

جامعة باجي مختار عنابة
كلية الحقوق و العلوم السياسية

محاضرات في مقياس المصطلحات القانونية
Legal Terms

مطبوعة بيداغوجية موجهة لطلبة الحقوق
مستوى الماستر " قانون عام و قانون خاص "

من إعداد الأستاذة :
د.فوناس سوهيلة

السنة الجامعية 2024-2025

مقدمة

نعالج في هذه المطبوعة الموجهة لطلبة الماستر جميع التخصصات " السداسي الثاني " لمقياس المصطلحات القانونية، التي تهدف إلى ترجمة أهم المصطلحات القانونية المتداولة في مختلف المقاييس المبرمجة في السداسي الثاني , و ترجمتها

من و إلى اللغة العربية و اللغة الإنجليزية و الفرنسية ،ونذكر منها مقياس الحريات العامة ، مقياس القانون العام الإقتصادي و مقياس القانون الجنائي وقانون مكافحة الفساد و القضاء الجنائي.

تتطلب هذه المطبوعة تقسيم ثنائي يتضمن القسم الأول الجانب النظري للمقياس نتطرق فيه إلى تعريف المصطلحات القانونية و إبراز أهميتها , أما القسم الثاني فنتناول فيه الجانب التطبيقي ، و نتطرق فيه إلى الطالب في ، تخصص قانون عام و قانون خاص و التي تم اختيارها اعتمادا على المقاييس المبرمج تدريسها في السداسي الثاني .

القسم الأول

الجانب النظري

مدخل إلى المصطلحات القانونية .

تستلزم دراسة المصطلحات القانونية التطرق أولا إلى تعريف المصطلحات القانونية ثم إبراز أهميتها بالنسبة للطالب في الجامعة ، و بالنسبة للطالب الباحث خاصة عند إعداد مذكرات التخرج ، أين تتطلب بعض المواضيع المقترحة للبحث فيها ضرورة

الإطلاع على قرارات الهيئات القضائية الأجنبية خاصة الفرنسية سواء تعلق الأمر بالقانون الإداري وبالتالي الإطلاع على قرارات مجلس الدولة الفرنسي من المصدر ، أو تعلق الأمر بالقانون الإنساني .

تعريف المصطلحات القانونية

تعتبر المصطلحات القانونية من بين أهم المواضيع الأساسية في مجال العلوم الإنسانية ، فهي تعد بحق العمود الفقري لكل حقل من حقول المعرفة العلمية من ركائز البحث العلمي في سائر المعارف ومختلف العلوم .

فالمصطلحات القانونية هي مجموعة من المفاهيم والكلمات الخاصة بالمادة القانونية وهي تشكل مادة حيوية لكونها أساس الدراسات القانونية بمختلف تقسيماتها وتشعباتها وبفضل هاته المادة يمكن للطالب أن يستوعب المفاهيم الأولية الخاصة بالمعرفة القانونية والطالع على الكلمات. كما تمكنه أيضا من البحث في المراجع الصلبة المكتوبة بالفرنسية والطالع على القانون المقارن لذلك فتعلم اللغة القانونية يؤهل الطالب للممارسة القانونية والقضائية .

والمصطلح هو أداة القراءة الأولى لدى الطالب والباحث، ذلك أنه لا يمكن دراسة مختلف القوانين وفهم المقصود منها بالوقوف على المفاهيم المضبوطة للمصطلح، وهذا راجع لتبيان المؤثرات الثقافية والاضطراب في استعمال المصطلح القانوني، حيث لا تحمل الكلمة الواحدة في كثير من الأحيان المعنى نفسه .

المبحث الثاني

أهمية المصطلحات القانونية

الأهمية المصطلح القانوني التي تكمن في تأهيل الباحث لإحاطة المعنى الدقيق للمصطلحات الواردة فيه، إضافة إلى هذا فالمصطلح القانوني يمكن المهتم بالدراسة القانونية من استيعاب القوانين وتيسير فهم مبادئها و ال إجتهاادات القضائية و الآراء الفقهية .

وعليه فمادة المصطلحات القانونية تعتبر جد مهمة لأنها تسمح للطالب أن يشارك في غالبية الحوار الحالي سواء كان ذا طبيعة قانونية أو سياسية إضافة الى أنها تشكل

1st lesson

1. Definition of the legal terminology module

The definition of the legal terminology module means:
example of words specific to legal sciences; each science has its own terms and words.

2. The importance of the terminology module

This module helps you enrich your legal lexicon and vocabulary in two languages.

- It allows you to familiarize yourself with legal documents written in French.
- Being accustomed to conducting scientific research in original sources written in French and knowing comparative law (the French legal system).
- Mastering legal notions and concepts in two languages: Arabic and French.
- It allows you to deepen your knowledge of French (because of the mimicry of the Algerian legislator in French law).
- In this module we will study the themes of public law, namely administrative law or economic public law.

Second lesson: The principle of the hierarchy of norms

At the end of this second lesson, the student should have learned the following:

1. The definition of the rule of law
2. The different legal standards
3. The principle of the hierarchy of norms
4. Translation of the necessary terms found in the course.

- the constitution الدستور
- Rigid constitution الدستور الجامد
- Flexible constitution الدستور المرن

International treaties

- The ratification of treaties after its ratification "التصديق على"
the treaty takes on a value superior to the law
according to article 132 of the constitution of 2020 there are
two kinds of treaties.
- The bilateral treaty (الثنائية المعاهدة) is an international
agreement concluded between only two contracting
parties.
- 3- the multilateral treaty المعاهدة المتعددة الأطراف
- Treaties resulting from several contractors

Organic laws القوانين العضوية

Organic laws are expressly provided for by the constitution to determine the procedures for implementing certain constitutional provisions or to govern important matters. For example, the organization and functioning of public authorities, the electoral system, and the law relating to political parties fall under the purview of organic law.

The organic law is adopted by an absolute majority of the deputies and by a majority of 3/4 of the members of the council of the nation, it is submitted before promulgation to the control of the constitutional council (currently the constitutional court).

المصطلحات :

المجلس الدستوري the constitutional council

المحكمة الدستورية the constitutional court
التشريع العادي ordinary law

القانون العضوي organic law

3rd lesson: The different categories of laws

Ordinary laws, the most numerous and located at the bottom of the hierarchy, are adopted in accordance with the ordinary legislative procedure.

-The distinction between law and regulation

In the State, two categories of bodies have the authority to establish general rules: the legislature and certain authorities under the executive branch at the national or local level. The distinction between a law and a regulation rests on an organizational criterion: it relates to the authority from which the act originates.

The law is the act drawn up by the legislative body; the regulation is the act drawn up by an executive authority; these two categories of acts have, in principle, the same nature of general rule.

However, parliament can take individual measures in the form of a law, so a law is not necessarily an act of general application, unlike a regulation.

ترجمة المصطلحات:

التشريع the law

السلطة التشريعية the legislative power

السلطة التنفيذية executive power

4th lesson : The different categories of regulations

By definition, when a regulation is issued in accordance with Article 141 of the 2020 Constitution in a matter exclusively governed by regulations, there is no law governing that matter in principle, therefore the question of the conformity of these

"autonomous" regulations to the law cannot arise. Nevertheless, these regulations remain administrative acts and, as such, are subject to appeal before the administrative courts, which notably verify their conformity with the Constitution and international standards.

On the other hand, so-called "derived" regulations, where the application of laws remains subordinate to them since they intervene to supplement or clarify them, whether it concerns matters where the law determines "the fundamental principles" or those where it "sets the rules", it is common for the law to expressly refer to implementing decrees without entry into force being subordinate to their publication.

شرح بعض العربية:

autonomous regulations to the law
المستقل عن النص التشريعي
conformity المطابقة

decree المرسوم

presidential decree مرسوم رئاسي

executive decree مرسوم تنفيذي

Furthermore, even though the law does not explicitly provide for it, Article 141, paragraph 2 of the Constitution entrusts the Prime Minister with the responsibility of ensuring the execution of laws, thus empowering him to take, on his own initiative, any regulatory measures required for the application of the law. In all these cases, non-compliance of the regulation with the law may be sanctioned by the administrative court.

حسب نص المادة 141 من التعديل الدستوري لسنة 2020 التي تنص على أنه: "
للقانون ، □ يمارس رئيس الجمهورية السلطة التنظيمية في المسائل غير المخص

يندرج تطبيق القوانين في المجال التنظيمي الذي يعود للوزير الأول أو رئيس الحكومة حسب الحالة"
199 من التعديل الدستوري كما يلي " يشرع البرلمان في الميادين التي يخصصها له الدستور و كذلك في المجالات الآتية....." شملت المادة 30 مجال و تضمن التعديل الدستوري في مجالين جديدين ألا و هما الصفقات العمومية و السلطة التنفيذية و التصويت على قوانين المالية.

5th lesson: law audience economic

1. The definition of right audience economic
2. Characteristics of right audience economic

Course objectives:

This module helps you enrich your legal lexicon and vocabulary in two languages in the field of public economic law

It allows you to familiarize yourself with legal documents written in French.

Be accustomed to conducting scientific research using original sources written in French and be familiar with French public economic law.

Mastering legal notions and concepts in two languages: Arabic and French.

In public economic law and public business law.

1. The Definition of right audience economic

THE Right audience economic can se define, In a first approach, as the branch of public law (the law that governs relations with public entities , i.e. the State, local authorities, public institutions, etc.) either

relations between public figures, or between public figures and people private, by example individuals And companies) Who door on THE domain of the economy.

The very name of the substance has been controversial. It is worthwhile to discuss this. to return, because this first difficulty is the sign of the particularity that will be the line common of there matter. THE Right audience economic, called In a first time " right economic ", se wanna For some A right autonomous, whereas for others, it is merely the collection of disparate elements of matter pre-existing simply applied, with a few adaptations, has the economy.

1.1. Autonomy of Right economic

The law encompasses all aspects of life in society. It is therefore natural that the phenomenon Economic factors, like others, do not escape him. However, it is necessary, starting from Having made this observation, we must determine the exact relationships between law and economics. THE right economic there effort.

– Economic law should therefore not be confused with law of the economy, that is to say, it is not simply a collection of branches of law relating to economic matters. In other words, it is not characterized by its simple object. It is characterized, on the contrary, by its method. that's to say A together of rules specific, This Who is not not For as much simple has clear.

The identification of economic law remains open, and may "correspond to two different situations: either a pedagogical and practical grouping of disciplines scattered... Or GOOD A body of principles playing of way autonomous... »

Legal scholars have indeed proposed various criteria for defining the law economic :

THE right economic has First of all summer defined as " THE right of there concentration and the collectivization of the means of

production and of economic organization." On find here the idea organizational, orientation, of planning economic, And of merger of different branches of right ;

there notion corporate, that's to say that he it is SO of right

"of the organization and economic development, whether these fall under the purview of the State, of the initiative private Or of concert of mon And of the other » ;

the act economic : THE right economic East In this assumption "

THE right contracts and that of the unilateral administrative act applied in a double perspective macro And microeconomics "

1.2. Unity economic : a person legal developed A kind activity economic Who him East own ; THE interventions of the State In there life economic

Therefore, the right economic East "the whole" of the rules tending has ensure A balance between THE interests individuals of the agents economic privates Or audiences And the interest economic general "

Some authors thus opt for an autonomous economic law which se subdivided would be himself in different branches news (p. e.g. law administrative economic, right constitutional economic...).

2. Characteristics of right audience economic

2.1. The Cross-Cutting Nature Economic public law constitutes a cross-cutting body of law, situated between public law, private law, and economics. Conversely, one can to consider that there is no such thing as "private economic law" insofar as this Public regulations are what explain the existence of public law. economic.

The **boundary between public and private law** is reconfigured by economic public law . THE right audience East THE right Who governs THE people public (State, local authorities , public institutions, public interest groups): their organization , their operation,

the relationships they maintain with each other, etc. than with private individuals. It is characterized by in principle through the use of prerogatives of public authority. The entire body of public law is affected by these issues. economic, he East normal that each of his branches conceals of the provisions applicable to this area.

Furthermore, public law seems more suited to the understanding of macroeconomic issues than private law (which is interested in) without doubt preferably to aspects microeconomics).

2.2. Subdivisions Domestic public law is itself subdivided into several categories, Who maintain of the relationships with THE right audience economic :

THE right constitutional, Who studied the organization general of the powers audiences, of the authorities administrative supreme, of the authorities policies. He defines SO, even if that stay has A level very general, THE system economic ;

Administrative law studies the organization of administrative institutions, of people morals of right private loaded of there management of a service audience, And the relationships they maintain both amongst themselves and with the public. He has given everything a set instruments used by the right economic public : there notion of deed administrative unilateral, THE CONTRACT administrative, there the administration's submission to the principle of legality, the responsibility of administration, legal recourse in administrative matters... We observed a preponderance of this approach administrativeist in public law economic.

-THE right of the finances public constitutes naturally a branch very productive of economic public law. We will retain two for the moment illustrations :

1. The budget will free up a large amount of spending for to implement the economic policy of the State and other public

entities. THE link with THE right audience economic East obvious since It is In This frame budgetary that are going power register Good number of measures support And 'encouragement has destination of some actors And sectors economic.

2. The tax system is an effective instrument for public authorities to act on THE balances And THE purposes economic: there taxation allow of the shares direct or indirect impacts on consumption, investment, and specific activities or sectors (public aid, government borrowing, encouragement tax has the layout of territory...) .

ترجمة المصطلحات العام الإقتصادي

Economic public law	القانون العام الإقتصادي
Administrative law	القانون الإداري
Tax law	القانون الجبائي
Competition law	قانون المنافسة
Public economic enterprise	المؤسسة العمومية الإقتصادية
The regulatory state	الدولة الضابطة
The interventionist state	The Independent State
Economic regulation	الضبط الإقتصادي
Independent administrative authorities	الهيئات الإدارية المستقلة
The financial sector	المجال المالي
The establishment	الهيئة
The company	The institution
Public establishment of an industrial and commercial nature	السسة العمومية ذات الطابع الصناعي و التجاري
Public institution of an administrative nature	المؤسسة العمومية ذات الطابع الإداري
Public service	المرفق العام
Public service delegation	تفويض المرفق العام

Universal service	المرفق العالمي
The Competition Council	مجلس المنافسة

القسم الثاني الجانب التطبيقي

نخصص القسم الثاني من هذه المطبوعة إلى الجانب التطبيقي الذي نتناول فيه أهم المصطلحات القانونية التي يستعملها الطالب و المستمدة أو المشتقة من المقاييس التي يتم تدريسها في السداسي الثاني و المتمثلة على التوالي في مقياس المنازعات الإدارية ، مقياس الحريات العامة ، مقياس القانون و القضاء الجنائي الدولي بالإضافة إلى مقياس الملكية الفكرية ، و مقياس القانون العام الاقتصادي

لذلك قمنا بتقسيم هذا الجزء إلى خمس مباحث ، نتناول في كل مبحث الجانب النظري للمقياس لأخذ فكرة عامة عليه على شكل مطلب أول ، في حين نخصص المطلب الثاني لترجمة أهم المصطلحات القانونية المتعلقة بالمقياس كالآتي:

المبحث الأول : مقياس القانون الإداري

المطلب الأول : تحديد مدلول القانون الإداري

المطلب الثاني : ترجمة أهم المصطلحات المتعلقة بالقانون الإداري

المبحث الثاني : مقياس الحريات العامة

المطلب الأول : تحديد مدلول الحريات العامة

العامة:

المبحث الثالث : مقياس القانون الدستوري

المطلب الأول : تحديد مدلول القانون الدستوري

المطلب الثاني : ترجمة أهم المصطلحات المتعلقة بمقياس القانون العام الاقتصادي

Part Two

In this second part of the course we will try to define the legal terms necessary for a student in public law and we will divide it into 5 sessions.

