

International and Comparative Corporate Law Journal

ISSN: 1388-7084 & E-ISSN: 1875-8290

Judicial Jurisprudence Between Necessity and the Requirements of Legal Security

ATMANI Karima

Faculty of Law and Political Science, Abderrahmane Mira University of Béjaïa

E-mail: Karima.atma@yahoo.fr

Received: 22/10/2025 **Accepted:** 17/02/2026 **Published:** 15/05/2026

Abstract

The application of legal texts by the judge requires that they be clear and free from ambiguity; otherwise, the judge intervenes to interpret them in order to reveal their meaning and remove the ambiguity or contradiction surrounding them, so that he may be able to decide the case brought before him. Since judicial interpretation differs from one judge to another, this inevitably leads to divergence in judicial rulings within the state, which contradicts the characteristics of legislation that require equality before the law and the unity of legislation. In light of the necessity of judicial intervention and the imperative of preserving legal security, which requires legal rules to be clear, understandable, and not subject over time to frequent or unexpected changes, and with the aim of achieving stability in legal relations and legal positions, and spreading confidence and reassurance among parties and within legal relations, mechanisms must be established to frame judicial jurisprudence.

Keywords: judicial jurisprudence; judicial interpretation; legal security.

Introduction

Legal security requires a sound legal environment, beginning with the quality of drafting and formulating the legal rule and extending to its proper application and enforcement. A legal rule may be brought before the judiciary in order to resolve a dispute between litigants, that is, for the purpose of activating it, and here the role of the judiciary in protecting the principle of legal security becomes apparent.

Among the characteristics of the legal rule are generality and abstraction. Accordingly, it may be clear and free from ambiguity, or it may be so broad and abstract that it becomes uncertain

whether it encompasses the presented case or excludes it. It may also be ambiguous, which raises problems in the application or interpretation of legal texts and requires “jurisprudence” that goes beyond the direct application of the general text to the particular case, creating the need to interpret the legislator’s intent or search for his true will.

Although the legislator seeks precision and clarity in drafting legal texts in order to avoid disputes and make them more public and stable, as required by legal security—which constitutes one of the most important foundations upon which the rule of law is built, where authorities maintain a degree of stability in the legislation they enact in a manner that ensures the stability of legal situations and positions—the practical reality often reveals their defects and shortcomings. This requires judges to clarify or interpret them. By virtue of his function, the judge is obliged to interpret the legal text and apply it to reality in a manner that achieves the legislator’s intent. Interpretation is a form of judicial jurisprudence through which the judge is able to fill the gaps affecting legislative rules without violating them, and through which the extent of his contribution to determining a specific meaning of the text and achieving legal security becomes evident.

If legal security requires a legal rule that is clear, non-contradictory, stable, and accessible to individuals, then the question arises: to what extent is judicial jurisprudence capable of preserving legal security?

In order to answer the question raised in this study, it is necessary to examine the content of the idea of judicial jurisprudence (First Section), and then examine the extent of the impact of judicial jurisprudence on legal security (Second Section).

Section One: The Content of the Idea of Judicial Jurisprudence

The role of the judge, when there is an explicit and clear legal text, is limited to applying it, that is, pronouncing the existing law in relation to the specific dispute before him. However, if the text is ambiguous, the judge undertakes the task of interpreting it and clarifying its content by deriving appropriate solutions to resolve the dispute before him. This is what Article 1 of the Algerian Civil Code confirmed, whereby the legislator authorized the judge to exercise jurisprudence in the absence of a text or in case of its ambiguity according to the legal order stipulated in the same article.

The status of judicial jurisprudence among the sources of law is disputed between two systems. The first considers it an official source of law, namely the Anglo-Saxon system, while the second considers it merely an interpretative source of law. In the Anglo-Saxon system, judicial rulings are regarded as legal texts, and the judge is considered a maker of law. Judicial

precedent obliges judges to respect and apply rulings issued in the past either by themselves or by their predecessors. In contrast, under the Latin system, the judge is not absolutely bound by rulings and decisions issued by himself or by other judicial bodies. The judiciary is merely an interpretative source, so another court may give an interpretation contrary to that given by the first court for the same legal text, and the same court that interpreted the legal text in a certain manner may interpret it differently in another case.

The Algerian legislator did not define judicial jurisprudence, although legal doctrine has provided numerous definitions for it. While the primary role of the judge is to apply the legal rule, his role in interpreting it is no less important, as this interpretation constitutes the mechanism of judicial jurisprudence.

