a jurisdiction of 1st degree. Its competency is specified by Code of Civil and Administrative Procedure, Code of Penal Procedure and laws in force. It is divided into several sections dealing with: civil cases, criminal offence, minor offence, emergency proceedings, family cases, minor matters, social, real estate, maritime and commercial cases. It is composed of a president, vice-president, judges, on or many examining magistrates, one or many judges of juvenile court, prosecutor and assistant prosecutors and courts administration service.

- **Court:**

There are 58 courts (one court per province). The court jurisdiction is divided territorially. The court shall constitute an appeal jurisdiction acting collectively.

- **Supreme Court:**

The Supreme Court was created to unify judicial jurisprudence throughout the country. It consists of eight (8) chambers (civil, real estate, social, criminal, offence and minor offence, personal status, commercial and maritime chamber and petition chamber).

ADMINISTRATIVE ORDER:

- **The Administrative Tribunal:**

The Administrative Tribunal, composed of at least three (3) judges, shall deal with cases falling within the common law jurisdiction in administrative matters. Decisions of administrative tribunals may be appealed before the Council of State.

- **The Council of State:**

The Council of State, which was established in 1998, is the highest administrative jurisdiction. It gives its opinion on the draft bills. It shall have jurisdiction over:

- Appeal for annulment against regulatory or individual decisions,
- Appeal for interpretation or assessment of the legality of dispute deeds coming within the jurisdiction of the Council of State.

OTHER JURISDICTIONS:

- **Jurisdictional Court:**

The Jurisdictional Court is composed of seven judges: three are from the Supreme Court, three are from the Council of State and one president. It determines the legal order competent in mixed-nature cases.

- **Military Courts:**

It is an exceptional court with jurisdiction to hear the charges relating to armies and persons having military status. Military court decisions are subject to appeal only before the Supreme Court. The Court of Appeal henceforth exists in military courts.

- **Legal Profession:**

Algerian law, like the laws around the world, includes various legal professions, including:

- **Lawyer/Counsel:**

The lawyer first has a role in informing clients about their rights and obligations. moreover, he may represent them in court by pleading.

- **Judicial Expert:**

A judge appoints a qualified professional to report on the information in order to clarify certain elements of a case.

- **Clerk of the court:**

He will take note of the discussions, statements and observations throughout the legal procedure.

- **Court Bailiff:**

He is a ministerial officer responsible for serving procedural documents and enforcing judgments. It may also make observations by means of minutes.

- **Judge:**

He decides whether there has been an infringement and what are the relevant penalties.

- **Public Prosecutor:**

He is a magistrate responsible for representing the Public Prosecutor's Office before the court.

INTELLECTUAL PROPERTY:

Competent national bodies:

Patents, trademarks and copyright are protected in Algeria. They come under the competency of the Algerian National Institute of Industrial Property (INAPI).

Algeria is a member of the World Intellectual Property Organization (WIPO) and a signatory to the Paris Convention on the Protection of Intellectual Property.

Source:

Department of Justice