These definitions are listed in alphabetical order and are made using a French legal lexicon manual and a French-Arabic legal terms translation manual available online at www.lexique.juridique.fr via internal connection.

Here are the modules that I deemed appropriate to define the most commonly used legal terms in order to teach them in French.

Right administrative : together of the rules Who define the organization And THE functioning of the administrations And their relationships with the administered.

Right constitutional : together of the rules Who define the organization And THE functioning of the institutions policies of the state.

Constitution : there constitution East A text grouping the whole of the rules related has the organization And At functioning of the powers public.

Letter A

Abuse of right : diversion of the exercise of a right, of her aim, by the one Who in worn (admitted in France For THE rights absolutes such that THE right of property, Since affair Clément-Bayard, Court of cassation, 1915).

Abuse : the abuse East THE right of dispose of a GOOD.

Abuse of functions : he y has abuse of functions When THE attendant exploits THE opportunities supplied by his functions For se deliver, has of the ends personal, to A act stranger has its responsibilities.

According to a design restrictive, he not there has not abuse if exists A report of place, of time Or of AVERAGE between act And function (act clerk has the opportunity of the functions or with A AVERAGE put has its arrangement).

According to a design extensive, he y has abuse of functions When 3 criteria are cumulatively gathered : attendant out function, pursuit of ends foreign has its responsibilities without authorisation.

Agreement of nominee : agreement by which a person (THE commission agent) se door officially part has A act legal, but for THE account secret of a other person (THE simulator)

Framework agreement : In THE frame of relationships business followed, agreement Who has For object of predetermine THE content of the contracts has come Who will be contracts application.

Agreement partial : agreement speaker on of the elements distinct of CONTRACT considered.

Act apparent (act ostensible) : act revealing a situation legal different of there situation true.

Act authentic : writing established by A officer audience (by example : act notarial) of which THE statements make faith until registration of fake And of which THE large, coated of there formula enforceable, are likely execution forced.

Act constituent : act legal creating of the rights new Or modifying a situation previous.

Act legal : demonstration of will destined has produce, consciously And deliberately / freely, A effect of right research And wanted by its Or its authors.

Act legal unilateral : demonstration of will unilateral has which her author, acting alone, hears TO DO produce A effect of right.

This kind of deed has For object either abdication/renunciation either there statement (acknowledgement child) either there transmission of a right (will).

Act legal conventional/convention : agreement of will complementary by which two people At less hear either create between they a relationship legal, either to modify Or DELETE a relationship legal pre-existing has this convention.

Act legal collective : act legal Who, by its training and/or its scope, concerned, No not of the people sockets individually, but groups of interest.

Acts liberals : acts Who require, in All Or part, there observation by writing.

Act unilateral collective : act In which he y has a plurality of wishes, but Who expresses either of manner unanimous, either of manner majority, of sort has clear a decision unique.

Action direct : right exercised by A creditor, in her name,

personally And directly against THE third party contracting party of his own debtor, in order to obtain payment of a sum of money by the exclusive exercise of a claim of that debtor.

Action in statement of simulation : action allowing has A litigant of TO DO appear there counter-letter, in case of simulation, either For in get execution, either For in TO DO notice there nullity.

Action in justice : the action in justice East THE appeal in front A court For TO DO recognize A right Who East disputed.

Cancelation : annihilation retroactive of a act legal, For inattention of his terms of training, having For effect either of dispense THE parts of all execution, either of THE to obligate has of the restitutions reciprocal.

Call : the call East a way of appeal Who allow to obtain that a decision of justice of first degree either examined by a jurisdiction of second degree.

Stop : the stop East a decision of justice rendered by there court appeal, there court of cassation, THE advice state Or there court of the assizes.

Order : A stopped East A text written by THE ministers, THE prefects Or THE mayors For fix THE details of the execution of a law.

Artisan : A artisan East a person Who does not employ not more of 10 employees And Who exercise a activity professional independent, essentially manual.

Assignment : act of procedure address by THE applicant At respondent by the intermediary of a bailiff of justice, to invite him to appear before a court of the judicial system (and constituting, before the High Court, submissions for the applicant).

Association : a association East a convention by which several people put in common, of way permed, their knowledge Or their activity In A aim other that share of the benefits.

On-call duty : conviction of a debtor recalcitrant At payment of a sum money fixed, by periods of time determined Or by offense observed, until full execution of her obligation.

Delay : favor granted At debtor, consisting in a exemption momentary of payment, in reason of the difficulties of payment met. The delay East of origin legal Or judicial.

Authority parental : the authority parental East the whole of the rights And obligations assigned to parents on their child legitimate Or natural, until its majority Or her emancipation.

Amendment : writing below signature private Who amended, complete Or precise THE CONTRACT pre-existing between THE parts.

Confession: a statement by which a person acknowledges as true, with regard to themselves, a fact of a nature to produce against She of the consequences legal unfavorable. He must be voluntary, relative has a question of do (And No of right) And emanate of there person has which on the opposite.

Extrajudicial confession: a statement that does not meet the requirements of a judicial confession, but fulfills the conditions required For be treaty as A confession. Being divisible And revocable, THE court preserves her free power appreciation in its presence.

Confession judicial : confession do in front A judge competent during the body At course of which he East invoked has of the ends probationary And proven by THE docs of the instance. He do faith against her author And East indivisible And irrevocable.

Confession judicial complex : confession bearing acknowledgement of a do main but Also of a other do, accessory, Who ruins the scope of the main fact. It is indivisible when the ancillary fact constitutes a normal extension and ordinary of main fact.

Confession judicial pure And simple : confession bearing acknowledgement of a do main, without addition neither modification. He East indivisible.

Confession judicial qualified : confession bearing acknowledgement of a do main enriched of details complementary Who change the content of main fact recognized.

Notice : THE notice are of the texts Europeans Who have not A character OBLIGATORY.

Having cause : person Who holds her right of a other called author.

Having cause has title particular : person having vocation has require of a other person some rights but No his obligations (except in certain cases).

Having cause has title universal : having cause receiving a fraction of heritage composed of rights And of obligations (active And passive).

Letter B

GOOD : A GOOD East a thing and/or A right assessable in money And likely to be there property of a person.

GOOD consumable : A GOOD consumable East A GOOD Who se destroyed during of her first use.

GOOD body : A GOOD body East A object Who has a existence material.

GOOD fungible : A GOOD fungible East A GOOD interchangeable because of nature identical has A Or several others goods.

GOOD building : A GOOD building East A GOOD Who born can be moved without destruction Or Who East reputed such by THE legislator.

GOOD intangible : A GOOD intangible East A GOOD Who n / A not of existence physical.

GOOD furniture : A GOOD furniture East A GOOD that one can carry of a place has A other And Who is not not building.

Letter C,

Caducité : state of a act legal of which there validity East contrary , After its formation , by there s surv e n an ce of an event fortuitous, Who THE private of a of his elements essentials.

Ability exercise : ability of a person has exercise THE rights of which She East holder.

Ability of enjoyment : ability has be holder of rights And debtor obligation

Case of strength major : A case of strength major East A event unpredictable, irresistible And insurmountable.

Cause : there cause East there reason Who has conduit each of the parts has A CONTRACT has to commit.

Cause illicit : there cause East considered as illicit When THE mobile animator moon At less of the parts East opposite has the law or public morals (can only concern the subjective cause). This is a defect of illegality, resulting in nullity. absolute.

Cause objective (cause of the obligation) : result concrete continued by THE contractor (research of a benefit In A

CONTRACT synallagmatic Or research of a situation conforms has his interests In A CONTRACT unilateral).

Cause subjective (cause of CONTRACT) : reasons psychological Who have inspired there pursuit of result desired, has there favor of contract concluded.

Causes exonerating : facts Who, independently of there will And of power of debtor, have determined in All Or part THE alleged breach of contract.

Traffic : East in traffic THE vehicle Who se move on a way public Or In A place private, but Also THE vehicle Who East has the stop on a way public (alone THE vehicle has the stop In A place private is not not in traffic).

Unfair term: a term appearing in a contract between a professional and a non-professional, which appears imposed has This last by the other part, Who, abusing of its position economic dominant, shoot A advantage excessive of this clause. Unfair terms are deemed unwritten (in France, the Court of Cassation recognizes the judges of the the power to decide, outside of any regulatory provisions, that such a clause is abusive as providing A advantage excessive imposed by A abuse of power economic).

Clause of Disclaimer : clause by which THE parts hear se unload of there responsibility induced by there no - execution Or there bad execution of a part.

Clause of reserve of property : clause retardant THE transfer of property until there occurrence of a event determined (by example : full payment of price).

Clause leonine : clause Who assign has moon of the parts At CONTRACT A advantage exorbitant At glance of principle fairness contractual And Who leave alone assume existence of a position dominant For her beneficiary .

Clause limiting of repair (better that limiting of responsibility) : clause Who limit by advance has A ceiling Or has A maximum determined THE Rising of the compensation Who will be due in case of non-performance contractual.

Clause monetary : clause destined has to prepare, In THE obligations of are of money, the effect plunderer of there depreciation of there cash Or of there drop of her course

(devaluation).

Clause criminal : clause by which THE parts fix in advance the evaluation (Or THE bases of the evaluation) of the damages and interest that would be due in the event of wrongful non-performance (it is provided for an act of non-performance and applies to the repair of a prejudice).

Clause resolution (pact) commissoire) : clause by which THE parts suit that all non-performance guilty will result of full right there resolution of CONTRACT. However, She born will be not acquired if its putting in artwork has place of bad faith.

Cofidéjuseurs : people Who se are rendered deposits, jointly Or No, of a even debtor For a even debt.

Beginning of evidence by writing : All title sign, emanating of the one against which there request East formed And making likely THE do alleged has support of this request. He allowed the audition of the witnesses.

Command (of pay) : act meant At debtor, by the intermediary of a bailiff of justice, inviting has pay below penalty to be Seized.

Community local : there community local, Again called community territorial East a person moral of right audience available organs elected officials And of SKILLS, In THE frame of a territory (region, department, common).

Municipality : there municipality East a community territorial Who administers herself grace has of the organs elected officials : THE advice municipal And THE mayor.

Compensation : technical extinction simultaneous, until competition of there more weak, of two obligations fungicides And reciprocal obligations existing between the same persons.

Compensation is only possible if the debts are certain. liquids
And due .

Compensation optional : compensation Who born can be
consented that by there alone part Who can there put in
artwork.

Compensation judicial : compensation Who can be granted
by A judgement constituent, on request counterclaim of
debtor, Who born can to invoke him directly.

Compromise of sale : term employee of way improper For
designer there convention provisional by which THE parts
note their agreement on THE conclusions of a sale, in waiting
there regularization in front notary.

Condition : event future And uncertain, has there occurrence of
which East subordinate there strength enforceable of the
obligation.

Condition casual : condition of which there realization
depends exclusively of chance.

Condition illicit : condition of which the event taken in
reference East opposite has there law.

Condition immoral : condition of which the event taken in
reference constitutes a achievement to good customs.

Condition impossible : condition of which the event taken in
reference East A do of which there realization East reasonably
impossible.

Condition mixed : condition of which there realization
depends has there times of there will of moon Or the other of
the parts And of there will of a third party.

Condition potestative : condition Who do depend the
execution of the obligation of a event that he East At power of
moon Or the other of the parts contractors of TO DO arrive Or

to prevent.

Condition resolvent : stipulation of a event future And uncertain of which depends annihilation of the obligation.

Condition suspensive : stipulation of a event future And uncertain of which depends there birth of the obligation.

Confirmation : act legal unilateral addictive by which a person, holder of a action in nullity relative, renunciation has to act. This person valid SO retroactively the act legal.

Confirmation tacit : execution voluntary of the act by there part Who had summer authorized has in ask the cancellation, in awareness of cause .

Consolidation: retroactive validation of a legal act that was initially voidable because it had been concluded with a head of irregularity. There consolidation can se TO DO by prescription (has born not to confuse with there regularization, neither there refurbishment).

Contagion : commitment of there responsibility of the author of Shame, in more of that of responsible of do of others.

CONTRACT : convention generator of obligations by which a Or several people oblige themselves towards a Or several others to give, to do or not to do something. (Agreement giving rise to one or more obligations or creating or transferring A right real)

CONTRACT administrative : CONTRACT pass by a person public Or For her account And submitted has there skill And At right administrative either by arrangement express of there law, either in reason of there presence of clauses exorbitant of right common In his stipulations, either because that he confers has her holder a participation direct has the execution of a activity public service. Not all contracts of public entities are administrative contracts, some being

submitted to rules of right private.

CONTRACT random : CONTRACT of which there benefit of moon of the parts At less, GOOD that determined by her object, born ballast not by its value Who stay subordinate has A element future And uncertain or/and of which there date East uncertain.

A such CONTRACT do run has each part a chance of gain Or A risk of loss (CONTRACT of annuity life annuity insurance-fire, etc.

CONTRACT complex : CONTRACT Who organized several links obligation, linked by a even purpose.

CONTRACT consensual : CONTRACT Who can be In conclusion, At willingly of the interested, in the absence of All formalism And Who se shape by THE alone agreement of the wishes of the parts (its limit East THE need of formalism For evidence)

CONTRACT membership : CONTRACT In there training of which the expression of consent of moon of the parts consists has accepting or leaving a proposal without the possibility of modifying it, thereby agreeing to the established conditions unilaterally has the advance by the other part (CONTRACT insurance, subscription At phone, etc.). He it is SO of a CONTRACT In which moon of the parts busy a position of strength And imposed has the other his terms.

CONTRACT expensive : CONTRACT Or each part wait A advantage.

CONTRACT real : CONTRACT Who required in more of the exchange of the consents there discount of there thing planned. For be shape, This CONTRACT implied, besides A agreement of wishes, there discount initial, by there part Who

there holds, has the other, of there thing Who in East the object (today, this notion East rejected by there doctrine .

CONTRACT solemn : CONTRACT Who required the accomplishment of some formalities required by there law. For be shape This CONTRACT need, besides A agreement of wishes, there editorial of a writing authentic Or below signature private.