1.1 Concept of Judicial Jurisprudence

Jurists have been concerned with defining judicial jurisprudence and explaining its characteristics. Judicial jurisprudence enjoys universally acknowledged importance in all legal systems due to the role it plays in finding solutions for disputes brought before the courts involving ambiguous texts.

1.1.1 Definition of Judicial Jurisprudence

Judicial jurisprudence has a dual definition, one general and the other specific.

According to the general definition, judicial jurisprudence means: “the collection of solutions derived by courts when deciding disputes brought before them,” or “the set of decisions issued by courts, that is, the bodies entrusted with adjudication, based on the requirements of the legal rule in the disputes brought before them.”

Thus, judicial jurisprudence does not refer solely to what is decided by a lower or higher court, or to what is issued by the Supreme Court in its role of ensuring the proper application of the law. Rather, it refers to all decisions issued by all these bodies, from which it is confirmed that legal rules have been properly applied, although priority is given to the most recent decisions and those issued by higher judicial bodies.

According to the specific definition, judicial jurisprudence means the solution adopted by a judicial body in a case brought before it in the absence of an applicable legal text, or where the text is ambiguous or insufficient.

It is observed that in practice the term “jurisprudence” is not used to refer to court decisions in general but is limited to decisions of the Supreme Court. When the Supreme Court confirms or overturns a judgment of the Court of Appeal, it does not deal with it as jurisprudence, but rather

as an attempt to implement, apply, or interpret the text, which therefore requires either reversal or confirmation.

1.1.2 Characteristics of Judicial Jurisprudence

Judicial jurisprudence is characterized by the following:

- Judicial jurisprudence is an activity carried out by judges of all courts at different levels.
- Judicial jurisprudence does not require repetition and stability for its emergence. A single decision containing an innovative legal solution to a particular legal problem may still be described as judicial jurisprudence. This differs from stability, which requires repetition and consistency over a certain period through the adoption of the same legal solution by courts and its citation in judgments and decisions.
- Judicial jurisprudence, by its nature, does not change rapidly. Like custom, it requires a long time to develop and a long time to change.
- Judicial jurisprudence can be unified. This occurs where there are differing and contradictory judicial solutions regarding similar legal issues. In this respect, it should be noted that pursuant to the 2016 constitutional amendment, the Supreme Court and the Council of State became the highest judicial bodies competent to unify judicial jurisprudence.
- Judicial jurisprudence may be abandoned after becoming established if it no longer keeps pace with new developments and no longer conforms to the requirements of justice.

1.1.3 The Importance of Judicial Jurisprudence

Judicial jurisprudence is a necessity, because restricting the judge's role to merely applying the law without the possibility of exercising jurisprudence in its texts would make his work mechanical, causing him to apply the law in a rigid and absolute manner that inevitably conflicts with changes in life, the spirit of justice, and the acknowledgment that legislation does not contain a solution for every case brought before him. Living law is the law shaped by the courts. This demonstrates that the necessity of judicial work requires that courts not be prevented from developing their jurisprudence or from abandoning their previous judicial jurisprudence under the pretext of respecting the principle of legal security. A judiciary that does not evolve is often a sterile judiciary. In this regard, had the French Court of Cassation not adapted the old provisions of civil liability law to modern developments and circumstances, it would not enjoy its current significance today.

Given the importance and necessity of jurisprudence in judicial work, the jurist Marcel Waline stated: “Without the jurisprudence of the Council of State, there would be no administrative law in France, or at least it would be limited to a set of bodies and all their competences. The jurisprudence of the Council of State was behind the formulation and development of major doctrinal works in French public law.”

1.2. Interpretation as a Mechanism of Judicial Jurisprudence

Among the guarantees binding upon the judge in applying legal texts is that he must ensure the clarity of the judgments he issues and the ease of understanding them. In addition, he is obliged to interpret any legal rule surrounded by ambiguity in order to reach the true intention of the legislator.

The interpretation of legal texts is considered a mechanism through which the judge contributes to the development of law. As such, it constitutes an important aspect of judicial work. Judicial interpretation acquires importance in the application of law because it concerns the application of legal texts. It allows the judge positive intervention in cases of ambiguity, where he is compelled to exercise jurisprudence and find a solution for the dispute before him.

Judicial interpretation has received several definitions, and jurists have explained its characteristics. Several doctrinal schools have emerged specializing in determining methods of interpretation. It should be noted that despite the freedom enjoyed by the judge in interpreting ambiguous legal texts, he remains subject in this regard to the supervision of the Supreme Court.

