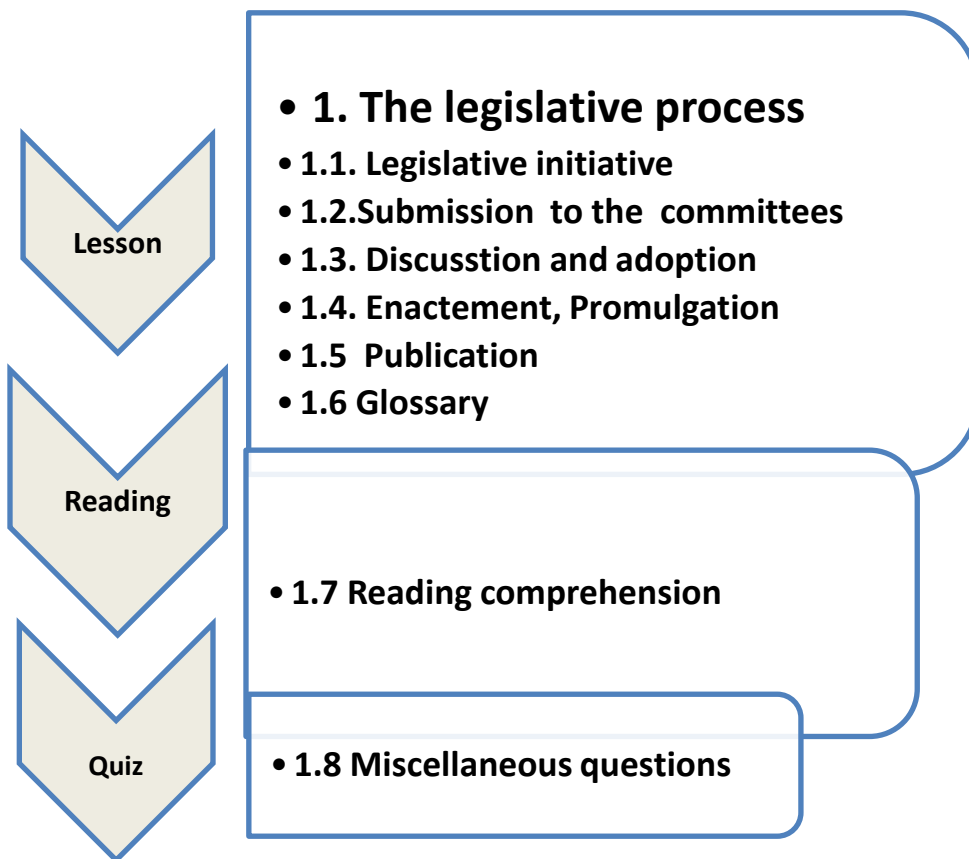


Lesson N°5

VI. The Legislative Process & Application of law



1. The Legislative Process

Before a legislative text becomes enforceable law, it must generally go through five stages: 1. Legislative initiative; 2. Submission to the Committees having jurisdiction, 3. Discussion and adoption, 4. Enactment, 5. Publication.

لكي يصبح نص تشريعي قانون نافذا عليه ان يمر في العموم بالمراحل الخمس التالية:
1. المبادرة بالتشريع، 2. عرضه على لجنة برلمانية مختصة، 3. المناقشة و المصادقة، 4. إصدار القانون، 5. نشر القانون.

1.1 First stage : Legislative initiative

The legislative initiative belongs concurrently to the Prime Minister or head of government, deputies, and members of the Council of the Nation, according to the article 143 of the Algerian constitution.

"لكل من الوزير الأول، رئيس الحكومة، والنواب وأعضاء مجلس الأمة حق المبادرة بالقوانين"¹

المادة 143.

The initiative coming from the deputies of the NPA² or the members of the Council of the Nation is qualified as "proposal of laws", while the government's initiative is qualified as a bill³. The bills are presented to the Council of Ministers after consulting the Council of State, then should be deposited by the Prime Minister, as the case may be, on the desk of the National People's Assembly or on that of the Council of the Nation.

The bills "relating to local organization, territorial planning and territorial division are deposited on the desk of the Council of the Nation

¹ « الدستور », المرسوم الرئاسي، رقم. 20 - 442، المرجع السابق. ص. 33.

² National People's Assembly

³ a draft of a law presented to the legislature for discussion and possible adoption.

المبادرات التي تأتي من عند الحكومة تسمى " مشروع قانون".
تعرض مشاريع القوانين على مجلس الوزراء، بعد رأي مجلس الدولة، ثم يودعها الوزير الأول،
حسب الحالة، مكتب المجلس الشعبي الوطني أو مكتب مجلس الأمة.
"تودع مشاريع القوانين المتعلقة بالتنظيم المحلي وتهيئة الإقليم والتقسيم الإقليمي مكتب مجلس
الأمة"⁴، المادة 144 من الدستور.