Successive contract (contract with successive performance) : a contract in which one of the parties performs its obligations at of the terms regularly staggered, the other part having Already provided its benefit a times For all Or providing its service either permanently or at a different pace than the other (for example: a subscription contract to a newspaper, contract of lease, employment contract).

CONTRACT has title free : CONTRACT by which moon of the parts procure deliberately, by generosity Or selflessness, A advantage has the other (service Or liberality), without Nothing receive in exchange (advantage without reciprocity).

Onerous contract: a contract by which each party receives a service from the other in return and as a condition of his own commitment (a contract for valuable consideration is therefore a bilateral contract, but the opposite is not not necessarily TRUE since In A CONTRACT synallagmatic, there benefit of a of the parts is not not necessarily equivalent has that of the other part).

CONTRACT unilateral : CONTRACT In which moon of the parts only commits towards the other, without that he not there has, of there part of this reciprocal commitment.

Contract giving rise to obligations only payable by one party (by example : CONTRACT of ready).

Convention : agreement of will intended has produce A effect of right any (create, to modify, transfer Or turn off of the obligations).

Collective agreement: a collective legal act that represents agreements between groups with opposing interests.

Agreements Who engage No only THE signatories of the act but Also all THE members of the communities Or groups represented by them.

Court appeal : there court appeal East a jurisdiction of second degree Who examine a affair Who has summer submitted previously has A court.

Court assizes : there court assizes East a jurisdiction loaded of judge THE crimes.

Court of cassation : there court of cassation East there jurisdiction supreme of the order judicial. She has For role main to ensure THE respect of the exact application of the laws.

Custom : there custom East a practical usual Who becomes OBLIGATORY because generalized.

Debt (synonymous of **right staff**) : right subjective (THE right of debt) that a person (THE creditor) has to demand of someone (THE debtor) THE payment of a debt of money. Element active of heritage.

A debt is considered settled when it is certain (having a current and indisputable existence), and liquid (estimated in money), due (No affected of a term suspensive). When a debt East completed, THE terms are filled For to input

Creditor : person holder of a debt, of a right on a other person.

Unsecured creditor: a creditor of a sum of money who does not benefit from any particular guarantee for the recovery of

what is owed (does not have any privilege or special security guaranteeing payment of his debt). He stands in competition with the other creditors in the sharing of product of the sale of the goods of debtor insolvent.

Creditor privileged : creditor, Who in reason of the nature of her right staff, can get payment Before other creditors And benefits of a rank determined by the law.

The letter D

Decentralization : shape organization of the powers
audiences Who granted a certain autonomy of decision to
communities local.

Degradation of term : sanction consisting in there cessation
immediate of benefit of term suspensive, in reason of a
Circumstance justifying the immediate enforceability of the
obligation. Stipulation of a suspensive term, subject to a
condition residual

Deconcentration : dispersion geographical of power central.

Decree autonomous : text adopted by THE government In of
the domains No reserved At parliament.

Decree application : text specifying THE terms application of
a law.

Failure execution : situation In which se find THE debtor
Who born can more execute her obligation in reason of her do
staff.

Respondent : THE respondent East there person against which
East formed a action in justice.

Deadline execution : some acts Or formalities must be
accomplished In THE frame of a deadline of which non-
observance leads a sanction of gravity variable.

Deadline of grace : deadline additional granted by THE judge
has A debtor For execute the obligation has which he East
tenuous.

Deadline of prescription : deadline Who can be suspended
Or interrupted. HAS the outcome of This deadline, there
situation legal East consolidated.

Deadline prefix : deadline granted For accomplish A act has
expiration of which on East struck of a foreclosure (he short
without suspension neither interruption).

Delegation : act tripartite by which THE delegating obtains of a person (THE delegate) what obliges has pay in her name a debt has a 3rd person (THE (delegate) Who accepted this commitment.

Delegation certa (independent) : delegation imperfect In which THE delegate Who is not not debtor of delegating, And has engaged towards THE delegate has execute a benefit, without report with the obligation of which East tenuous THE delegating screw- notice of delegate, of sort that THE exceptions born of this last obligation are not enforceable.

Delegation imperfect : delegation In which THE delegate accumulates the old commitment of delegating has her regard, And THE new commitment of delegate, also has her regard.

Delegation uncertain : delegation imperfect In which THE delegate is not not debtor of delegating, And has engaged towards THE delegate has him pay This that must pay THE delegating, of sort that THE exceptions born of report between delegating and delegate are enforceable.

Delegation perfect : delegation In which THE delegate accepted there substitution of delegate At delegating, Who se find of released : born remains, in effect, that the commitment of delegate vis à vis of delegate.

Offense : do generator of damages illegitimate And of which derivative a obligation of THE fix. THE crimes are intentional.

Applicant : person Who lawsuit a action in justice.

Denunciation : annihilation unilateral And voluntary of a convention, without retroactivity (has born not to confuse with there revocation).

Denomination social : name data has a Company commercial.

Department : community territorial Who administers herself
grace has of the organs elected officials (in France : THE
advice general And her president).

Debt : (synonymous (of **obligation**) element passive of
heritage Who assimilates has a benefit of sum of money.

Debt of value (obligation of value) : obligation pecuniary,
but of which THE Rising At place to be fixed during of there
conclusion of CONTRACT, se determined At day of payment,
by reference has there value real of a GOOD Or of a batch of
goods determined.

Devolution : transfer of heredity to successors.

Directive European : text Who fixed to states members A
objective has reach In A deadline fixed And by THE means
that they will choose.

Arrangement imperative : defends of the interests generals,
It is For that that he East impossible of it derogation by way
contractual Or No conventional.

Arrangement order audience : THE parts born can y
derogation (order audience).

Arrangement supplementary : defends THE interests
individuals Who can SO y to deviate.

Division of there guard : guard differentiated between several
people (on distinguished there guard of there structure of there
guard of behavior).

Doctrine : together of the opinions issued by THE lawyers has
proposals of the decisions rendered Or of the texts of law.

Dol : maneuver fraudulent having For object of deceive moon
of the parts has A act legal in view to obtain her consent. It's a
vice of consent.

Residence : place Or a person has her main establishment And

Or are grouped the whole of his interests.

Residence elected : place selected by THE parts For the execution of a act legal.

Residence legal : residence imposed by there law.

Damages: a sum of money compensating for the harm suffered by a person due to non-performance Or of there bad execution of a obligation Or of a duty legal by THE contracting party Or A third party. They se translate, in principle, by the allowance of a capital Or the grant of a annuity.

Damages And interests compensatory : damages And interests Who repair THE Shame of has non-performance contractual definitive.

Damages And interests moratoria : damages And interests Who repair THE Shame cause by there lateness execution.

Disappearance : situation of a person of which THE body n / A not summer found, but of which THE circumstances leave assume of its dead of do of the extreme gravity of the dangers to which She must TO DO face has This moment.

Right At lease : right For THE merchant of stay In THE local commercial Or he exercise her activity And of benefit of renewal of his lease.

Right civil : together of the rules Who define THE reports of the individuals between them.

Right commercial : together of the rules legal applicable to merchants In the exercise of their activity professional.

Right of property : right Who confers has her holder there faculty to use, of to sell And of collect THE fruits of a thing.

Right of repentance : right of se retract After to have

expressed her acceptance.

Right derivative : right Who takes its source In A CONTRACT And Who East exposed has all THE hazards likely to affect This CONTRACT.

Right objective : together of the rules Who govern THE reports of the men between them In a Company.

Right heritage : right Who has a value pecuniary.

Right real : right Who door directly on a thing (juice in D) And procure has her holder All Or part of usefulness economic of this thing.

Right Who establishes between a person And a thing material (property, usufruct, possession). Its characteristic East of to relate to objects, property whose very corporeality gives the exercise of these rights a very concrete. We opposite THE right real to personal right.

The principal real rights are the right of ownership and its dismemberments. The right of ownership comprises 3 Prerogatives: the right to use the thing, the right to receive its fruits, the right to dispose of it. Certain real rights do not confer has their holder that a part of these attributes ; on THE qualified of dismemberments of right of property (example : servitude, usufruct).

By opposition to rights real main, he exists of the rights real accessories. They are linked has existence of a debt of which they guarantee the recovery (example : the mortgage).

Letter E

Writings ordinary : all THE writings Who born are not pre-

made (by example : THE writings pre-made irregular, THE registers, etc.)

Writing required ad validity : writing required For there validity.

Writing required ad probationem : requirement of shape required For establish existence of a act.

Election of command : technical according to which the author of the act (THE order) declared act in her name, but For THE If someone else (the commander) is not identified, the revelation of their identity is subject to a time limit. If the commander's name is not revealed... not revealed in a certain deadline, THE contract linked THE commander.

Element legal of there mistake : transgression of a mistake ; behavior socially objectionable.

Element material of there mistake : attitude Or behavior active Or passive of there person at fault.

Element moral of there mistake : awareness clear And awake of the author of there mistake, that he commit a mistake. This element determined accountability of there mistake.

Element objectively essential : elements Who compose THE core hard, the economy of CONTRACT, And This For all THE contracts of even kind.

Elements objectively accessories : elements Who born participate not has architecture, has the economy of CONTRACT of a even kind, they do not present that a interest secondary In there training of CONTRACT.

Element subjectively essential : a part can subordinate her consent has A element objectively accessory what holds For subjectively essential. This appreciation East own has each contractor.

Emancipation : act legal conferring there full ability At minor.

Taught : sign outside Who allow to individualize THE trade.

Understanding : perception And understanding sufficient of This that one said to want. Aptitude legal has to want in awareness of cause.

Enrichment without cause : enrichment of a person in relationship direct with impoverishment of a other, SO that THE imbalance of the heritage is not not justified by a reason legal.

Error : misunderstanding on there reality by inadvertently, lightness Or precipitation / Belief incorrect bearing on mon of the elements determinants of CONTRACT.

Appreciation inaccurate bearing on existence Or THE qualities of a do, Or on existence Or the interpretation of a ruler of right. If She East severe, the mistake of do can train there nullity of the act, SO that the mistake of right is not generally not socket in consideration.

Error judged inexcusable : When the mistake results of a mistake gross committed by there victim, notably When She has ignored a reality that was accessible to him: it is not the role of the law to systematically protect individuals especially When This is of their own lightness.

Error unsuspected : error that THE contracting party n / A not suspected neither n / A could to thwart. For suspect a such

error, he must to have awareness of there value decisive that THE partner attached has the element on which THE contracting party go commit there misunderstanding.

Establishment audience : person moral of right audience Who manages a activity of service audience In THE frame limit of its speciality.

Exception of non-performance : AVERAGE, taken by THE creditor, of non-performance guilty of her debtor, For to book Or interrupt the execution of her own commitment. This exception has a function protective And threatening.

Exceptions : patterns invoked by THE debtor For se subtract has her obligation of pay.

Execution forced : execution of a obligation, nee of a convention, of there law Or of a judgement, in appellant has there strength public Or has a procedure of seizure.

Execution by equivalent : payment of a compensation equal has there value of wrong cause in case of non-performance of there part of debtor, of a "obligation of TO DO Or of born not to do.

Requirement : state of a obligation of which THE creditor can require the execution by THE debtor, At need in appellant has a execution forced.

Exemption conventional : stipulation by which THE parts suit of put has there charge of moon Or of the other THE risks of non-performance, possibly even For cause of strength major.

Expropriation : procedure by which a person East constraint to abandon there property of her GOOD has the administration, by means of A compensation.

Letter F

Do legal : event, voluntary Or No, Who product of the consequences legal No wanted.

All situation of do, Or all action voluntary Or No, Who leads, by her existence even, a creation, a modification Or a transmission of rights Who n / A not summer desired.

False cause : error committed on THE pattern that one had of

to oblige oneself, misunderstanding on there nature of there benefit (She born can concern that there cause objective). It is A vice of consent (nullity relative)

Mistake : failure has A duty of conduct. Failure has a obligation pre-existing.

Mistake civil : attitude of a person Who, by neglect, imprudence Or malicious intent, born respect not her duty of born cause no damage has others.

Mistake contractual : attitude of a person Who, by neglect, imprudence Or malicious intent, born respect his commitments contract workers.

Mistake fraudulent : attitude of contracting party Who, of proposals deliberate, se denied has execute her obligation, even if This refusal is not dictation by the intention of harm has the other part.

Mistake inexcusable : "mistake voluntary of a exceptional gravity exhibitor, without reason valid, her author has A hazard of which he would have of to have awareness" (according to there Court of cassation French, 20 July 1987)

Mistake heavy : mistake No intentional but of which THE consequences are of a exceptional gravity And Who denotes unsuitability of debtor has the accomplishment of her obligation.

Fiction : simulation In which the act ostensible East entirely devastated by the act secret Or counter-letter.

Funds of trade : together of the elements furniture bodily And intangible Who allow At merchant to exercise her activity (name commercial, clientele, sign, law At lease, etc.).

Strength major : character of a event unpredictable,

insurmountable, irresistible And outside At debtor, Who prevents this one to execute her commitment. She East exonerating.

Quarrying fee (or fortage) : a royalty paid to the landowner for the operation of a quarry, for compensate the abduction of the materials. This royalty, fixed contractually, East generally proportional has there quantity of materials excerpts.

Formalism : requirement, For there validity of some acts, that there will of parts either expressed according to a shape determined.

Formalism of Good For : mention done by the author of the act, of there sum money Or of there quantity of goods fungicides due, in all letters And in numbers.

Formality of double : THE writings below signature private, noting of the conventions synallagmatic, must be erected in as many originals as there are parties with distinct interests, and each original must bear an indication of the number total number of originals.

Formalities : requirements exteriors has there formulation of there will of the parts, imposed either as of the additional information indispensable has there validity of the act, either as of the additional information indispensable At full effect legal of the act (by example : THE formalities of advertisement).

Letter G

Genesis of CONTRACT : period pre-contractual, included between THE moment Or 2 interlocutors enter in relationship For conclude A contract and THE moment when they have concluded.

Management business : do For a person (THE manager) to accomplish of the acts administration In the interest of a third party (THE managed Or THE master of the case) without that This last the ait charge.

Grace : measure of favor, legal Or judicial, mitigating there rigor of a commitment

Group of contracts: a contractual set consisting of a plurality of contracts, either successive and relating to a even thing = THE contracts in chain (ex. : THE contracts between A manufacturer And A worker, Then between This even manufacturer And a purchaser), or interdependent and relating to the same overall service = nested contracts (e.g., contracts between A master work And A entrepreneur Who, himself, will contract with A subcontractor).

Letter H

Mortgage : right real accessory burden A building And constituted At profit of a creditor in guarantee of payment of there debt. The mortgage does not entail not divestment of owner. She allowed THE creditor No paid has the deadline has to seize and sell the property regardless of who owns it (right of pursuit) and to be paid from the proceeds before the creditors unsecured (right of preference).

He exists Also a few case mortgages furniture (ships, aircraft). A mortgage can be allowed by THE judge has title conservatory.

Letter I

Impossibility fortuitous execution : state In which se find THE debtor Who, in reason of existence of circumstances presenting THE character of there strength major, born can not execute THE obligations of which he East tenuous.