1.2.1 Definition of Judicial Interpretation

Judicial interpretation means: “the interpretation carried out by the judge when applying a law containing ambiguity or obscurity to a dispute brought before him, in order to facilitate its understanding and clarify its provisions, and this interpretation is binding only in the case for which it was issued before the same court,” or it is “the interpretation undertaken by judges while deciding the cases before them so that they may embody the rule of law upon the facts before them, and they perform this task without the need for the litigants to request it, because interpretation is intrinsic to the function of judges.”

According to the content of the previous definitions, judicial interpretation is a means used by the judge with the aim of resolving the dispute before him. Consequently, the judge cannot interpret a legal text independently of the existence of a dispute before him.

1.2.1. Characteristics of Judicial Interpretation

Judicial interpretation has several characteristics, summarized as follows:

- It occurs when a dispute is brought before the court. The judge does not engage in interpretation except on the occasion of a case before him, and individuals may not request judges to interpret a legal text whose true meaning is doubtful.
- The judge is obliged to interpret without a request from the litigants.
- The judge's interpretation is influenced by the circumstances surrounding the subject matter of the dispute and therefore comes in harmony with reality.
- Judicial interpretation does not have binding force in states that do not adopt the system of judicial precedents. It is not binding on other courts, and the interpretation established by the judiciary may be abandoned and replaced with another interpretation in a similar case.

1.2.3. Schools of Interpretation

Schools of interpretation are numerous, and the interpreter may adopt one of them in his approach.

1.2.3.1. The Exegetical School

This school emerged and developed during the nineteenth century following the promulgation of the codifications undertaken by Napoleon in various fields of private law. Supporters of this school believe that legislative texts and rules contain all the details and subtleties of the law, as well as all hypotheses and precautions necessary to confront the developments and surprises of life. This is due to the intelligence and insight of the legislator, his strong perception and profound awareness. Moreover, the legislator masters legal language, selecting words and terminology carefully and accurately and constructing sentences and formulations skillfully. Therefore, interpretation must refer to the legislator's intent at the time of enacting legal rules. Critics of this approach argue that the Exegetical School leads to the immobilization of the judiciary's role in interpretation, filling gaps and deficiencies in legislative rules. This school eliminates judicial freedom in adapting and handling interpretation, causing the law to be interpreted and applied in a rigid and absolute manner incompatible with changes in life, the spirit of justice, and modern scientific methods and realities.

1.2.3.2. The Historical or Social School

Supporters of the historical or social method believe that interpretation must conform to the social and economic circumstances existing at the time interpretation takes place. They do not attach importance to the actual or presumed intent of the legislator at the time the text was

enacted. Rather, importance lies in the probable intent and the intent the legislator would have had if he existed under the current circumstances surrounding the interpreter at the time of interpretation.

1.2.3.3. The Free Scientific Research School

The scientific method appeared in France through the French jurist François Gény in his work “Method of Interpretation and Sources of Positive Private Law.”

The jurist believes that interpretation should be carried out according to the legislator’s actual intent at the time of enactment. If no actual intent exists, then one should not search for presumed intent. In other words, one must not assume something and attribute it to the legislator; rather, it must be acknowledged that the law does not contain all the applicable texts, and that recourse should be made to other formal sources of law, foremost among them custom. If there is no applicable text in either legislation or custom, the interpreter must refer to the material sources that constitute the essence of law, namely the facts from which the formal sources themselves derive.

As for the position of the Algerian legislator regarding methods of interpretation, he did not provide an explicit text adopting a specific interpretative approach, which means that the matter remains within the discretion of the judiciary to choose whichever approach it deems appropriate. Courts attempt to base the judgments they issue in disputes before them on legal texts, even if this requires broad interpretation in order to respond to the prevailing social context.

In summary, judges of the trial courts, when interpreting legal texts, must rely on several principles. The first principle is that recourse to interpretation is permissible only in the case of ambiguity in the text; if the meaning is clear, there is no room to depart from it under the pretext of interpretation. The second principle is that, when interpreting a term affecting the application of a legal text, adherence must be made to the apparent and proximate meaning of that term, so long as that meaning does not lead to impossible or unacceptable results.

1.2.4. Supervision of the Supreme Court over the Trial Judge’s Authority in Interpreting the Legal Text

Despite the freedom enjoyed by the judge in interpreting an ambiguous legal text and inferring the legislator’s intent from it, this interpretation reached by the judge is originally a legal issue subject to the supervision of the Supreme Court, because an error in interpreting the legal rule will inevitably lead to an error in its application or to its violation.

