

*Consumer protection under Law 03/09 related to consumer protection and the suppression of fraud.*

حماية المستهلك في ظل القانون 03/09 المتعلق  
بحماية المستهلك وقمع الغش



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**ملخص:**

لقد أدى تبني مختلف دول العالم للنظام الرأسمالي أو ما يعرف بالسوق الحرة إلى اكتساح سلع وخدمات متنوعة للسوق المحلية، حيث طرح هذا التدفق منقطع النظير فرضية عدم مطابقة ما يعرض من سلع ومنتجات للمواصفات القانونية هذا من ناحية ، وإفلات الكثير منها من الرقابة بخصوص جودتها ومدى سلامتها من ناحية ثانية. وبما أن المستهلك يعتبر الطرف الضعيف في العلاقة التي تجمعها بالمتدخل، لما لهذا الأخير من خبرة ودراية كبيرة بأحوال السوق، وإمكانية فرضه لمنطقه على الأول(المستهلك)، إرتأينا من خلال هذه الدراسة الوقوف على مختلف الحقوق التي أقرها قانون حماية المستهلك وقمع الغش 03/09 لفائدة المستهلك ، وإلى مختلف أجهزة الرقابة الإدارية كضمانة لحفظ هذه الحقوق.

**كلمات مفتاحية:** المستهلك، الحق في الإعلام، الضمان، إلزام المتدخل بالسلامة، الأجهزة الإدارية المكلفة بالرقابة.

**Abstract:**

*The adoption by the different countries of the world of the capitalist system, or what is known as the free market, has led to the*

*sweeping of various goods and services for the local market, where this unprecedented influx put forward the assumption that the goods and products offered are not in conformity with this legal specification on the one hand, and many of them escape oversight regarding their quality and extent Its safety on the other hand. Since the consumer is considered the weak party in the relationship that brings him together with the respondent, because of the latter's great experience and knowledge of market conditions, and the possibility of imposing his logic on the first (the consumer), we saw through this study to stand on the various rights approved by the Consumer Protection and Suppression of Fraud 03/09 for the benefit of the consumer, And to various administrative oversight bodies as a guarantee to preserve these rights.*

**Keywords:** *the consumer, the right to information, the guarantee, the commitment of the intervention to safety, the administrative organs charged with oversight.*

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## Introduction:

The economic openness is so important to the lives of peoples and societies, the different contemporary countries have adopted in their domestic legislation the principle commercial practices of freedom, which was established by the Algerian legislator under Article 73 of the 1996 Constitution stipulating: "Freedom of industry and trade is guaranteed and exercised within the framework of the law." What led to the gradual demise of the socialist economic model, and the adoption of what is known as the market

economy, which contributed greatly to the flow of consumer and service goods, which facilitated the citizen's ways of life and raised him to a higher level of well-off<sup>1</sup> .

Despite the many advantages of these economic transformations, their field applications have generated a real crisis for various countries, especially developing ones, which is the problem of consumption. The unbridled desire of the category of intruders in order to achieve the most profitable measure led them to invade the local market with various commodities and goods, without distinguishing between what is original and imitation, in addition to the emergence of many anti-competitive business practices such as the monopoly of goods and causing market disturbances, which negatively affected The material interests of the consumer and even health. This becomes clear the importance of studying this topic after the large widening gap between the two sides of the consumer relationship is a strong intervention on the one hand, and a weak consumer on the other hand which led us to research it, Trying to answer the following problem: To what extent, according to the Algerian legislature for the Consumer Protection and Suppression Fraud Law09/03<sup>2</sup>, is the achievement of adequate protection for the consumer and his material and moral interests? .

Depending on our study on the descriptive analytical approach, which is appropriate to the nature of the topic, and through which we seek to identify the various rights established for the benefit of the consumer, the bodies charged with protecting them, and the legal texts related to

them. Consequently, we divided the topic into two topics that dealt with in the first the most important consumer rights under the Consumer Protection and Suppression of Fraud Law 09/03, and we also touched on the second topic to the administrative bodies charged with protecting it.

## **1.The first topic:consumer rights under the Consumer Protection and suppression of Fraud law**

In the wake of the liberalization of economic life, the Algerian market has recently witnessed a widespread spread of counterfeit goods, which have negatively affected the material interests of the consumer, and even his health, as they do not respond to the minimum conditions of safety and security. In view of the inability of the rules of civil law and the provisions they contained, they were described as traditional in fairness of the consumer and ensuring his safety. Law 09/03 related to consumer protection and the suppression of fraud came with strict provisions in this field through its endorsement of the principle of the intervention of the intervention to ensure the safety of the consumer<sup>3</sup>, and the rights that derive from it, which we will try to clarify.