Unpredictability : character unexpected of a circumstance of

which there occurrence upset the execution of the obligation.

Imputation of the payments : question of know, in case of plurality of the debts monetary of a even debtor towards A even creditor, which (Or which ones? sudden the effect extinguishing agent of a payment partial.

Inalienability : quality of This Who is not not alienable.

Fire : combustion abnormal And accidental.

Compensation immobilization : In THE frame of a promise unilateral of sale, he it is of there stipulation of a compensation that THE beneficiary will pour At promising if born survey not the option.

She constitutes there remuneration of service rendered by THE promising, Who obliges has immobilize her GOOD And has born not conclude with someone else.

Indications of payment : forecasts related At place, At moment And to terms of payment

Indivisibility of a obligation joint : state of a obligation joint insensitive execution divided between his multiple topics assets and/or passives. Indivisibility can be natural Or conventional.

Joint ownership : situation legal nee of there competition of rights of even nature exercised on A even GOOD Or on a even mass of goods by of the people different, without that he y ait division material of their part .

Undue : supply of a advantage has others, of which THE character undue holds either At default of debt .

Ineffectiveness : paralysis of the effect OBLIGATORY of CONTRACT.

Unenforceability : state of a AJ of which THE third party are admitted has in ignore existence And THE effects And SO

admitted has in upset the effects.

Insolvency : report inferiority of the asset known by report At passive, At breast of a heritage.

"Instrumentum" : writing authentic Or below signature private containing there substance of the act legal Or of CONTRACT considered by her Or his authors.

Interest legal : interest of which THE rate East determined by there law, has default of convention.

Interposition of people : simulation In which moon of parts has the act ostensible (called nominee, man of straw Or person interposed) se ready At game, SO that he East foreseen In there counter-letter that THE effects of this act se will produce in the heritage of a third party No revealed.

Interruption of there prescription : stop final of the flow of deadline in course.

"Intuitus personae" : in consideration of there person. That means that In there conclusion of a CONTRACT, THE qualities of co-contractors are especially taken in consideration.

Irresistibility : character of a circumstance invincible, even At price of a diligence supported And of a will manifest of overcome the obstacle.

Judgement : decision of justice rendered by a jurisdiction of 1st degree .

Justice commutative : justice Who claims watch has a equality arithmetic In THE exchanges.

Judgement constituent : decision judicial Who created a situation legal new. His effects leave of day Or he has summer pronounced.

Judgement in first And last spring : judgement against which none call born can be interjected.

Judgement in first spring : judgement against which A call maybe interjected.

Judgement declarative : decision judicial Who notes a situation Or A right pre-existing. He consolidated THE rights of the litigants And his effects go back up, logically, At day of the feat of postponement.

Jurisdiction civil : organ Who examine THE conflicts between individuals.

Jurisdiction criminal : organ Who judge And sanctions THE authors of a offense.

Case Law : together of the decisions rendered by THE jurisdictions on A issue legal determined.

" **THE criminal t i e ent THE civil e n the state** : principle of right process At title d u qu ue l THE judge civil when he East sa isi of the action in repair of a offense, must postpone has to decide until This that THE judge penal se either himself definitely pronounced on the action criminal.

Lifting option : THE promising obliges In A CONTRACT future in booking At beneficiary a option of conclude Or of born not to conclude THE CONTRACT future, option that he him will suffice of lift THE moment wanted.

Freedom contractual : principle according to which each individual is free of contract Or No, with there person of her choice and for the his contract choice.

Lawfulness : character of This Who East permit, allowed by A text, respecting the order audience And THE good customs.

Law constitutional : text Who has For aim of revise there constitution.

Law ordinary : text vote by THE parliament In THE domains determined by the article 34 of there constitution.

Law organic : text vote by THE parliament And determining THE terms of functioning of the powers public.

Law referendum : text adopted by way of referendum.

Letter M

Mandat : act by which a person East loaded d e n represent a other For acc o m p l i s e m e n t of a Or of several legal acts. THE mandate East conventional When he results of a CONTRACT concluded between THE represented (Or principal) And THE representative (Or agent). He can also result of there law or of a judgement.

Lack has earn (lucrum without ceasing") : loss of a profit economic.

Failure contractual : situation of debtor Who has failed, in quality, quantity Or punctuality, has the execution of her obligation contractual. This failure East THE do generator of there responsibility civil contractual.

Mention liberating : mention scope, by THE creditor paid of her of, on her title of debt, Who has For effect of release THE debtor. Even No dated, No Signed, She do faith of there release

of debtor of alone do what East handwritten.

Measure conservatory : Measure se layering has a situation in course For preserve THE interests of a part Or of a third party. She East necessity by the emergency and is not planned than title provisional.

Formal notice: a firm written demand/summons to the debtor by which the creditor notifies the debtor of the payment's enforceability. debt (or obligation), the alleged non-performance, and the intention to no longer tolerate delays. It may take the form of a act extra judicial (command of pay) meant by bailiff, Or result of a simple letter enough precise.

Moratorium: a grace period granted by law for the payment of certain debts specified by law, due to circumstances particulars (ex. : there war). THE debtors concerned are targeted by their quality Or there nature of their debt.

Nantiss s e m e e n t : CONTRACT by which THE debit r e m e t a thing furniture (This will be A pledge) Or real estate (This s e r a une antichresis) has her creditor For ensure its debt.

Nationality : link legal And policy Who unit a person has A State.

Name commercial : name below which East exercised THE trade.

Nominalism monetary : fiction legal according to which the unit monetary national East renowned to have there even value liberating has some moment that we there considered.

Name surname : name allowing of designer THE members of a even family.

Novation : agreement by which two people suit to turn off a obligation pre-existing between they, For there replace by a obligation new (with the intention municipality of bind there

creation of there second has extinction of there first).

"Negotium" ("affair") : In A act legal Or In A CONTRACT, THE " negotium " concerned there question of bottom that aims this act or contract (as opposed to "instrumentum": the form that translates the will of the author of the act or of the contractors).

Notification : formality by which A act extrajudicial, A act judicial Or A judgement East door has there awareness of the parties concerned (a method of publicity normally used in matters of individual acts and consisting of informing personally the person in question of there measure in cause).

Bare ownership : right of dispose of a GOOD without in to possess neither the use neither THE fructus.

Nullity : sanction civil Who consists In annihilation judicial And retroactive of the acts legal irregularly formed (She can be absolute, relative, partial, total, virtual Or (textual).

Nullity absolute : sanction retroactive of a vice irregularity of CONTRACT constituent a achievement has a ruler of interest general or social. The action for absolute nullity is open to any interested party for 30 years, and it is not permitted to [in this regard] give up (unaware of confirmation).

Nullity partial : nullity Who does not affect that there clause irregular, THE stay of CONTRACT being maintained.

Relative nullity: retroactive sanction for a defect or irregularity in a contract constituting a breach of a rule of interest particular. The action in nullity relative is not open than there victim, during 5 years And he East permit of it give up (likely of confirmation).

Nullity textual : nullity Who born can be pronounced that if

A text there predicts of way formal (example : nullity of marriage).

Nullity total : nullity affecting THE CONTRACT In her together.

Nullity virtual : nullity Who can be pronounced SO that none text born there predicts expressly.

Object : design there thing Or there benefit that each one of the parts has A CONTRACT s ' e ng a g e has provide .

Object certain : object determined Or At less determinable as to has her species And has her quantum.

Obligation : At sense wide, link of right between two Or several people in virtue of which moon of the parts, THE creditor can compel the other party, the debtor, to perform an obligation (give, do, or refrain from doing something). This relationship can find its It can originate from a contract, a quasi-contract, a tort, a quasi-tort, or the law. It can arise from a manifestation of will (act legal) Or of a event (done legal). In a more restrictive sense, a term synonymous with debt (an obligation is the negative aspect of a claim). Negotiable security issued by a capital company that borrows a significant amount of capital, usually long-term, and divides its debt into one big number of cuts. Each bond se find In there situation of a lender, holder of a debt productive of interest. A bond differs from a share in that it generally provides a fixed income independent of the results. of the exercise and does not confer on its holder the right to participate in the management of the company except to be consulted in some case exceptional (modification of the object Or of there shape of there Company, merger Or split).

Obligation alternative : obligation bearing on several services, each liberating, Who allow At debtor of se release in executor in full moon any of these services, except stipulation express opposite.

Bonds assumed : obligations statements In there convention.

Obligation aborted : obligation natural Who would have could be erected in obligation civil, but Who born ballast not

(homework morals family duties, duties of humanity and justice).

Obligation civil / legal : obligation of which non-performance is sanctioned by THE right.

Obligation conditional : obligation of which the execution depends of the occurrence of a future and uncertain event.

Divisible joint obligation: an obligation intended to be divided among multiple creditors and/or multiple debtors Or Again between THE heirs of creditor and/or those of debtor, of such sort that each born must pay Or born can ask THE payment of its part, and not Not at all.

Obligation conjunctiva : obligation comprising several objects that THE debtor must all execute For be released.

Obligation contractual : obligation Who stems from a CONTRACT.

Obligation conventional : obligation Who process of a agreement of will between THE interested.

Obligation of give : obligation of transfer At creditor there property of a thing Or of constitute on this one All other right real.

Obligation of TO DO : obligation Who constrained THE debtor has accomplish A do positive.

Obligation degenerate : duty of awareness Who would subsist For A debtor, initially tenuous by a obligation civil pre-existing but Ultimately devastated without execution, either that this obligation se either turned off without execution, either what ait summer cancelled For A pattern other than her illegality Or A vice of consent.

Obligation criminal : obligation Who stems from an offense.

Obligation of born not TO DO : obligation Who imposed At debtor a abstention (benefit negative), It is has say that THE debtor n / A not the right to perform A determined fact .

Obligation of means (general obligation of care and diligence) : obligation for the debtor, not to achieve A result determined, but of put in artwork all THE best means has its arrangement (care And diligence) in view of to obtain it. There responsibility of debtor is not committed that if THE creditor proves that THE debtor has lack has his homework of diligence And of caution.

Obligation of AVERAGE aggravated / reinforced : there causality between THE there mistake alleged And THE Shame must be proven.

Obligation of information (obligation (information)) : obligation introduced by there case law in virtue of which the one Who knows East tenuous to inform her contracting party Who ignore.

Obligation of result: obligation for the debtor to achieve a specific result, such that its responsibility East committed by there alone evidence that THE result is not not reached, except if THE debtor can se justify in proving that This failure East of has a cause foreign of strength major to which he East exclusively attributable.

Reduced obligation of result: obligation for the debtor to achieve a specific result, such that its responsibility East committed in case of non-performance partial Or total, except if THE debtor can se justify in proving that This failure East of has a cause foreign of strength major Or that he n / A not clerk of mistake. She implied presumption of mistake of debtor and presumption of causality.

Value obligation: a monetary obligation (i.e., a sum of money), but whose amount, instead of being fixed at the advance, se determined At day of payment, by reference has there value real of a GOOD Or of a batch of goods determined.

Obligation in nature : all THE obligations of TO DO Or of born not TO DO And THE obligations of give bearing on A body certain or something of a kind other than money (forced execution only if there is an obligation to give). Execution by equivalent (compensation pecuniary).

Obligation optional : obligation in virtue of which THE debtor East tenuous has a alone benefit, alone due, but he has there faculty of se release in providing other benefit.

Obligation in solidum : obligation At All, In which each of the co-debtors East tenuous of All has regarding of creditor SO that he does not exist not, between them, of links of representation (has born not to confuse with the obligation

solidarity).

Obligation legal : obligation Who stems of there law.

Obligation natural (obligation moral) : obligation of which the execution forced born can be required in justice And of which Voluntary execution does not give rise to repetition, insofar as it is the fulfillment of a moral duty or of awareness.

Obligation No conventional/ nee without convention : obligation resulting of the authority alone of there law Or of a do staff has the one Who se find obliged (quasi-contracts, crimes And quasi-crimes).

Obligation pecuniary (Or monetary) : obligation of provide a sum of money. It is that Who, of all THE obligations, se ready, by THE game of the seizures, has the execution forced there more simple And there more Sure.

Obligation pecuniary indexed : her Rising East fixed has the origin but stipulated variable (in increase Or in drop) by reference has A hint selected by the parts.

Obligation plural : obligation has several objects and/or several topics assets and/or passives.

Obligation simple : obligation Who rest on a benefit certain has object unique, due by A alone debtor has A alone creditor.

Obligation solidarity : state legal Or conventional of a obligation of which he results that each of the subjects, assets Or passive, is supposed to be the sole beneficiary of the claim or the sole debtor, and is deemed to represent his peers alone in his reports with the other parties to the obligation.

Obligation solidarity No joint : obligation In which a person can commit as co-debtor solidarity deputy of a obligation main has which She n / A not personally.

Obligation subordinate : obligation of which THE right to demand the execution East subordinate has there occurrence of a event determined.

Offer of contract (solicitation) : act legal unilateral by which a person propose has a Or several others people (determined) Or undetermined) the offer of conclude A CONTRACT of which THE elements objectively essentials are predetermined. There training of CONTRACT must be simply possible After acceptance.

Enforceability : quality of a element of the order legal Who is necessary At respect of the third party.

Opposition At payment : demonstration unilateral of will, destined has TO DO obstacle has A payment And has constrain THE solvens at y postpone Or has to affect it differently.

Prescription : text that THE government East allowed has take In THE domains Normally reserved At parliament.

Order administrative : groups the whole of the jurisdictions administrative.

Order judicial : groups the whole of the jurisdictions civilians And penal.

Order audience : character of the rules legal Who are essential For of the reasons of morality Or of security imperatives In THE social relations.

Order audience of direction : measures imperatives aiming has defend the interest general. All person interested can ask the cancellation of CONTRACT born respecting not THE provisions order audience of direction.

Order audience of protection : measures imperatives aiming has protect THE individuals. Alone there person protected can ask the cancellation of CONTRACT.

Pact of preference : convention by which THE owner of a GOOD , For THE case Or he THE would sell , THE reserve to the beneficiary of there clause, of preference has all other person, For A price determined Or determinable.

Payment : execution voluntary of This Who East of At creditor And Who worth release of debtor.

Payment in numerary : payment Who has place For extinction of a debt of money.

Payment international : payment Who process of a CONTRACT presenting A risk of exchange For moon of the parts.

Payment portable : payment do At residence of creditor.

Payment querable : payment having in principle For object a thing of gender, And by Consequently, do At residence real Or elected of debtor.

Heritage : together of the goods And of the obligations of a

person considered, as a universality of right, It is has say as a mass moving whose assets And THE passive born can be dissociated.

There debt And there debt are THE two faces inseparable And complementary of a even reality legal order heritage.

Loss of a chance : situation In se find a person Who, by following of a do harmful has found Or se find prevented of run a chance of gain Or any further.

Loss of there guard : loss, by THE owner Or THE guardian of a thing, of there guard of this one (in reason by ex of her flight Or of his loan).