The supervision of the Supreme Court involves either approving the interpretation adopted by the trial judges or excluding it after identifying its shortcomings and replacing it with the interpretation it considers appropriate and correct, since the judges of the Supreme Court, in carrying out this task, must first distinguish between the interpretation of the law and the interpretation of facts and acts, as the interpretation given by trial judges to facts and acts does not fall within the scope of their supervision. Secondly, they must exercise their supervision over the trial judges' interpretation of the applicable legal rule, not the interpretation given by the litigants to the same rule. Thirdly, they must ascertain that the legal rule subject to interpretation is indeed unclear, because where clarity exists, interpretation ceases

2- The Extent of the Influence of Judicial Jurisprudence on Legal Security

The principle of legal security is considered one of the most important foundations upon which the legal state is built, and it is also among the most important objectives that the law seeks to achieve. Legal security derives its importance from the fact that it aims to preserve the stability of the legal positions existing between individuals in various fields, with the purpose of enabling them to act with confidence and without the disruption or destruction of their transactions. This requires the enactment of laws that are clear in their provisions and foreseeable, such that they should not be characterized by surprises, instability, inflation in legal texts, or retroactivity of their provisions. However, considering the most important characteristics distinguishing judicial jurisprudence, namely that it is non-binding, enjoys authority only with respect to its parties, subject matter, and cause, and is subject to reversal, it may initially appear to conflict with the contents of the principle of legal security and affect it. Yet, the reality is otherwise, because judicial jurisprudence represents one of the legal solutions available to the judge to avoid the problem resulting from the failure of other sources of law to provide assistance to the judge's request.

To understand the extent of the importance of legal security in stabilizing the relationships and positions of persons, it is first necessary to examine its concept and the foundations upon which it is based, then address the mechanisms for preserving it in light of judicial jurisprudence.

2.1.- Meaning of Legal Security

Despite the importance of the principle of legal security as one of the foundations of the rule of law, the legislator did not define it. Nevertheless, some attempts by jurisprudence and the judiciary have sought to determine its meaning, including:

Some have defined legal security as: “Individuals’ knowledge of their legal positions in a precise, certain, and clear manner, enabling them to know their rights and obligations, which allows them to act with confidence on that basis without fear or anxiety concerning the consequences of such conduct in the future. Others defined it as: “The existence of a kind of relative stability in the legal relationship and a minimum degree of stability for legal positions for the purpose of spreading security and reassurance among the parties to the legal relationship, regardless of whether they are private or public legal persons, so that these persons may arrange their situations according to the legal rules in force at the time they undertake their acts without being exposed to surprises or unforeseen acts issued by the three state authorities, which would undermine the pillar of stability or shake the spirit of confidence and reassurance in the state and its laws.. It has also been defined as: “The result of both the clarity and stability of the written norm, the enlightened caution of judges who apply and interpret it, and the quality of jurisprudence reflecting the rule of law. According to the French Council of State, it is: “A principle requiring that citizens, without excessive difficulty, be able to determine what is permitted and what is prohibited under the law in force, and to achieve this objective, legal texts must be clear, understandable, and not subject over time to frequent and unforeseeable changes.

Legal security therefore translates the requirements necessary for the quality of the law and its predictability, as it is based on two elements: the predictability of the law and the clarity of the applicable legal rule. It does not mean the complete stability of the legal rule, because the dynamism of the law is a necessary matter for the legal rule to continue performing its function. In other words, the absence of legal security is an inevitable evil in every legal system; all that can be done is to reduce it to minimum limits and preserve reasonable levels that do not undermine confidence in the law

Accordingly, the value of the legal rule can only be perceived in light of the degree of its stability and the extent of its protection of rights and legal situations, and the resulting confidence of people in the legal system as a whole, such that it may be said that the essence of the principle of legal security is the element of legitimate confidence in the law.

2.2 Foundations of Legal Security

Legal security is based on a set of principles, namely:

2.2.1.- Principle of Non-Retroactivity of the Legal Rule

This means that the legal rule does not apply to facts that occurred in the past, but rather its application is limited to everything occurring in the present or from the date of its entry into force, and this principle is considered one of the most important foundations of the rule of law. However, in view of protecting the requirements of the public interest and the stability of transactions, some exceptions have been introduced to this principle, whereby the legal rule may apply retroactively, provided that this does not include criminal laws and tax laws. Constitutional jurisprudence in France and Egypt also requires, for the possibility of retroactive application of the law in matters other than criminal and tax issues, the existence of a public interest or necessity justifying it, on condition that it does not prejudice the authority of res judicata enjoyed by judicial rulings.