1.2 Second stage : Examination by the Committees having jurisdiction

فحصه من طرف اللجان البرلمانية المختصة

If the law text obtains agreement in principle, it will be studied by parliamentary committees having the jurisdiction.

The study consists of examining the text of the law, article by article. They may be subject to amendments. The choice of the committees is made according to their field of competence.

In Algeria, there are twelve standing committees in NPA and nine in the council of the nation.

إذا حظي النص القانوني بقبول مبدئي تفحصه لجنة برلمانية مختصة.
تتمثل الدراسة في فحص النص القانوني مادة بمادة ويمكن ان تخضع لتعديلات. يتم اختيار اللجنة
وفقاً لمجال اختصاصها.
في الجزائر هنالك اثنا عشر لجنة دائمة في المجلس الشعبي الوطني وتسعة في مجلس الأمة.

⁴الدستور، « المرسوم الرئاسي، رقم. 20 - 442، المرجع السابق. ص. 33.

1.3 Third Stage : Discussion and adoption

المناقشة و المصادقة

The text of the law amended or not, is then submitted to the People's National Assembly or the council of the nation for further study and possibly adoption.

A bill or law proposal goes back and forth between the two assemblies: The two assemblies vote. Deputies and the members of the council of the nation “senators” must adopt the same text. If there is a persistent disagreement between the two assemblies, it is the decision of the National Assembly which takes precedence.

مشروع قانون أو مقترح قانون يتنقل ذهابا وإيابا بين المجلسين ويبدأ المجلسان التصويت. يجب أن يتبنى النواب وأعضاء مجلس الأمة النص نفسه. إذا كان هناك خلاف مستمر بين المجلسين ، فإن القرار النهائي يعود الى المجلس الشعبي الوطني.

1.4 Fourth stage : Enactment (The approval, or assent, of law by the executive)

إصدار القانون

In arabic we use the term “إصدار” to qualify the act by which a law becomes enforceable. This act is not a simple formality but it is an act complementary to the legislative text so that it is enforceable.

In English we use the terms “enactment” and “promulgation” as equivalent of “إصدار”⁵, but there is some distinction in qualifying of this stage in different states⁶: In United Kingdom and Canada we use the term Royal Assent which means “The official approval of a law by the British king or queen”⁶, In United states of America we use the term “Presidential

⁵ “Promulgation”, *Encyclopedia, Science News & Research*, , available online at: <https://academic-accelerator.com/encyclopedia/promulgation> Accessed November 30, 2023.

⁶ “Royal Assent”. *Oxford Dictionary*, 2023, available online at: <https://dictionary.cambridge.org/fr/dictionnaire/anglais/royal-assent>, Accessed November 2, 2023.

approval”, to qualify this stage, the president either signs or uses his right of veto, this veto could be overridden by a two-thirds vote in each House⁷.

In Algeria, the enactment or promulgation is under the jurisdiction of the President of the Republic, according to Article 148 of the Algerian Constitution.

إصدار القانون هو التصرف (الاجراء) الذي يعطي للقانون القابلية للإنفاذ ، هذا الإصدار ليس مجرد إجراء شكلي ولكنه إجراء مكمل للنص التشريعي بحيث يكون قابلاً للتنفيذ. في المملكة المتحدة وكندا نستخدم مصطلح "الموافقة الملكية" والتي تعني "الموافقة الرسمية على قانون من قبل الملك أو الملكة البريطانية"، وفي الولايات المتحدة الأمريكية نستخدم مصطلح "الموافقة الرئاسية"، لتسمية هذه المرحلة، الرئيس إما يوقع أو يستخدم حق النقض، يمكن تجاوز هذا النقض بأغلبية الثلثين في كل مجلس الإصدار هو من إختصاص رئيس الجمهورية وفقاً للدستور الجزائري في المادة 148.

1.5 The fifth stage: The publication of law

This procedure is essential, through which persons become aware of the existence of the law and its entry into force. In Algeria, laws are published in the “Official Journal of the People's Democratic Republic of Algeria.” In the United States of America, laws are published in “United States Statutes at Large.”⁸, see Fig2.

يعد هذا الإجراء ضرورياً ، عن طريقه يعلم الأشخاص بوجود قانون ودخوله حيز النفاذ.

⁷ “How Our Laws Are Made” (House Document 110-49); Web-friendly presentation of the PDF, revised and updated by John V. Sullivan, Parliamentarian, United States House of Representatives, July 2007. available [online]URL : <https://www.congress.gov/help/learn-about-the-legislative-process/how-our-laws-are-made>, Acceded November 10, 2023.