Loss proven (damn emergencies") : alteration suffered on A GOOD Or A right of there victim herself Or expenses necessary commitments by her.

Personality legal : ability has be holder of rights And debtor of obligations.

Person legal : subject of right suitable has be holder of rights And of obligations.

Person moral : group of people putting in common their activity And their resources For reach A objective common.

Person physical : individual, be human.

Solicitation : demonstration of will by which a person (the offerer) Or (prosecutor) propose there conclusion of a CONTRACT has a other person.

Potential : se said, by opposition has fortuitous, of This Who depends of there will human, No of chance.

Talks : interviews prerequisites has there conclusion of a agreement.

Appeal in cassation : way of appeal Who allow of to input

there court of appeal.

Power executive : skill granted At government (And, in France, At President of there Republic) For direct there nation and ensure the execution laws.

Power legislative : skill granted At parliament of discuss And of vote THE laws And of control the action of government.

Prejudice : Shame material (loss of a GOOD, of a situation professional, etc.) Or moral (suffering, achievement has there consideration, At respect of there life private) suffered by a person by THE do of a third party.

Prejudice certain : prejudice, current Or future, Who is not not simply hypothetical.

Prejudice collective : prejudice suffered by a person moral, resulting of the attack has the interest particular what defends.

Prejudice direct : prejudice consisting In a following direct And immediate harmful of which there causality with THE do damaging East real And sufficient.

Prejudice material : achievement has A interest heritage (destruction, degradation, loss proven, lack has earn).

Prejudice moral : achievement has A interest order extra-patrimonial (life private, honor, etc.).

Agent: person who performs an act or exercises a function under the subordination of another (the principal). In THE frame of a CONTRACT of work, It is A provider Who East totally subordinate to orders of the employer, At regulation of the company (link of subordination)

In THE frame of a CONTRACT corporate, It is A provider Who receives A minimum orders of her customer, Who born apply than to goals of its assignment And No to means has put in artwork (subordination informal).

Prescription : AVERAGE to acquire A right real Or of se release of a obligation by THE alone flow of a certain lapse of time And below THE terms determined by there law (has born

not to be confused with THE deadline prefix).

Prescription extinguisher : fashion legal of extinction, by THE alone flow of a certain lapse of time, of the means allowing of ask in justice the execution of a obligation : born remains SO that a obligation natural.

Presumption legal : presumption by which there law herself imposed At judge of hold For true a consequence that she herself attached has A do established (has strength conclusive includes three degrees : simple, mixed Or irrefutable).

Irrebuttable legal presumption (juris and de jure presumption) : a consequence that the law draws from a known fact. to know A do unknown with prohibition For THE respondent of it bring there evidence opposite. She born can be upside down that by the confession judicial And THE oath decisive.

Presumption legal mixed : presumption by which there law canton the object of there evidence opposite Or does not allow there evidence opposite than help of some instruments probationary. She can se to spill by there evidence opposite.

Presumption legal simple (presumption) juris tantum) : consequence that there law shoot of a do known For to know A do unknown. She can be upside down Or fought by there evidence opposite, by All AVERAGE.

Benefit : substance even of the commitment assumed by THE debtor vis à vis of creditor, At breast of link obligation.

"Pretium pain" : expression Latin meaning THE price of there pain.

Privilege : right that there law recognizes has A creditor, in

reason of there quality of there debt, to be favorite to others creditors on the whole of the goods of her debtor Or on some of them them only.

Promise of strongbox : commitment, taken In A CONTRACT, by a part, of her chief but For THE account of others, to obtain there ratification of the person in question Or, has default, of compensate THE contracting party For cause of failure.

Promise synallagmatic : agreement of wishes of promising And of beneficiary of there promise, Who commit In The terms of a contract whose essential conditions are determined, but a contract that is not concluded due to lack of of having gathered the elements necessary for its formation, external to the will of the parties (judicial approval) or relevant of their will.

Promise unilateral : convention by which moon of the parts (THE promising) given her consent has A CONTRACT future determined of which there training born depends more that of membership of the other part (THE beneficiary).

Property industrial : property bearing on of the goods intangibles such that THE patents of invention, THE brands, drawings And models.

Pseudonym : name dummy below which A artist Or A writer exercise her activity.

" Quantum " (Rising) : word serving has the appreciation of the damages And interests (responsibility (civil) Or of a contributory part (by example : contribution of a husband to charges of household).

Quasi-contract : do lawful And purely voluntary of the man, of which he results A commitment any towards a third party, and sometimes a reciprocal commitment from both parties: management of affairs, payment of undue payments, enrichment without cause.

Quasi-crime : do of the man illicit but clerk without intention of to harm, Who cause A Shame has others And obliged her author has there fix.

Question of the risks of CONTRACT : there question of the risks of CONTRACT consists has se ask, when there strength major prevents mon of the contractors to execute her obligation, if the other contractor East released Or if must At opposite execute her obligation (THE risk would then weigh on (this one.)

It concerns the burden of risk for unforeseen non-performance in the event that one of the parties to a contract synallagmatic East putting In the impossibility to execute her obligation by A case of strength major, this obligation East then extinguished without any liability for damages. But the question is what happens to the obligation reciprocal of the contracting party.

Receipt : act writing handed over At debtor by which THE creditor recognizes to have received THE Rising of its debt.

Quorum : number of participants necessary For that a assembly (of a association Or of a Company by ex.) may validly deliberate.

Quotient : sum fixed has which mounted each quota.

Reason social : appeal data has a Company civil prof e ssi o n nel l e .

Report obligation : In there relationship of creditor with THE co-debtors of the obligation, question of know of what part of there debt municipality of which each of them them East tenuous towards THE creditor.

Report of contribution : In there relationship of the co-debtors between them, question of know what East there part of debt municipality of which each must finally supporter there charge definitive.

Ratification : approval by the person in question, Who of it appropriate THE consequences, of This Who has summer do Or promised in her name by a third party lacking power.

Recommendations : texts Europeans Who have not A character OBLIGATORY.

Refurbishment : reissue of a act legal initially corrupted, expurgated of there cause of nullity original. The old act loses effect has its date of reissue.

Region : community territorial Who administers She even grace has of the organs elected officials (in France : THE advice regional And THE president of the regional council).

Regulations : texts decreed by some authorities administrative.

Regularization : demonstration of will Who tend has to validate, retroactively And has regarding of all, A act cancelable in correcting the element corrupted Or illicit of which he was affected. He it is of a consolidation voluntary.

Relativity of the effect OBLIGATORY : principle according to which alone THE parts has a convention And their successors in title universal Or has title universal are outfits by there convention.

Receptacle : qualified the act unilateral Who n / A of existence legal that by there notification Who in East done has her RECIPIENT ; Thus of leave given by THE lessor, of there putting in remains of debtor, of dismissal of employee.

Discount of a debt : convention by which THE creditor renunciation totally Or in part has A right of debt that he holds, This that THE Debtor accepts.

Solidarity remission: a favor granted to one or more debtors jointly and severally liable for a debt, which has as its purpose effect of born hold THE beneficiary debtor that of its part, THE others co-debtors remaining outfits jointly For THE All decreased of the personal share of debtor favored.

Repair in nature : discount of the things in state

Repair by equivalent : repair Who consists has TO DO enter In THE heritage of there victim a value equal has that of which she has summer private.

Repetition of the undue : restitution of This that THE solven has unduly paid.

Representation contractual : technical according to which A act legal East subscribed by A intermediate authorized by there law (THE representative), THE judge Or a convention, For THE account And At name of a person determined (THE represented).

Rescission For lesion : cancelation of a CONTRACT For distortion significant of value of services. Destruction, by decision judicial, of a act injury.

Residence : place Or a person stay of manner stable And usual.

Termination : annihilation conventional Or judicial, For the future, of a CONTRACT has execution successive having Already received A commencement of execution.

Resistance At payment : behavior Who East THE do of creditor Who, by disagreement with THE debtor, denied of it receive payment.

Resolution : annihilation retroactive (conventional, judicial Or unilateral) of a CONTRACT synallagmatic For cause of non-performance Or of bad execution.

Liability: obligation to compensate for damage resulting from the non-performance of a contract (liability contractual) either of there breach of duty general of born cause none Shame has others by her do staff, Or of do of the things of which on has there guard, Or of do of the people of which on answers (responsibility of do (of others) ; when there responsibility is

not not contractual, She East said criminal Or quasi-criminal.
Responsibility civil : obligation done has a person of of fix
THE Shame cause has others either by its own mistake Or
Again by THE people Or THE things of which he has there
guard. He it is of fix A prejudice individual, private.

Responsibility contractual : obligation done has a person of fix THE Shame suffered by others And resulting of non-performance Or of there bad execution of a CONTRACT (set in cause of debtor of the obligation unexecuted).

Responsibility criminal : obligation of fix THE damages born of a do legal voluntary Or involuntary. She results from the violation of the general duty not to cause any harm to others through one's own actions, through the actions of things that one has below its guard Or by THE do of the people including on answers.

Responsibility of do of others : obligation For there person legally responsible of fix A Shame of which THE do generator born him East not own (prejudice cause by THE people of which he has there monitoring).

Responsibility of do of the things : obligation done has a person of fix THE Shame of which THE do generator East THE made of thing belonging to him Or that he had under its guard.

Responsibility of do staff : obligation done has a person of fix THE Shame of which THE do generator results of her do at-fault personnel.

Responsibility criminal : responsibility Who exposed the author of a offense to sanctions incurred by there law. He it is of there sanction of a disorder social or of the interest general.

Reluctance fraudulent : silence guard by THE contractor For induce THE contracting party in error. Lie by omission : born not say This that one knows SO that one knows that It is important.

Revocation : annihilation voluntary, retroactive, of a

convention by her Or his authors Or by there law.

Role passive of a thing : normality of the state, of functioning, of there situation And of the action of a thing involved In A Shame.

Ruin : collapse No caused of a building Who results of a default maintenance Or of a vice of construction.

Seizures conservatories : a seizure conservatory East a procedure of which the objective East of p l a cer below hand of justice of goods of debtor, in order to that this one not has not Or born THE make disappear.

Backup of justice : diet of protection For THE adults incapable suffering of a alteration temporary of their faculties mental Or physical.

Oath decision : oath probationary referred by moon of the parts has her opponent. He has For object to establish A do And to end the dispute by asking the other party to swear before the judge to the reality of an act or fact legal.

Oath probationary : statement solemn And formalistic by which A litigant affirms in justice there veracity of a do Who he is favorable.

Oath supplementary : oath probationary referred by THE court, THE judges being free of it appreciate there strength conclusive (request of judge has moon of the parts of swear of there reality of a act Or of a do legal).

Servitude : charge imposed has A building At profit of a other.

Seat social : place of main establishment of a person moral Or are located THE organs of direction.

Silence : No said absolute to which there law born recognizes generally not value of consent (except When there law THE to

be precise, When THE uses implicate him Or When there case law admits it - see "silence circumstantial").

Simulation : agreement between contractors tending has TO DO believe has existence of a convention (act apparent Or simulated) born corresponding not has their will .

Company : CONTRACT by which a Or several people decide of put in common some thing in view of se share THE benefit Or of enjoy of the economy Who will be able to in result.

Solidarity active : modality of a obligation has several creditors, Or each of them them can ask At debtor THE payment of All.

Solidarity passive : modality of a obligation has several debtors, Or each of them them East tenuous of All has regarding of creditor.

Solvens : the one Who carried out THE payment of a obligation (see "accipiens").

Summons : act bailiff Who informed a person of a debt And Who there put in remains of to acquit him.

Stipulation for the benefit of a third party: an agreement by which one person, the stipulator, obtains from another person, the promisor, the promise to accomplish a benefit At profit of a third person (THE beneficiary). There stipulation For others East valid if the stipulator demonstrates a legitimate interest in stipulating on behalf of another and if the beneficiary is determined or at least determinable objectively.

Subrogation : operation Who substitute a person Or a thing has a other.

Subrogation ex part creditoris : subrogation conventional personal In which THE creditor (THE subrogating substitute expressly the one Who has acquitted there debt of her debtor (THE subrogated), At moment of payment.

Subrogation ex parte debitoris: a personal and formalistic conventional subrogation, which takes place at the initiative of the debtor, Who borrow of the funds For pay her obligation At profit of the one Who ready these funds, And without there

will of creditor disinterested.

Subrogation personal : substitution legal of people.

Subrogation real : substitution legal of goods.

Subsidiarity of the action of in rem back : principle according to which the action of in rem back is not admissible that if none possibility legal of claim against the enriched one is not possible.

Substance of there thing : This Who do that a thing East This what East And This without What She would be different.

Succession has the act : case Or a person, initially foreign has the act, East brought has y replace a part original When this one East deceased.

Supplement of just price : AVERAGE to avoid there rescission of a act injury in offering there part necessary At rebalancing of the services.

Safety : guarantee special, supplied At creditor, by there law Or by a person, destined has ensure THE payment of a debt.

There **safety personal** correspond has the commitment of a Or several people. There **safety real** correspond has the assignment of a Or several things.

Securities judicial : measures conservatories able to, with the authorization of judge, to carry on A building, A funds of trade, shares, partnership interests or real estate securities (the creditor must be the holder of a security) enforceable). Enforceability of there measure East done by a advertisement.

Suspended sentence : deadline of grace.

Contractual suspension: a measure consisting of a temporary suspension of the enforceability of benefits for each part, in case impossibility fortuitous And momentary execution. This

measure protected THE debtor And preserves THE CONTRACT.

Union : group of people able se constitute freely For defend exclusively THE interests professionals, materials Or morals of their members.

Testimony : statement done by of the temoins which they have e u awareness .

Term : event future And certain of which depends the enforceability Or extinction of a obligation.

Term determined : term datable.

Term extinguisher : event future And certain of which there occurrence put END has the enforceability of the obligation of debtor.

Term undetermined : term No datable precisely Or No datable.

Term suspensive : event future And certain has there occurrence of which East deferred the enforceability of the obligation of debtor.

Theory of acceptance of the risks : Above all In A context sporty : idea according to which there victim would have accepted THE risks associated with practicing a sport, this acceptance would not allow him to seek compensation against the perpetrator of the Shame bodily.

Theory of there causality adequate : theory according to which, among all THE factors possible of a Shame, alone those Who in constitute there cause decisive must be considered as of the facts generators of Shame.

Theory of equivalence of the terms : theory according to which All antecedent, without which THE Shame born would be not which has occurred, must be considered the cause of the damage. Any individual who contributed, through their fault or their actions, to the realization of Shame, must SO be considered as responsible of Shame And sentenced has THE pay.

Theory of there guarantee (Starck) : theory according to which each has right has integrity physical, moral And material. By Consequently, all achievement has this integrity must be repaired (diet of responsibility of full right).

Theory of unforeseen circumstances : theory according to which THE judge must restore balance of a CONTRACT, of which THE terms The execution of the agreement has been seriously altered, to the detriment of one of the parties, by the occurrence of events unpredictable during there conclusion of CONTRACT.