2.2.1.1.- Principle of Respect for Acquired Rights

This means the necessity of respecting individuals' acquired rights obtained through legitimate means under enforceable laws and decisions, and consequently the inadmissibility for others to violate or infringe upon any legitimate rights of individuals acquired legally or under a final decision or judgment, especially if they concern political rights and freedoms stipulated in the constitution, such as the right to property and the right to nationality, etc

2.2.1.2.- Principle of Legitimate Expectations

This means that the state should not surprise or abruptly confront individuals with laws, decisions, and regulatory regulations that contradict and clash with their legitimate expectations. Therefore, the legislator often resorts to publishing the new law in the official gazette so that those addressed by it may be aware of its content, thereby fulfilling the condition for applying the rule: "Ignorance of the law is no excuse," and elevating it to the required level.

2.2.1.3. Principle of Restricting the Retroactive Effect of a Judgment of Unconstitutionality

A judgment declaring a law unconstitutional issued during a certain period may affect the principle of legal security for persons. thereby harming rights they acquired under this repealed law or legal positions they obtained on its basis. Due to the seriousness of the damage resulting from a judgment declaring a law unconstitutional after its issuance during a certain period, some scholars emphasized the necessity of establishing a set of controls and restrictions to determine the retroactive effect of judgments of unconstitutionality as a guarantee for individuals' rights and a consecration of the principle of legal security.

2.3- Achieving Legal Security in Light of Judicial Jurisprudence

Although judicial jurisprudence cannot create a general abstract legal rule, it can provide solutions to cases brought before the judiciary. While it is theoretically binding only with respect to the cases it decides, it acquires binding force that is almost no less important than that enjoyed by the official sources of law. The source of this binding force lies in the courts' keenness to adhere in similar cases to the same jurisprudence and to avoid constantly retreating from it. Hence emerges the relationship between judicial jurisprudence and legal security, which aims to protect individuals from the negative effects of the law, especially inconsistency, complexity of texts, or their frequent amendment.

In order for judicial jurisprudence to be a factor in consolidating legal security, and to avoid the impact of judicial jurisprudence—particularly in the case of departure from it—on legal security, there are legal mechanisms and means that regulate and frame the process of judicial jurisprudence in a manner that achieves legal security on the one hand and elevates judicial jurisprudence on the other. These mechanisms are represented in the unification of judicial jurisprudence, departure from it, and its publication. Through these, the judiciary contributes to the development of the legal rule without undermining the principle of legal security.

2.3.1.- Unification of Judicial Jurisprudence

The judge's confrontation with issues arising from a legal text characterized by ambiguity or deficiency, or from the absence of a text governing the dispute before him, leads to the creation of jurisprudence. On this basis, judicial jurisprudence is unstable and subject to change, which consequently affects legal security. One of the means of addressing this negative impact of changes in judicial jurisprudence is the unification of judicial jurisprudence.

The unification of judicial rulings leads to judicial unification within the same state. If judicial jurisprudence is not unified, judicial rulings within the same state become contradictory, creating instability that undermines confidence in the courts in general.

In order to avoid contradiction between judicial solutions issued by different judicial bodies, the legislator decided to unify them, as stipulated in Article 179/3 of Law No. 16-01 dated 06/03/2016, as follows: "The Supreme Court and the Council of State shall ensure the unification of judicial jurisprudence throughout the country and shall oversee respect for the law."

From this article, we conclude that the legislator made the issue of unifying judicial jurisprudence the responsibility of the Supreme Court at the level of the ordinary judiciary and the Council of State at the level of the administrative judiciary, and it is an exclusive competence that no other judicial body may undertake.

Pursuant to the provisions of Article 16 of Organic Law No. 11-12, when legal issues arise that may lead to contradictions in judicial jurisprudence, or when a case has received or is likely to receive contradictory solutions before two or more chambers, the matter shall be referred to the mixed chamber. The referral order issued by the First President of the Supreme Court must specify the chambers concerned.

The mixed chamber deliberates in the presence of at least 15 judges, and in the event of disagreement, the President of the mixed chamber shall notify the First President of the Supreme Court, who shall refer the case before the assembly of united chambers for adjudication

In this regard, it should be noted that the legislator entrusted the office of the Supreme Court with the task of raising cases of contradictory judicial jurisprudence between the chambers.

2.3.2- Departure from Judicial Jurisprudence

Stability in judicial jurisprudence has become a rights-based demand in view of the unification and predictability of judicial solutions it guarantees, thereby consolidating legal security. The stability of judicial jurisprudence in a particular interpretation of the legal rule contributes to serving legal security. Conversely, if the judge's jurisprudence and interpretation of the legal rule differ from a previous interpretation of the law or from established judicial jurisprudence, this would undermine the principle of legal security, especially since changing judicial jurisprudence is often rapid and sudden and occurs without the litigants' knowledge. However, legal security should not be turned into a principle that prevents courts from changing and renewing their jurisprudence under the pretext of respecting it, because every jurisprudence is liable to development and change, especially when changes in society's circumstances and conditions call for it.