⁸ “United States Statutes at Large”, Office of the Federal Register (OFR), National Archives and Records Administration (NARA), Available [online]URL : <https://www.govinfo.gov/help/statute#about>

المادة 4 : تطبق القوانين في تراب الجمهورية الجزائرية الديمقراطية الشعبية ابتداء من يوم نشرها في الجريدة الرسمية.
تكون نافذة المفعول بالجزائر العاصمة بعد مضي يوم كامل من تاريخ نشرها وفي النواحي الأخرى في نطاق كل دائرة بعد مضي يوم كامل من تاريخ وصول الجريدة الرسمية إلى مقر الدائرة ويشهد على ذلك تاريخ ختم الدائرة الموضوع على الجريدة.

Figure 1⁹

"Laws are applied in the territory of the People's Democratic Republic of Algeria from the day of their publication in the Official Journal.

It shall be coming into force in Algiers one full day after the date of its publication, and in other areas within each "Daïra" after a full day has passed from the date of the Official Journal's arrival to the "Daïra», and this shall be attested by the date of the Daïra's stamp placed on the Journal.", Art 4 of the civil code (figure 1).



Figure 2 United States Statutes at Large¹⁰



Figure 1 Official Journal of the People's Democratic Republic of Algeria¹¹

⁹ "القانون المدني" باللغة العربية، المرجع السابق، ص.1.

¹⁰ United States Statutes at Large, Database, Available [online] URL : <https://home.heinonline.org/content/u-s-statutes-at-large/>, Accessed November 10, 2023.

1.6 Glossary

Terms of lesson 5					
N°	المصطلح بالإنجليزية	المصطلح بالعربية	N°	المصطلح بالإنجليزية	المصطلح بالعربية
1	Legislative text	نص تشريعي		Veto	حق النقض
2	Legislative Initiative	مبادرة تشريع	10	Prime minister	وزير أول
3	Law proposal	اقتراح قانون	11	Head of government	رئيس حكومة
4	Bill	مشروع قانون	12	Council of Ministers	مجلس الوزراء
5	Parliamentary committees having the jurisdiction	لجنة برلمانية مختصة	13	Local organization	تنظيم محلي
6	Agreement in principle	قبول مبدئي	14	Territorial planning	تهيئة الإقليم
7	Members of the council of the nation "senators"	أعضاء مجلس الأمة	15	Territorial division	تقسيم إقليمي
8	Adoption	مصادقة، إقرار	16	enforceable law	قانون نافذ، قابل للتنفيذ
09	▪Enactment, promulgation ▪Presidential approval, Royal assent	إصدار		Coming into force	نافذ المفعول

¹¹“Official Journal of the People's Democratic Republic of Algeria”, The General Secretariat of the Government, Available [online]URL : <https://www.joradp.dz/FTP/jo-francais/2023/F2023073.pdf>

1.7 Reading comprehension

Text

“In European countries, as a rule, the Government is entitled to introduce bills in Parliament; in special cases, such as in Poland for budgetary and other financially important laws, the Government can even have an exclusive right to legislative initiative. Whereas generally the relevant regulation does not specify who is responsible within the Government, the French Constitution confers this power directly to the Prime Minister. The Norwegian Constitution states that a bill shall be proposed by the government through a Member of the Council of State.

Statistically, in the majority of European countries most bills are elaborated in the ministries as they have the man power and the expertise to prepare them.

In many countries the President has also the right to introduce bills in Parliament. Whereas in some countries this right applies generally, in others it is restricted to specific cases. For example, in Estonia, the President has the right to initiate laws only for amendments of the Constitution. In Georgia, the right of the President is restricted to “exclusive cases”. But draft laws submitted by the President have to be discussed in Parliament with priority.

Bills can also be introduced by the members of the Parliament. The different systems vary in accordance with the structure of the Parliament (one or two chambers). Furthermore there are different prescriptions as to the number of the members of Parliament who have to support a certain project.”

QUESTIONS

1. Give a title to this text.
2. What can we understand from paragraph two?
3. Is the right to initiate legislation the same in all European countries?
4. What are the differences concerning the right of the president to introduce a bill in Parliament in European countries?
5. Find a synonym for the term “bill” in the text.

[illegible]

Question 1 :

☐ True ☐ False

Question 2 :

In Algeria, there are nine standing committees in NPA.

☐ True ☐ False

Question 3 :

In Algeria, if there is a persistent disagreement between the two assemblies, it is the decision of the council of nation, which takes precedence.

☐ True ☐ False

Question 4

In United Kingdom and Canada, we use the term Royal assent, which means “The official approval of a law by the British king or queen.

☐ True ☐ False

Question 5 :

The presidential veto in USA could be overridden by a one-third vote in each House.

☐ True ☐ False

Question 6:

Law shall come into force in Algiers one full day after the date of its enacting.

☐ True ☐ False

Question 7 : Fill in the blanks by choosing the missing terms in the following paragraph from the list: **laws, legislative initiative, bills.**

In European countries, as a rule, the Government is entitled to introduce in Parliament; in special cases, such as in Poland for budgetary and other financially important , the Government can even have an exclusive right to .