Risk theory: a theory whose purpose is to determine which party to the contract must bear the consequences of a impossibility final execution by there following of strength major.

Risk theory (Saleilles and Josserand) : a theory according to which it is just, fair, and reasonable to impose on each individual to assume THE risks damaging linked has the activity practiced, to people And to things below its responsibility.

Third party : person Who is not not part has A act legal, It is has say Who born there East not committed directly Or by the intermediary of a other person.

Third party absolute : person devoid of all relationship legal, so much with THE CONTRACT than with THE parts has this one. THE CONTRACT is enforceable against him.

Third party creditor : person Who is not not part At CONTRACT, but creditor of a part has This CONTRACT. He benefits of a exception has enforceability of debtor.

Title : name data has a association.

Securities enforceable : securities Or acts allowing has their beneficiaries of resort has the execution forced : securities coated of there formula enforceable (act notarial, judgement, agreement of conciliation), contracts administrative And constraints.

Tradition : discount of there thing object of CONTRACT.

Treaty European : text containing THE rules And principles generals of right community.

Court administrative : jurisdiction loaded of judge THE business Who put in cause there power public.

Court correctional : jurisdiction loaded of judge THE crimes And of to decide on THE requests compensation of the victims civil parties.

Court of trade : jurisdiction loaded of judge THE disputes between merchants Or related to acts of trade.

Court of large instance : jurisdiction loaded of judge THE business civilians Who born are not of there skill of the courts specialists in reason of there nature of the case Or of Rising of there request.

Court of police : jurisdiction loaded of judge THE traffic violations And of to decide on THE requests compensation of the victims civil parties.

Court of the conflicts : jurisdiction loaded of settle THE conflicts allocation Or of skill between THE jurisdictions administrative and judicial.

Court of instance : jurisdiction loaded of judge THE disputes civilians Who born put not in cause of the are superior has A fixed amount by there law.

Court For child : in France, jurisdiction loaded of judge THE crimes clerk by of the minors.

Guardianship : diet of representation of the adults incapable suffering of a alteration severe And sustainable of their faculties mental Or physical.

Utility satisfactory : satisfaction removed by THE creditor of the execution (even partial) of a CONTRACT

Vices of consent : (art . 1109) facts of nature has to train the alteration of consent And , by way

Consequently , the nullity of the act legal.
THE vices of consent are the mistake, THE fraud And there violence.

Vice of illegality : vice specific of non-compliance At right, of violation has the order audience. This vice leads there nullity absolute.

Victim by ricochet : third party undergoing A prejudice material Or moral of do of the damages caused has there victim direct.

Violence : constraint (moral Or physical) exercised on there will of a person For bring him has give her consent Who se find Thus corrupted by there fear of which he process.

Will declared : behavior active Or passive allowing, account tenuous THE case applicable of circumstances particulars, of conclude has existence of a will Certain.

Will express : will Who externalizes by A process any of communication (language, writing, oral, gestures).

Will alleged : will Who results of clues, No explicit by themselves, but of which there sum allow of attach reasonably a presumption of will/adherence.

Will simulated : do of hide a municipality will real

Who go stay secret below appearance of a will declared different.

Will tacit : will No directly formulated but Who can be deducted of a behavior significant And No ambiguous.

I. **Criminal**

Law

Punishments in

eneral

(1) **Criminal Punishments**

1. Death Penalty: Hanging the sentenced to death.
2. Hard Labor: Making the sentenced working in a labor fitting his health and age whether inside or outside the reform and rehabilitation center.
3. Detention: Placing the sentenced in one of the reform and rehabilitation centers for the whole sentenced period along with giving him special treatment, not forcing him to wear the inmate uniform and not making him taking any work inside or outside the reform and rehabilitation center but with his approval.

I القانون الجزائي
العقوبات بصورة عامة
1. العقوبات الجنائية

● الإعدام: هو شنق المحكوم عليه

● الأشغال: هي تشغيل المحكوم عليه في الأشغال التي تتناسب وصحته وسنه سواء قي داخل مركز الإصلاح والتأهيل أو خارجه.

● الاعتقال: هو وضع المحكوم عليه في أحد مراكز الإصلاح والتأهيل المدة لمحكوم بها علي مع منحه معاملة خاصة وعدم إلزامه بارتداء زي النزلاء وعدم تشغيله بأي عمل داخل مركز الإصلاح والتأهيل أو خارجه إلا برضاه¹.

2. Misdemeanor Punishment:

- i. Jailing: Placing the sentenced in one of the reform and rehabilitation centers for the whole sentenced period which ranges from one week to three years, unless the law provides otherwise.
- ii. Fine: Making the sentenced paying to the government treasury the sum of money as provided in the court award, which ranges from five to two hundred Dinars, unless the law provides otherwise².

¹ . Harith Suleiman Faruqi: Faruqi Law Dictionary –Librarie de Lebanon – Beirut Lebanon, First – 1978.

² 1.Harith Suleiman Faruqi:idem, p 44.

II العقوبة الجنحية

الحبس: هو وضع المحكوم عليه في أحد مراكز الإصلاح والتأهيل المدة المحكوم بها عليه وهي تتراوح بين أسبوع – وثلاث سنوات إلا إذا نص القانون على خلاف ذلك.

الغرامة: هي إلزام المحكوم عليه بأن يدفع الى خزانة الحكومة المبلغ المقرر في الحكم. وهي تتراوح بين خمسة دنانير ومائتي دينار إلا إذا نص القانون على خلاف ذلك³.

b. Punishment due to Disturbance

The Disturbing punishment ranges from twenty four hours to one week in jail and is enforced on the sentenced in places other than those assigned to sentenced in criminal punishment or misdemeanor, as possible.

.Fine: Fine due disturbance ranges from five to thirty Dinars.

3.العقوبة التكديرية

- تتراوح مدة الحبس التكديري بين أربع وعشرين ساعة وأسبوع وتنفذ في المحكوم عليه في أماكن غير الأماكن المتخصصة بالمحكوم عليه بعقوبات جنائية او جنحة ما أمكن.
- الغرامة: تتراوح الغرامة التكديرية بين خمس دنانير وثلاثين دينار.

c. Social Reform Activities

- i. Society Service: making the sentenced doing unpaid work for society service for a period

³ Mohammad Khalil Abu – Baker – Legal Terminology – Al Mujtamah Al-Arabee- Amman – Jordan – First Edi – 2012, p 77.

determined by the court of not less than (40) hours and not more than (200) hours, provided that such work would be performed within one year in maximum.

- ii. Social Surveillance: making the sentenced to subject to social surveillance for a period determined by the court not less than six months and not more than three years.⁴
- iii. Social Surveillance under the condition of going through one or more rehabilitation program: making the sentenced going through a rehabilitation program determined by the court aiming at correcting and improving the sentenced behavior.

(4) بدل اصلاح مجتمعية

- 1- الخدمة المجتمعية: هي إلزام المحكوم عليه بعمل غير مدفوع الأجر لخدمة المجتمع لمدة تحددها المحكمة لا تقل عن (41) ساعة ولا تزيد على (211) ساعة على أن يتم العمل خلال مدة لا تزيد عن سنة⁵.
- 2 المراقبة المجتمعية: هي إلزام المحكوم عليه بالخضوع لرقابة مجتمعية لمدة تحددها المحكمة لا تقل عن ستة أشهر ولا تزيد على ثلاث سنوات.
- 3- المراقبة المجتمعية المشروطة بالخضوع لبرنامج تأهيل أو أكثر: هي إلزام المحكوم عليه بالخضوع لبرنامج تأهيل تحدده المحكمة بهدف لتقويم سلوك

⁴ 1.Harith Suleiman Faruqi, op.cit, p 55

⁵ . Harith Suleiman Faruqi, op.cit, p 84

المحكوم عليه وتحسينه.

(4) **Precautionary Arrangement:**

1. Freedom Preventing Arrangements
2. Tangible Confiscation
3. Precautionary Guarantee
4. Closing out business store
5. Suspension or termination the incorporate entity.

التدابير الاحترازية: {5

- 1- المانعة للحرية.
- 2- المصادرة العينية.
- 3- الكفالة الاحتياطية.
- 4- إفقال المحل.
- 5- وقف هيئته معنوية عن العمل او حلها.

(6) **In the Civil Obligations:⁶**

The civil obligations which the court might order are:

1. Answer
2. Indemnity and Damages
3. Confiscation
4. Expenses

في الالتزامات
المدنية:-

2
ا
ل
الالتزامات المدنية التي يمكن للمحكمة ان تحكم
بها هي: 1- الرد

⁶ Mohammad Khalil Abu – Baker, op.cit p 78
221

(6) عطل والضرر

3- المصادرة

4- النفقات⁷

(7) In Criminal Awards Dismissal:

The causes and reasons for dismissal, execution prevent or issuance suspense of the criminal court awards are:

1. Death of the sentenced
2. General Amnesty
3. Special Amnesty
4. Waiver by the damaged party
5. Time Limitation
6. Execution Suspension
7. Rehabilitation

⁷ محمد أبو بكر ، مصطلحات قانونية " لغة إنجليزية، الطبعة الجديدة ، الأردن ، 2007، ص 88

(7) في سقوط الأحكام الجزائية:-

الأسباب التي تسقط الأحكام الجزائية أو تمنع تنفيذها أو تؤجل

صدورها هي: 1- وفاة المحكوم عليه

2- العفو العام

3- العفو الخاص

4- صفح الفريق المتضرر

5- التقادم

6- وقف التنفيذ 7-

اعادة الاعتبار⁸

(8) In Intangible Crime Element:

1. Intention:

a. Intentions is the crime commit will, as defined by the law.

b. The crime is considered as intentional even if exceeded the criminal outcome resulting from the doer's act if he expected such outcome and accepted the risk of the same. The mistaken act is the damaging act which has been resulted due to negligence, lack of precaution or non-respecting of laws and regulations.

c. The act result is not taken in consideration if the doer's intention is that the committed act would lead to it, but if there is an explicit provision that the intention of reaching such outcome composes one of the criminal

⁸ محمد أبو بكر ، مصطلحات قانونية " لغة إنجليزية، مرجع سابق

elements which all or part of it forms such act.

2. **Motive:**

- * The motive is the cause which makes the criminal committing the act or the maximum objective he seeks:
- * The motive will not be one of the crimination elements but in the events determined by the law.

(8) في عنصر الجريمة المعنوي⁹:

1- النية:

أ) هي إرادة ارتكاب الجريمة على ما عرفها القانون.

ب) تعد الجريمة مقصودة وان تجاوزت النتيجة الجرمية الناشئة عن الفعل قصد الفاعل اذا كان قد توقع حصولها فقبل بالمخاطرة ، ويكون الخطأ اذا نجم الفعل الضار عن الاهمال أو قلة الاحتراز أو عدم مراعاة القوانين والأنظمة.

ج) لا عبء للنتيجة اذا كان القصد أن يؤدي اليها ارتكاب فعل الا اذا ورد نص صريح على ان نية الوصول الى تلك النتيجة تؤلف عنصرا من عناصر الجرم الذي يتكون كله او بعضه من ذلك الفعل.

د) إذا وقعت الجريمة على غير الشخص المقصود بها عوقب الفاعل كما لو كان اقترف الفعل بحق من كان يقصد¹⁰.

2- الدافع:

- الدافع هو العلة التي تحمل الفاعل على الفعل او الغاية القصوى التي يتوخاها.
- لا يكون الدافع عنصرا من عناصر التجريم الا في الأحوال التي عينها القانون.

(9) In Tangible Crime Element:

1. Attempt: starting executing an apparent act leading to committing a crime or misdemeanor, so if the committer was not able to conclude the acts necessary for creating such crime or misdemeanor due to reasons which his will is not related to, he would b punished as follows, unless the law provides otherwise:

* Life or temporary hard labor sentence from seven to twenty years, if the punishment of the attempt crime is death penalty and at least five years of the same punishment if such attempt crime is life hard labor or life detention.

* The other temporary punishment

¹⁰ عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية ، الجزائر ، 2016

¹³ منصور رحمانى ، الوجيز في القانون الجنائي العام ، دار العلوم للنشر و التوزيع ، عنابة ،

would be reduced from half to two thirds.¹¹

2. Punishment Unification:

If several crimes or misdemeanors have been proved, every crime would be awarded a punishment and the severe punishment will be executed only.

3. Publicity: The following fall within publicity:

- * Acts and movements – if happened in a public place, a place available to public, or a place seen by any person exists in the said places.¹²

- * Writings, drawings, manual pictures and photos, films, signs and all various photography if have been shown in public place or place accessible to the public, or otherwise is shown to the public, or sold or presented for sale or distributed for more than one person, or

¹² Mohammad Khalil Abu – Baker, op.cit p 78
221

Published through electronic media
enabling the public to
read or view without any restriction.¹³

9- في عنصر الجريمة المعنوي:

1- الشروع: هو البدء في تنفيذ فعل من الأفعال الظاهرة المؤدية الى ارتكاب جناية او جنحه ، فإذا لم يتمكن الفاعل من إتمام الأفعال اللازمة لحصول تلك الجناية او الجنحة لحيلولة أسباب لا دخل لاراداته فيها عقوبة على الوجه الآتي إلا اذا نص القانون على خلاف ذلك:-

أن يحط من أي عقوبة أخرى مؤقتة من النصف الى الثلثين.

2- اجتماع العقوبات:

إذا ثبت عدة جنايات أو جنح قضي بعقوبة لكل جريمة و نفذت العقوبة الأشد دون سواها

3- العلنية: تعد من الوسائل العلنية:

□ الأعمال و الحركات التي تحصل في مكان عام أو مكان مفتوح للجمهور او مكان يشاهد على أي شخص موجود في المجال المذكورة.

□ الكلام او الصراخ - سواء جهرا أو نقلا بالوسائل كلا الحالين من لا دخل له بالفعل.

□ الكتابة و الرسوم معروضة للأنظار او بيعت او عرضت للبيع او وزعت على أكثر مغن شخص أو نشرت بوسائل الكترونية تمكن العموم من قراءتها او مشاهدتها دون قيد.

¹³ Harith Suleiman Faruqi, op.cit, p 84

Development of Criminal Responsibility

In the early development of English law, and probably up to the 12th century, a person was generally liable for certain harms resulting from his conduct. The state of his mind (i.e. his "moral blame worthiness") was rarely a relevant consideration in attaching liability. The act alone created liability: the presence or absence of criminal intent was usually disregarded. Thus. X. who injured Y accidentally and without any negligence, would be held liable for the harm caused, as if he had intended that injury to Y.

Liable	مسؤول
Harm	أذى
Resulting	ناجما عن
Conduct	سلوك
State of his mind	الحالة العقلية
Moral	معنوي
Blame worthiness	استحقاق اللوم
Relevant	واضح
Consideration	اعتبار، سبب
Liability	المسؤولية
Intent	تحسد، نية
Disregarded	لا يعول على

To injure
Accidentally
Negligence
Intended

يؤذي، يسيء، يجرح
عرضي
إهمال
قصدا

By the 13th century, influenced by the teachings of the church¹⁴, which drew attention to the importance of the mental element in evil

¹⁴ Mohammad Khalil Abu – Baker, op.cit p 66
221

conduct, the law came to recognize the significance of criminal intention and its role as an essential feature of many crimes.