In this regard, the decision of the First Civil Chamber issued on 21/03/2000 states that: "Legal security does not permit reliance on an acquired right established through settled jurisprudence, because the development of jurisprudence is left to the judge in his application of the law.. Vincent Heuzé believes that the existence of a case of departure means that the previous solution proposed by jurisprudence is no longer useful.

Most cases of departure from judicial jurisprudence are due to changing circumstances or to correcting previous jurisprudence, considerations that directly or indirectly serve the interests of individuals. Thus, this departure is regarded as a better interpretation of the law.

In this context, the legislator sought to regulate the procedures for departure from judicial jurisprudence pursuant to Articles 18 and 19 of Organic Law No. 11-12, determining the organization, functioning, and competencies of the Supreme Court. Article 18 thereof provides

that the Supreme Court shall rule in united chambers when the decision to be issued by one of the chambers is likely to result in a change in judicial jurisprudence. These chambers convene by order of the First President of the Supreme Court either on his own initiative or upon proposal by the president of one of the chambers.

The united chambers may not rule on the issue of changing judicial jurisprudence except in the presence of at least half of their members. However, the decision is taken by majority vote, and in the event of equality of votes, the president's vote shall prevail, in accordance with Article 19/2 and 3 of Organic Law No. 11-12. Their decision is issued in the form of a legal principle that prevails in strength over previous contradictory decisions.

2.3.3.- Publication of Judicial Jurisprudence

The publication of judicial jurisprudence is a means of introducing it to practitioners and the general public. To achieve this objective and in application of the principle of legal security, the legislator stipulated in Article 5 of Organic Law No. 11-12 concerning the organization, functioning, and competencies of the Supreme Court() that the Supreme Court shall undertake the publication of its decisions—as well as legal and judicial commentaries and research—considering their legal value and the fact that they constitute a reference in judicial jurisprudence, especially those issued by the expanded chambers, through the Supreme Court Journal. This enables individuals to know its rulings, thereby eliminating the element of surprise and suddenness.

Executive Decree No. 12-268 dated 23/06/2012. specified the conditions and procedures for publishing the Supreme Court's decisions, commentaries, and legal and judicial research. A “Journal” was dedicated to this publication, equipped with a council and an editor-in-chief, the latter and the council members being appointed by the First President of the Supreme Court According to Article 4/1 of the same executive decree, the journal council is responsible for selecting the decisions to be published. The decisions that should be published are those judgments containing judicial jurisprudence interpreting an ambiguous text, filling a legislative gap, or supplementing a legal provision. As for decisions containing principles that have become settled, publishing them is useless. Nevertheless, judicial jurisprudence should be published online so that it reaches everyone's knowledge as soon as possible and may be relied upon in cases pending before the courts upon its issuance.

The importance of publishing judicial jurisprudence also increases when accompanied by commentaries on the decisions from the body that issued them or from members of the judiciary.

Conclusion

Legal security is considered one of the fundamental pillars of the rule of law, and it is achieved through the establishment of clear legal rules not subject to change every short period or in a sudden manner in order to regulate relations between individuals. However, in some cases, the legal rule may be tainted by ambiguity, which requires the judge to exercise jurisprudence to find a solution to the dispute before him through the exercise of his power of interpretation. Judicial interpretation is both a scientific and practical necessity imposed by the nature of judicial work when the text is ambiguous, as it enhances the efficiency of the legal text. In view of the legal dimension of the interpretation process, the Supreme Court exercises supervision over the trial judge regarding his interpretation of the legal rule.

Judicial jurisprudence is the product of the process of judicial interpretation. In order to strike a balance between it and the protection of legal security, the legislator established guarantees capable of achieving this balance, embodied in the unification of judicial jurisprudence—which, due to its importance, the legislator enshrined in a constitutional text—departure from it—which, despite its negative impact on the stability of legal positions and legal security, is on the other hand an indicator of the vitality and effectiveness of the legal rule and the judicial institution—and its publication so that it reaches public knowledge.