### **1.1.The first requirement: the consumer's rights during the conclusion of the contract**

Because advertising has a great impact on the acquisition of the consumer for the various goods and services that meet his daily needs, and given the inability of the latter to reveal various forms of fraud and misleading

advertisements, what often leads to the acquisition of adulterated goods that violate the applicable standards and criteria Which negatively affects his health and safety, as well as his material interests. Therefore, the Algerian legislator acknowledged the responsibility of the intruder with a number of obligations revolving in its entirety around the necessity of informing the consumer of the various components of the marketed product and its consumption conditions, as well as the necessity of its conformity with the approved standards.

### **1.1.1. The first branch: The right to information**

In accordance with Law No. 89/02 related to the general rules for the protection of the abolished consumer, the Algerian legislator has devoted a number of rights to the benefit of the consumer, whereby economic agents have laid down a number of obligations, and they must observe them in the various stages of offering the product for sale, similar to the right of the consumer in the media. And if the aforementioned law did not explicitly stipulate this matter, the new law No. 09/03 singled out a special chapter under the designation mandatory for informing the consumer, and thus the Algerian legislator has set the legal path for economic aid in implementing this commitment<sup>4</sup>.

### **First: The content of the right to information**

The consumer's right to information has become a constant right in contemporary legislation, given that the

consumer who has a clear picture of the product for sale has the ability to defend himself, and can acquire goods that meet his needs without being subject to the will of a professional. And commitment to the media is a duty of the latter in all stages of product display, as it is not limited to products that pose a threat to the health of the consumer only<sup>5</sup>.

The right of the consumer in the information means the mechanism granted by the law to know the product collectively in the face of a professional trader with extensive knowledge of goods, products and brands, which would disturb the balance and widen the gap between the two contracting parties. This duty is defined as a prior obligation to contract<sup>6</sup>, it aims to urge one contractor to provide to the other when creating the contract the necessary data to find sound, complete and enlightened satisfaction on all details of the contract<sup>7</sup>. The consumer's right to information is matched by the intervention of the interventionist to declare all information related to the product, so that the first (the consumer) can take his decision whether by contracting and acquiring what he needs or refrain from that. Its use, and warning of its seriousness.

The contemplative of the term commitment to the information finds it contrasted with the term telling; the fact that the first has a judicial reference, while the origin of the second is purely legal. Where the news is defined as a duty imposed by law, especially for some professional sellers, to provide information on the subject of the contract by appropriate means and news or advertising data. While the content of the media is summed up by the implicit duty

created by the judiciary, According to which the most specialized and best knowing party is obliged to inform the other party with data related to the subject of the contract<sup>8</sup>.

It is worth noting that the Algerian legislator had approved the mandatory notification of the consumer in the second chapter of Chapter Two of Law 03/09 related to consumer protection and the suppression of fraud by saying: "Every intervention must inform the consumer of all information related to the product that he puts for consumption by all the marking." Marking or by any other suitable means "<sup>9</sup>. This legal duty is also stipulated in the law relating to the rules applicable to business practices<sup>10</sup>.

### **Second: Conditions for commitment to the media**

The commitment to inform the consumer about the source and nature of the products is considered one of the things that has imposed itself strongly in the field of relations between the consumer and the intruder. Minimum information regarding the acquired product. The loophole that the Algerian legislator is aware of, by imposing it to compel the availability of various goods and services on the element of commercial marking. What is known as: "These data, signs, signs, features, pictures, statues, or symbols associated with the commodity appear on every cover, document, sign, tag, poster, card, stamp, or tag attached or indicating the nature of the product, whatever its shape or Its backing, regardless of how it was laid "<sup>11</sup>.

The branding of various goods and services must include a set of data and information, whether related to its components, the way it is used or storage conditions, which is

required by Article 17/02 of the aforementioned Law 09/03, as it is in the same context, In implementation of the above article, the legislator issued a set of regulatory texts related to the marking of various goods and services<sup>12</sup>. In order for the media commitment to achieve the desired goal, the following conditions must be met<sup>13</sup>.