(260) influenced	اثر
Mental element	العنصر المعنوي
Recognize	يعترف، يقر
Significance	مغزى، معنى
Intention	القصد
Features	ملامح، سمات

1- Elements of the crime¹⁵

A cardinal doctrine of English criminal law is this maxim: "an act does not itself constitute guilt unless the mind is guilty"

This maxim draws attention to the two essential elements of a crime:

- a) The physical element (the actus reus), the deed.
- b) The mental element (the mens rea).. the condition of mind.

Thus, if X is to be convicted of the.t. the prosecution must prove beyond **reasonable doubt**

¹⁵ Mohammad Khalil Abu – Baker, op.cit p 78
221

that he appropriated property belonging to Y and that the approbation had been carried out by X dishonestly and with the intention of permanently depriving Y out of that property.

Cardinal	رئيسي
Doctrine	فقه
Maxim	قاعدة
Guilt	ذنب
Mind	عقل
Guilty	مذنب، مدان
Physical	حسي، جسماني
Mental	ذهني

Condition	تشرط
To convict	يدين
Theft	سرقة
Prosecution	المقاضاة، إقامة الدعوى
Beyond a reasonable doubt	بعيد عن الشك
To appropriate	يستولي على مال الغير بدون إذنه
Dishonestly	بسوء نية
Permanently	على نحو دائم
To deprive	يحرّم، يستولي على

2- Physical

Element (actus

reus) فعل الجرمي

Actus reus refers not only to an "act" in the usual sense of that term: it has a much wider meaning. It involves the conduct of the accused person, its results and those surrounding circumstances which are included in the definition of the offence. The actus reus comprises, **therefore**,¹⁶ all the elements of the definition of the offence, save those which concerne the condition of

¹⁶ Mohammad Khalil Abu – Baker, op.cit p 78

mind of the accused. Should any element of the actus reus not be present, then the offence has not been committed. Proof of actus reus is essential: if this is impossible, then no crime has been committed by the accused person.

Meaning of this element:

Term	يُصطلح، شرط، نص
Involves	يستغرق
Accused	متهم، ظنين
Surrounding	محيطاً بـ
Circumstances	ظروف
Offence	جريمة

To commit

Proof

يرتكب -
(جريمة)
إثبات،
برهان

Where the actus reus of crime includes specific consequences of conduct, it must be shown that those consequences have been caused by the accused. In general. X will not be held to have caused a particular event unless it is possible to establish a sufficiently direct link between X's conduct and that event.¹⁷

Consider the following cases which illustrate, in ascending degree of complexity, the problem of causation, in each case the question is: did X cause the death of Y. thus creating the actus reus of unlawful homicide?

3- Causation

Link of causation

رابطه السببيه

To ascend
Unlawful

يرجع إلى، يصعد
غير قانوني، غير شرعي

¹⁷ Mohammad Khalil Abu – Baker, op.cit p 78 Mohammad Khalil Abu – Baker, op.cit p 78

a) X. intending to kill, moves towards him and deliberately shoot him. Y dies. Here there is no apparent problem of causation: the link between X's physical act and Y's death can be established without difficulty.

b) X. intending to kill Y. persuades a young child, who knows nothing of the circumstances, to place an explosive charge in Y's house. Y is killed. Here. Again, there is little difficulty in establishing a direct connection between X's act and Y's death.

c) X assaults Y who is riding a horse. Y, intending to escape spurs the horse which rears in fright, throwing Y. Y dies. It is held, on these facts. That Y's death was caused by X.

d) X. intending to murder a child. Y. gives laudanum to Y's nurse, starting that it a medicine to be administered to Y. The nurse decides that Y does not need it and leave the bottle on a shelf from which her daughter, aged 5 years, later takes it and administers it to Y. Y dies. A sufficient direct link was established between X's conduct and Y's death, so that X that was convicted of murder.¹⁹

e) X unlawfully wounds Y in a fingers. Y refuses advice to have the finger amputated, lockjaw sets in and he dies. X was convicted of murder, a sufficiently direct connection having been traced between the wounding and Y's subsequent death.

Intending	فاصدا
To deliberate	يتداول
Apparent	ظاهر
Physical act	عمل جسماني
Establish	يؤسس، ينشئ
Persuade	يقنع
Explosive charge	عبوة ناسفة أو متفجرة
To assault	يعتدي علي، يهاجم
To spur	يستحث، يرتجل

¹⁹ منصور رحمانى ، الوجيز في القانون الجنائي العام ، دار العلوم للنشر و التوزيع ، عناية ، 2006

Fright

خوف

Laudanum

مستحضر طبي مخدر

Nurse

ممرضة

To administrate

يدير

Lockjaw

مرض الكزاز (تشنج عضلات الفك²⁰)

Proof of actus reus may be complicated by the
existence of a chain of events:

²⁰ Mohammad Khalil Abu – Baker, op.cit p 78

a) In general, where the event in question is not caused solely by the conduct of the accused, this will not necessary exempt him from liability for that event.²¹

b) where the cause of an event can be traced partly to X's conduct and partly to the conduct of another person, the court may hold, in certain circumstances, that X's conduct is too remote or indirect a cause of criminal responsibility to be attached to him.

Solely	وحيداً
Remote	يلعد

Omission to act

There are circumstances in which an actus reus may stem from an omission to act. In general, the harmful effect of X's omission to act in given circumstance will result in criminal responsibility onl where the law has imposed a duty on X to act in those circumstances.

²¹ منصور رحمانى ، الوجيز في القانون الجنائي العام ، دار العلوم للنشر و التوزيع ، عناية ، 2006

Thus, if X. who has no special relationship with Y. stands by passively and watches Y drown in circumstances in which he could have saved him, then, on matter how morally reprehensible X's omission to act may be, no crime results from that omission.

But where X undertakes – whether by contract or not – to look after Y. and Y is unable to look after himself properly (because, say, he is infirm). X is under a duty to take all reasonable steps to care for Y.

Stem
Omission²²

ساق
إهمال، ترك، إغفال

Section 2

Forms of Physical Element

The physical element might be either complete, in which case the criminal offence is perfect, or incomplete, thus constituting an attempt.

Also, the criminal offence might either be committed by one person, or by two persons or more. In the latter case, there exist a criminal participation.

In the following pages we are going to discuss both attempts and participation.

Attempt	تروع، محاولة
Participation	مساهمة

1. Attempts²³

268) An attempt to commit an offence is any act with "intent" to commit that offence, and forming part of a "series" of acts which would constitute its actual commission if it were not interrupted.

The act must, however, be immediately

²³ Harith Suleiman Faruqi: Law Dictionary
221

connected with the intended offence, so that it would have been an actual "cause" of the offence.

Commission ارتكاب (الجريمة)

Interrupted انقطع
Connected with مرتبط بـ

Thus in the case of that servant, who, without authority to do so, agreed to sell property of his master for £30 and received cheque for that amount but did nothing more than tell the purchaser that, as there was no act connected with asportation of the property, he should not, be convicted of attempted larceny since that what he has done was merely

"preparation for the commission of a crime, not a step in the commission of it".²⁴

And the fact that an act only the beginning of an attempt and could not produce the desired result unless followed by other acts, does not prevent it from being an attempt. Therefore the giving for a small dose of poison, which would not be fatal unless followed by other doses, may be an attempt to murder.

Cheque	تسيك
Purchaser	المشتري
Delivery	تسلم
Asportation	نقل الحيازة
Larceny	سرقة
Preparation	تحضير
Desired result	النتيجة المرغوبة فيها (أي التي اتجهت إرادة الجاني إليها)
Dose fatal	جرعة مميتة، قاضيه على الشخص

2. Participation²⁵

²⁴ Harith Suleiman Faruqi: Law Dictionary

²⁵ عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية ، الجزائر ، 2016 ،

In case the Criminal participation exists in a criminal offence there arises the Criminal responsibility of the participants.

criminal
participatin

مساهمة
جنائية

Degrees of participants

There are two degrees of participants: Principals and accessoirs:

A- Principals:

In common Law, a person who is "Present when a felony or a misdemeanor is committed may be considered either as a principal in the first degree or a principal in the second degree.

Principals	(المساهمون) الاصليون (اي التركاء)
Accessoirs	(المساهمون) المتدخلون (اي مساهموا الدرجة الثانية)
Felony	جناية
Mi demeanour	²⁶ جنحة

A principal in the first degree:

Is person who actually performs or takes part in the execution of the felony, or misdemeanor.

A person, however, who employs an innocent agent is liable as a principal in the first degree although he is not actually present at the completion of the commitment, nor does anything with his own hands.

Performs	يتم، ينفذ، (ينفذ الجريمة)
Innocent	بريء
Liabe	مسؤول
Commitment	ارتكاب

Thus in that case where the prisoner was indicted for the murder of her infant child, who was

²⁶Harith Suleiman Faruqi: Law Dictionary

²⁶ عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية ، الجزائر ، 2016

in the charge of a woman to whom the prisoner had given a bottle of laudanum, telling her it was a medicine and asking her to give the child a teaspoonful every night, but happened that the woman placed the bottle on a mantelpiece and in her absence one of her own children gave the prisoner's child about half the contents of the bottle causing his death, in that case, it was held that the prisoner was rightly convicted of murder.

If however, the agent is aware of the nature of the act, then he is a principal in the first degree, and the employer, if absent, is an accessory before the fact.

To indict	يُتِم
Teaspoonful	ملعقة شاي (أي ملعقة صغيرة)
Mantelpiece	رف الموقد
Rightly	على حق
Aware	على بينة من
Before the fact	فبل الفعل (= متدخل في الجريمة فبل إتمامها)

Is one who is "present" at the commission of felony or a misdemeanor without taking any part in its actual commission, aids and abets its commission.

And where a person witnessing the commission of a crime, and offered no opposition to it through he was expected to do that and had the power to do so, this might- in some circumstances provide a strong evidence to the court that he willfully encouraged and so aided and abetted the crime.²⁷

A Principal in the second degree:

To abet	يحرص
To witness	يشاه

²⁷ Harith Suleiman Faruqi: Law Dictionary

عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية ، الجزائر ، 2016

Opposition	د اعتراض
To expect	يُتَوَقَّع
Strong evidence	دليل قوي
Willfully	بملاء إرادته
Encouraged	تسجع

If, there is a common purpose, a principal in the second degree is equally responsible, although, without his consent the principal in the first degree, while carrying out that common purpose, does some act which varies the agreed design only "in circumstance of time or place or in the manner of execution".

Example: If (A) and (B) agreed to rob (C), who was carrying a sum of money. (B) attacked (C) and struck him a blow which caused his death, and was therefore guilty of murder. Here, since (A) was a party to the purpose of committing robbery with violence he was a principal of the second degree to the criminal offence of murder, although he had not anticipated or agreed to the use of such a degree of violence by (B).

Common purpose	غرض مشترك
Consent	رضاء
Carrying out	يقوم به، يتحمل، = ينفذ
Agreed design	الخطّة (أو المشروع) المتفق عليها
Rob	يسلب، يسرق بالعنف
Attacked	يهاجم
Struck	يضرب
Blow	ضربة
Robbery	جريمة السرقة الموصوفة (أي المقرنة بالعنف)
Violence	إكراه، عنف
Anticipated	يستبق، سلفاً

A person who is "absent" when a felony or a misdemeanor is committed, may be regarded either as an accessory before the fact or an accessory after

the fact.²⁸

Accessories:

(276) Accessory
before
The fact

المتدخل قبل، (وفوق الجريمة)
الوافعه، الحقيقة

Is one, who, being "absent" when a crime is committed, actively counsels, commands, or abets its commission.

عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية
الجزائر ، 2016

Thus. If a person lends his car knowing – or even suspecting that it is to be used for an unlawful purpose, that may be sufficient to consider him an accessory before the fact.

1- An accessory before the fact:

Counsel	يرشد
Commands	يأمر
Suspecting that	متوقعاً أن

The commission of the crime may either be direct, by actually counseling the felony, or indirect by expressing approval thereto; but the bare concealment of a felony committed by another person will not make the party concealing it an accessory before the fact.

An accessory before the fact is responsible for all that result upon the execution of the unlawful act which is counseled, etc, by him, even though it is executed by means different from those counseled.²⁹

²⁹ عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية ، الجزائر ، 2016

Expressing	معبرا عن
Approval	موافقة، تأييد
Bare	عار، مجرد
Concealment	إخفاء
Means	وسائل

Accordingly:

(A) Counsels, etc. (B) to burn (C) 's house, and a result D's house is also burnt. (A) is an accessory before the fact to the burning of D's house. But a person cannot be liable as an accessory before the fact to a different kind of felony from that which he counseled, as, e.g., if (A) counsels (B) to burn C's house and (B) instead of burning it, commits a larceny therein.

Is one who, with knowledge that a crime has been committed by another, receives, relieves, comforts or assists the felon.

In order to make a person an accessory after the fact, the following conditions must exist:³⁰

-I- Some crime must have been committed and completed. Thus if

(A) wounds (B) mortally, and (C) assists (A) before (B) dies, he is not accessory after the fact to the homicide.

-II- He must, at the time when he receives, etc, the criminal have notice, direct or implied, that he had committed a felony or a misdemeanor.

-III- He must give the felon some assistance in order to prevent his arrest, trial or punishment, as, for instance, by assisting him to escape or concealing evidence of his crime.

NOTICE

What we exposed about participation concerns the Anglo-Saxon-Law. Its rules are different from the Lebanese Criminal Law.

³⁰Mohammad Khalil Abu – Baker – Legal Terminology
221

2- An accessory after the fact:

Relieves	إعانات
To comfort	يواسي، يخفف عن
Felon	الجاني، مرتكب الجريمة
Prevent	يقي
Arrest	يلقي القبض على
Trial	

SECTION 3

Mens Rea النية الجرمية

The translation of this phrase as "guilty or wicked mind" is inadequate, since Mens Rea exist even through a person acts in good faith and with a clear conscience. A more accurate meaning of the phrase would be "criminal intention". i.e. an intention to do an act which is an offence, or recklessness as to the consequences of that act.

Criminal law is about the right of the state to punish persons for their conduct, generally where that conduct is undertaken with a wicked intent or without justificatory cause.³¹

Meaning of the phrase "Mens Rea":

Wicked mind	سوء النية
Inadequate	غير كاف
Faith	عقيدة
Conscience	وجدان، إحساس
Accurate	صحيح: مضبوط: دقيق
Criminal intention	القصد الجنائي
Recklessness	الطيش، عدم المبالاة، عدم الإكتراث
State	الدولة

³¹ Mohammad Khalil Abu – Baker – Legal Terminology

Mens Rea should not be confused with motive:³²

a) Motive indicates why X wishes a particular event to happen. Thus. X. in stealing Y's coat. May have as motive his desire for warmth: this is not, however, the Mens Rea required for the crime of stealing which is simply the intention to deprive Y permanently of his property.

b) A good motive is usually irrelevant to the question of criminal responsibility: but is may be relevant, however, as evidence, or in deciding punishment after conviction.