At the end of this study, we conclude with a number of recommendations:

- The necessity that judicial interpretation be issued by a group of judges possessing the necessary qualifications, because the process of interpretation is among the most difficult and delicate operations requiring skill, experience, and the ability to grasp the spirit of legal texts.
- The necessity of submitting legal texts whose purpose and legislative intent are unclear to the Supreme Court to the legislative authority for interpretation.
- The establishment of a judicial body responsible for reviewing draft laws so that their provisions are clear and do not require interpretation or construction.
- The necessity of determining the foundations and methodology of interpretation to be followed when interpreting legal texts in the internal regulations of the Supreme Court.
- The necessity of good drafting of legal texts, as this helps in understanding the legislator's intent and identifying the requirements of the law, thereby ensuring the proper implementation of legal provisions.
- The establishment of a national observatory for the study and monitoring of judicial jurisprudence, considering it one of the most important sources of the legal rule.

- Providing an information bank for judicial judgments and decisions in line with modern digital technology.

List of References

Arabic References

Books

Abu Siyam, F. A. H. (2005). *Al-asbab al-jadidah fi al-naqd al-madani* [New grounds in civil cassation]. Dar Al-Nahda Al-Arabia.

Abu Al-Suoud, R. (1986). *Al-madkhal ila al-qanun wa bi khasah al-misri wa al-lubnani* [Introduction to law, especially Egyptian and Lebanese law]. Al-Dar Al-Jami'iyya.

Al-Aassar, Y. M. (2003). Constitutional protection of legal security. *Al-Dusturiyyah Journal*, (3).

Al-Fatlawi, S. H. (2009). *Al-madkhal li dirasat 'ilm al-qanun: Dirasah fi nazariyyatay al-qanun wa al-haqq* [Introduction to the study of legal science: A study in the theories of law and right] (2nd ed.). Maktabat Al-Dhakira.

Al-Lamtouni, A. (2014). Judicial jurisprudence and legal security. *Majallat Al-Mulhaq Al-Qada'i*, 46, 3–26.

Al-Mut'al, A. A. (2004). *Mabda' jawaz al-raj'iyah wa hududuha fi al-qararat al-idariyyah* [The principle of retroactivity and its limits in administrative decisions]. Dar Al-Nahda Al-Arabia.

Al-Saadi, M. S. (1979). *Tafsir al-nusus fi al-qanun wa al-shari'ah al-islamiyyah: Al-nazariyyah al-'ammah wa tatbiqatuha fi al-fiqhayn al-wad'i wa al-islami* [Interpretation of texts in law and Islamic Sharia: General theory and its applications in positive and Islamic jurisprudence]. Dar Al-Nahda Al-Arabia.

Al-Shatnawi, A. K. (1997). *Al-anzimah al-siyasiyyah wa al-qanun al-dusturi al-urduni al-muqaran* [Political systems and comparative Jordanian constitutional law] (Vol. 2, 1st ed.). Dar Wael for Publishing and Distribution.

Al-Sha'ir, R. T. (1983). *Al-nazariyyah al-'ammah lil-qanun al-dusturi* [The general theory of constitutional law] (3rd ed.). Dar Al-Nahda Al-Arabia.

Akrim, F. (n.d.). *Tafsir al-nusus al-qanuniyyah* [Interpretation of legal texts]. Retrieved March 8, 2026, from Academia.edu

Boudiaf, A. (n.d.). The role of the judge in modern societies. *Nashrat Al-Qudat*, 48.

Boubsheer, M. A. (2004). Transformation of judicial jurisprudence between text and application. *Majallat Al-Muhamah*, 2.