³² Harith Suleiman Faruqi: Law Dictionary
221

and motive: ³³الباعث على النية الجرمية
Mens Rea

Motive	باعث
Particular	خاص
To steal	يسرق
A good motive	باعث شريف
Irrelevant	لا يعتد به
Punishment	عقاب

X shoots at Y with the intention of killing him, i.e. X foresees Y's death or resulting from the shooting and actively desires that result. Intention is equated here with foresight plus the desire for certain consequences of one's conduct.

Intention: القصد

To foresee	يتوقع
To equate	يسوي، يوازن بين
Foresight	توقع، تبصر

X, wishing to reach his home quickly, drives his motor-cycle at very high speed through a city street

at a peak traffic hour. He has no desire to harm any person, but he can foresee the possible results of his conduct. In effect, X takes a deliberate and unjustifiable risk, as a result of which he runs down and injures Y. X's mens rea is evidenced, therefore, by his intentional creation of a risk which, in the circumstances, was not justifiable.³⁴

Recklessness: عدم الإكتراث

Peak
Traffic

دروة، فمه
حركة السير

³⁴Mohammad Khalil Abu – Baker – Legal Terminology
221

Risk

مخاط
رة

GENERAL DEFENCES

An act that is committed under physical coercion is not a criminal offence. If, for example (A) seizes the hand of (B) and compels him to stab (C), no criminal offence is committed by (B) because the act of stabbing (C) is not his act.³⁵

Coercion:

General defences

موانع العقاب

Physical coercion

الإكراه المادي

–I- An act or omission which would otherwise be a criminal offence may be justified if the motive was to prevent the execution of an illegal purpose, and the act or omission was "necessary" in order to prevent it.

-II- An act or omission which amounts to a criminal offence cannot be justified by mere personal necessity, like want of food and clothes in

³⁵ Mohammad Khalil Abu – Baker – Legal Terminology

theft.

(2) Necessity:³⁶

Necessity

الضرورة
(حالة)

Personal necessity

ضرورة ترجع إلى اعتبار
شخصي

Thus if a "smallpox hospital were on fire, and a person in his trying to save the infected inmates from the flames, took some of them into crowd, although some of the crowd would be liable to catch smallpox, yet, in that case, he would not be guilty of a wrongful jact.

Small – pox

داء الجدري

Infected

المريض بمرض يعدي

Inmates

نزلاء (المصحّة)

³⁶ Mohammad Khalil Abu – Baker – Legal Terminology

The term accident is used in two senses, namely, (I) of consequences due to some external condition over which the accused persons had no control as, e.g., where a person is killed in the street through a horse bolting against the will of its rider and without any neglect on his part. (II) of unintended consequences of lawful voluntary act as. e.g., where in a lawful boxing contest one of the parties accidentally kills his opponent.³⁷

(3) **Accident:**

Accident	الحادث الجبري
Bolting	يفر
Will	إرادة
Neglect	[همل]
Unintended	غير مقصود
Voluntary	عن إرادة
Boxing	ملاكمة
Opponent	خصم

Mistake or ignorance of "law" is no excuse for crime even in the case of a foreigner.

Mistake of fact is regarded by law as a defence where the accused acted under an honest and reasonable belief in the existence of a state of things which would have excused his act.

Thus if a man kills his servant, believing him to be a thief, his mistake is a defence if, in the circumstances, the killing of a thief would have been excusable.

Mistake	غلطه
Ignorance	جهل
Reasonable	معقول

Belief
State of things

اعتقاد
حاله متعلقه بالتشيء

Chapter II

Offender³⁸

The offender (or criminal) is the one who commits the criminal offence, and consequently is liable to be prosecuted and punished.

Offender

الجاني، المجرم

Criminal

جناي

Prosecuted

تتخذ إجراءات التعقب والمحاكمة ضده

Personal Incapacity

When personal incapacity exists, it prevents the formation of the mental element or "mens rea". It may arise in the following cases:

Incapacity

انعدام الاهليه

Formation

تكوين

Mens rea

الركن المعنوي (مصطلح لاتيني) (النية الجرميه)

Under the Lebanese penal law, no child under

³⁸ Mohammad Khalil Abu – Baker – Legal Terminology

the age of seven can be guilty of any offence.

Between the ages seven and eighteen, the minor is subject to criminal responsibility in different degrees. As to punishment in this age, it is confined to putting the minor in a Juvenil's prison for rehabilitation, for a limited interval.

At the age of eighteen the person is said to be "doli capax", and according, as a rule, may be convicted of any crime and be punished thereupon.

(1) Infancy: القاصرات

To confine	يقتصر على
Juvenil's prison	سجن الأحداث
Rehabilitation	إعادة التأهل، إعادة الأقامة
Interval	فترة
Doli capax	مصطلح يطلق على الشاب إذا بلغ الثمانية عشرة من عمره

Two classes of insanity have been recognized:

- (I) idiocy, or absence of understanding from birth, without any lucid intervals.
- (II) Insanity in the strict sence, which is due to some derangement of the mind.³⁹

It may be either "partial" (insanity upon one or more subjects) or "total". And it may be either permanent or temporary (occurring only for a limited time or during limited periods).

(2) Insanity: الجنوح

Insanity	الجنون
Idoey	انعدام الإدراك، العته
Lucid	أفاقه
Strict sence	المعنى الضيق

Derangement

اختلال

Portial

جزئياً

Temporary

وقتي

To occure

يحدث، يقع

To establish a defence on the ground of insanity
it must be clearly proved that "at the time" of
committing of the act, the party accused was

suffering from such a disturbance in mind as not to know the nature of the act he was doing, or if he did know it, that he did not know he was doing wrong.

At the time	لحظة (ارتكاب الفعل)
Act	فعل
To suffer	يعاني من
Disturbance	اضطراب، اختلال

With respect, to delusions of fact under the actual influence of which a crime is committed, the accused "must be considered in the same situation as to responsibility as if the facts with respect which the delusion exists were real."⁴⁰

For example, if (A), acting under a delusion that (B) is attempting his life, kills (B) as he supposes in self-defence, he will be-exempt from punishment, but not if his delusion was that (B) had been guilty of some offence against his property.

Delusions	هوس
Self - defence	دفاع عن النفس
Exempt	إعفاء (من العقاب)

⁴⁰ Mohammad Khalil Abu – Baker – Legal Terminology
221

The rules related to voluntary drunkenness as a defence are stated as follows:

(I) If actual insanity, is the result of alcoholic excess, the rules applied on insanity, applies as well here with regard to criminal conviction.

(3) **Drunkenness:** ال سكر

(296) Drunkenness
Alcoholic

السكر
كحولي (مسكر)

Excess
Criminal conviction

إفراط
الاتهام الجنائي

(II) Where a special in intent is an essential element in the offence, evidence of a state of drunkenness making the accused incapable of forming such an intent, should be taken into consideration, in order to determine whether he had in fact formed the intent necessary to constitute the particular crime.

Incapable
To intent

عاجز عن
يقصد

Thus, on a charge of murder based upon intention to kill or to do grievous bodily harm, if the accused was, through drunkenness, incapable of forming that specific intention, he cannot be convicted of murder.⁴¹

But owing to the presumption that a man intends the natural consequences of his acts, the

⁴¹ محمد أبو بكر ، مصطلحات قانونية " لغة إنجليزية

accused in this case is considered to have committed homicide, this case is considered to have committed homicide, and therefore, since there is not a total absence of "mens rea", he can be convicted of manslaughter.

If, however, the drunkenness is involuntary, as for example, if it is caused by a practical joke or fraud, the person so made drunk, will be excused to the same extent as in the case of insanity.

Grievous	جسيم
Bodily harm	أذى جسماني
Murder	قتل
Presumption	قرينة
Homicide	قتل

Manslaughter	قتل خطأ
Involuntary	غير إرادي
Practical jok	مزاح
Fraud	غش، تدليس
Extent	عذر، إعفاء

Exceptions from Criminal Responsibility

1- The President is no presentable in front of the criminal courts of his country. Nor is the reigning sovereign of another state, nor is a foreign ambassador who is a subject of this country is presentable in front of the courts of this country.⁴²

2- Aliens, except, perhaps, those claiming diplomatic privilege, can be tried by Lebanese courts for offences committed withen Lebanon.

3- A juristic person cannot be indicted for a criminal offence whether a felony or a misdemeanor involving personal violence or offences which the only punishment is imprisonment.

President	رئيس الدولة
Reigning sovereign	رئيس ذو سيادة

⁴² محمد أبو بكر ، مصطلحات قانونية " لغة إنجليزية

Ambassador	سفير
Aliens	الأجانب
To claim	يستحق، يتمتع بـ
Privilege	امتياز، حصانة
Juristic person	شخص معنوي أو اعتباري
To involve	يتضمن، يحتوي على
Personal violence	اعتداء شخصي

And there are some offences, such as perjury, which a limited company, not being a natural person, cannot commit vicariously or otherwise.

(300) Perjury
Vicariously
Corporation
Prejudice
Breach

تسهادة الزور
عن سوء قصد
شخص معنوي
ضرر
يخل بـ

Question on Part Four (Criminal Law)

1) Criminal punishment are three in kinds, what are they:

1)

2)

3)

2) What means social reform Activities:

-

-

-

3) The Civil obligations which the court might order are:

a)

b)

c)

d)

e)

4) The causes and reasons for dismissal execution prevent or issuance suspense of the criminal court awards are:

a)

b)

c)

d)

e)

f)

5) What are the degrees of participants of criminal participation.

6) What means infancy?

-

7) What means insanity?

-

8) Translate these passayes from English to Arabic.

9) Translate these legal passages from Arabic to English.

قائمة المراجع

أولا : باللغة العربية

1. أحسن بوسقيعة ، قانون العقوبات في ضوء الممارسة القضائية ، دار برقي للنشر ، الجزائر ، 2007.

2. حساين سهام، ترجمة المصطلحات القانونية، مجلة النقد و الدراسات الأدبية و اللغوية ، عدد2، جامعة الجيلالي الياابس ، 2015.

3. عبد الله سليمان ، شرح قانون العقوبات الجزائري ، الطبعة الثانية ، ديوان المطبوعات الجامعية ، الجزائر ، 2016

4. منصور رحماني ، الوجيز في القانون الجنائي العام ، دار العلوم للنشر و التوزيع ، عنابة ، 2006 ،

5. محمد أبو بكر ، مصطلحات قانونية " لغة إنجليزية، الطبعة الجديدة ، الأردن ، 2007.

[pdf.د.محمد-أوبكر-مصطلحات-قانونية-باللغة-الإنجليزية-الطبعة-الجديدة](#)

ثانيا : باللغة الأجنبية

1.Harith Suleiman Faruqi: Faruqi Law Dictionary –Librarie de Lebanon – Beirut – Lebanon, First – 1978.

Ahmed , Course on administrative institutions, 3rd^{edition} , OPU,
Algiers, 1981.

- 1 .**MASAI DOUNI Maouia** , Elements of Introduction to Urban Planning, CASBAH Editions, Algiers, 2000.
- 2 .**MARCOU Gérard, MODERNE Franck**, Regulatory law, public service and regional integration, T1, L'Harmattan, Paris, 2013.
- 3 .**MONDOU Christophe** , public service delegation agreements of local authorities, Papyrus edition, Montreuil, 2006.
- 4 . **OUM Joseph Franck** , Contractual liability in administrative law, LGDJ, Paris, 2014.
- 5 .**PEISER Gustave** , administrative law, administrative acts, administrative organization, administrative police, public service, DALLOZ, Paris, 1989.
- 6 . **PELLET Sophie** , preface by **STOFFEL-MUNCK Philippe** , the amendment to the contract, IRJS editions, Paris, 2017.
- 7 . **PEYRICAL Jean Marc** , amendments to public contracts, Le Moniteur edition, Paris, 2002 .
- 8 .**POUYAUD Dominique** , the nullity of administrative contracts, LGDJ, Paris, 1991 .
- 9 .**RICHER LAURENT** ; Administrative Contract Law, 8th^{edition} , LGDJ, Paris, 2012.
- 10.**RICHER LAURENT, LICHÈRE FRANÇOIS** , Administrative Contract Law, 10th edition, LGDJ, Paris 2016.
11. **Rita Waked Jaber** , The International Administrative Contract: An Essay on a General Theory Through the Example of the BOT Contract, LG DJ, Paris, 2013.
- 12.**ROUQUETTE REMI** , the passing of state property agreements, Juris-Classeur edition, Paris, 2003.
13. **SEYDOU Traoré** , the user of the public service, LGDJ, Paris, 2012.

14. **TANSUG Çağla**, the regulation of public network services in France and Turkey “electricity and electronic communications”, L'Harmattan, Paris, 2009.
15. **TROJET FRANCIS** : Public service, to do or to delegate? LITEC, Paris 1995.
16. **TROGER François** ,public services, do it or delegate it? Vuibert bookseller, Paris, 1995.
17. **VEDEL George, DELVOLVE Pierre**, administrative law, volume 2, PUF, Paris, 1993.
18. **ZOUAIMIA Rachid, ROUAULT Marie Christine** , Administrative Law , Berti Editions , Algiers , 2009.
19. **ZOUAIMIA Rachid** , Public service delegation for the benefit of private persons, Belkeise publishing house, Algiers, 2012.
20. **ZOUAIMIA Rachid** , "*Disruption and ineffectiveness of standards in Algerian economic law* ", Revue Idara, no. 1, 2001, pp. 125-138.
21. **ZOUAIMIA Rachid** , " *Independent administrative authorities and economic regulation* ", Idara Review, No. 28, 2004, pp. 23-69.
22. **ZOUAIMIA Rachid** , “Reflection on the legal security of foreign investment in Algeria” , RARJ, no. 1, 2010, pp. 4-25.
23. **ZOUAIMIA Rachid** , " *The foreign investment regime put to the test by the resurgence of the dirigiste state in Algeria*" , RASJEP, no. 2, 2011, pp. 5-38.
24. **ZOUAIMIA Rachid** , "« Conventional delegation of public service for the benefit of private persons », Revue Idara, no. 41, 2011, pp. 7-31.
25. **ZOUAIMIA Rachid** , "*The unilateral delegation of public service to the benefit of a private person* " Idara Review , no. 42, 2011, pp. 74-49.
26. **ZOUAIMIA Rachid** , "Conventional delegation of public service in light of the presidential decree of September 16, 2015 ", RARJ, no. 1, 2016, PP7-35.

28. French legal glossary, L'Harmattan, Paris 2018.

**30. معجم المصطلحات القانونية ، عربي ، إنجليزي ، فرنسي، المجلس الأعلى للغات ،
القاهرة ، 1984.**