- Denning, L. (1981). *Tarshid al-fikr al-qanuni fi tafsir al-qanun wa al-wasaya wa al-‘uqud* [The discipline of legal reasoning in the interpretation of law, wills, and contracts] (H. Riyad, Trans., 1st ed.). Dar Al-Jeel.
- Faraj, T. H. (1993). *Al-madkhal lil-‘ulum al-qanuniyyah* [Introduction to legal sciences] (Vol. 1). Al-Dar Al-Jami‘iyya.
- Fahmi, W. R. (2001). *Mabadi’ al-qada’ al-madani* [Principles of civil judiciary] (3rd ed.). Dar Al-Nahda Al-Arabia.
- Ghamija, A. M. (2009). The principle of legal security and the necessity of judicial security. *Majallat Al-Mulhaq Al-Qada’i*, 42, 3–29.
- Ja‘four, M. S. (2004). *Madkhal ila al-‘ulum al-qanuniyyah: Al-wajiz fi nazariyyat al-qanun* [Introduction to legal sciences: A summary of legal theory]. Dar Houma for Printing, Publishing and Distribution.
- Mahmoud, H. M. (2001). *Al-madkhal ila al-qanun* [Introduction to law]. Mansha’at Al-Ma‘arif.
- Mahisen, A. Z. (2010). Balancing the idea of legal security and the principle of retroactivity of judgments of unconstitutionality. *Majallat Markaz Dirasat Al-Kufa*, 1(18).
- Mazghani, R., & Abbouda, A. M. (1983). *Al-tafsir al-qada’i lil-qanun al-madani* [Judicial interpretation of civil law]. Institute of Public Administration, Research Department.
- Mellouh, M. A. (2001). *Al-madkhal li dirasat al-qanun* [Introduction to the study of law] (1st ed.). n.p.
- Mohand Amqran, B. (2004). Transformation of judicial jurisprudence between text and application. *Majallat Al-Muhamah*, 2.
- Oboud, M. (1969). Judicial jurisprudence and its role in the Moroccan judicial system. *Majallat Al-Muhamah*, 3.
- Qasim, M. H. (2009). *Al-madkhal li dirasat al-qanun: Al-qa’idah al-qanuniyyah* [Introduction to the study of law: The legal rule] (Vol. 1). Halabi Legal Publications.
- Sadda, A. M. F. (1982). *Mabadi’ al-qanun* [Principles of law]. Dar Al-Nahda Al-Arabia for Printing, Publishing and Distribution.
- Saeed, D. (2011). *Al-nizam al-qanuni lil-hay’at al-qada’iyyah al-‘ulya fi al-jaza’ir* [The legal system of supreme judicial bodies in Algeria] (Master’s thesis, University of Algiers 1).
- Sharbini, M. S. A. (1981). *Tafsir al-nusus al-jina’iyyah: Dirasah muqaranah* [Interpretation of criminal texts: A comparative study]. Okaz Libraries Company for Publishing and Distribution.

Wazzani, K. (2008). *Manahij tafsir al-nusus bayna 'ulama' al-shari'ah wa fuqaha' al-qanun* [Methods of interpreting texts between Sharia scholars and legal jurists]. Dar Al-Jami'a Al-Jadida.

Legal Texts

Executive Decree No. 12-268 of June 23, 2012, determining the conditions and procedures for publishing the Supreme Court's legal and judicial decisions, commentaries, and research. *Official Gazette*, 39, July 1, 2012.

Law No. 16-01 of March 6, 2016, containing the constitutional amendment. *Official Gazette*, 14, March 7, 2016.

Organic Law No. 11-12 of July 26, 2011, determining the organization, functioning, and competencies of the Supreme Court. *Official Gazette*, 42, July 31, 2011.

Ordinance No. 75-58 of September 26, 1975, containing the Civil Code. *Official Gazette*, 78, September 30, 1975.

French References

Books

Cappelletti, M. (1990). *Le pouvoir des juges*. Economica.

De Theux, A., Kovalovsky, I., & Bernard, N. (2000). *Précis de méthodologie juridique* (2nd ed.). Facultés Universitaires Saint-Louis.

Malinvaud, P. (2001). *Introduction à l'étude du droit: Cadre juridique des relations économiques* (6th ed.). Litec.

Waline, M. (1950). *Traité élémentaire de droit administratif* (6th ed.). Librairie de Recueil.

Theses

Tascher, M. (2011). *Les revirements de jurisprudence de la Cour de cassation* (Doctoral dissertation, Université de Franche-Comté).

Articles

Chartier, Y. (1994). Les revirements de jurisprudence. In *L'image doctrinale de la Cour de cassation*. La Documentation Française.

Cour de cassation, chambre civile 1. (2000, March 21). *Pourvoi n° 98-11.982, Bulletin 2000, I, n° 97*. Retrieved March 2, 2026, from [Légifrance](#)

Dako, N. (n.d.). *Contrôle de légalité et régulation du droit*. Retrieved March 5, 2026, from [AHJUCAF](#)

Heuzé, V. (2005). À propos du rapport sur les revirements de jurisprudence: Une réaction entre indignation et incrédulité. *La Semaine Juridique, Édition Générale*. LexisNexis.

Huglo, J.-G. (2001, December). La Cour de cassation et le principe de la sécurité juridique. *Cahiers du Conseil Constitutionnel*, 11. Retrieved March 29, 2026, from [Conseil constitutionnel](#)

Michele De Salvia. (2001). La place de la notion de sécurité juridique dans la jurisprudence de la Cour européenne des droits de l'homme. *Cahiers du Conseil Constitutionnel*, 11. Retrieved February 18, 2026, from [Conseil constitutionnel](#)

Sécurité juridique et complexité du droit. (2006). In *Études et documents du Conseil d'État* (p. 281). Retrieved February 28, 2026, from [Vie publique](#)