\* **To be written in the Arabic language:** It is required that the marking of goods and services be written in the national language, i.e. Arabic, in order for the consumer to know the essential and detailed information of the product that he wants to acquire, and this may be added to another language or languages on it that are easy to read and understand, in order to avoid what the consumer may not understand in Arabic<sup>14</sup>.

\* **To be visible and close to the product:** Information about the offered products should be placed in a way that is easy to read, as it is required that they be attached directly to the product, and this should include data that contain warnings of use separate from the rest of the information, and be written in a different color and a larger size<sup>15</sup>.

\* **The information should be complete:** The information related to the product must be sufficient, enabling the consumer to know the nature of the product, its source, components, method of use, date of manufacture and the end of its validity.... so that it can take a clear picture of it.

**1.1.2. The second branch: The right to conform the product to the legal specifications**



One of the most important obligations that the responsibility of the intruder is through the various stages of the consumption process. If the civil law obliges the shop owner to be identical according to what was agreed upon with the other part, In the light of the provisions of the Consumer Protection and Fraud Prevention Law, we have become talking about conforming the product to legal and standard specifications in order to provide high quality to it, and to make it compete with its foreign counterpart<sup>16</sup>. The operator must ensure that the products offered for sale comply with legal specifications, do not carry any risks to consumers, provide them with health and safety conditions, and fulfill all of their legitimate desires. This will not happen unless the products conform to agreed specifications and standards, or are determined by the legislator<sup>17</sup>.

### **First: Respecting legal specifications**

The project in Law No 09/03 on consumer protection and the suppression of fraud stipulates that: “Every product offered for consumption must meet the legitimate desires of the consumer in terms of nature, class, origin, basic features, composition, required ingredient, identity, quantities, and usability And the risks arising from its use.

The product must also respond to the legitimate wishes of the consumer in terms of its source, desired results, organizational features in terms of packaging, date of manufacture, maximum date of consumption, how it is used, conditions for keeping it made, maximum date of consumption, how it is used, conditions of preservation and related precautions, and oversight Conducted on it

"<sup>18</sup>. Accordingly, the legislator has enacted the law on standardization, as well as the law on the national legal system of policy, which represents the legal framework for standardization activity in Algeria<sup>19</sup>. The legal specifications, then, are the sum of the characteristics and features that the respondent must observe in the product, whether it is a good or service through the various stages that the product goes through, Where it is inconceivable to present a certificate of conformity for a product that does not meet the conditions of its production or was produced in a manner that violates the legally defined standards. What results in the approval of administrative, civil, and even penal sanctions, according to the damages that may befall the consumer? The obligation to conform can also be considered the true application of the extent to which the peremptory norms related to the observance of legal specifications are respected<sup>20</sup>.

Thus, the legislator has drawn the general framework for standardization activity in Algeria, and standardization according to the definition mentioned above means that it is the law that determines the technical and standard characteristics that must be present in the product, By means of a certificate of conformity with technical specifications aimed at ensuring quality and quality in accordance with what is internationally applied<sup>21</sup>.

### **Second: Respecting technical or standard specifications**

Neither standardization nor legal specifications were defined in consumer protection legislation and the suppression of fraud, as this issue was left to other laws

similar to Law No. 04/04 related to Standardization<sup>22</sup>. Where the **second article (02)** defined standardization as: "The special activity related to developing provisions for uniform and repeated use in the face of real or potential problems whose purpose is to achieve the optimum degree of organization within a specific framework ...". The standard was also defined as: "a non-mandatory document approved by a recognized standardization body It is provided for frequent general use, rules and signs, or characteristics including conditions in the packaging field and distinctive features or plasters of a specific product, process or production method. Accordingly, the state guarantees, through its specialized agencies, the conformity of the products destined for consumption by what is known as standardization, which is the sum of the technical works that are included in the various forms of commodities, whether they are consumer or services, in a way that distinguishes them from others. The competence of each producing organization is to prepare it with knowledge<sup>23</sup> .

**-National standards (Algerian):** These are the specifications that the state prepares by the National standardization Institute as well as by organization, which specifies the product specifications in terms of units of measurement, product shape, composition, dimensions, natural and chemical properties, type of term, symbolic representation, methods of testing, calibration, and measurement, in addition to them related to conditions of use and health and security standards. This can be relied on international specifications to prepare national standards. The national specifications are

embodied in the decisions pertaining to each product alone, similar to the Ministerial Decision of 07/26/2000 containing the prescriptions of pre-packaged drinking water and the modalities for that<sup>24</sup>.

In addition, the Algerian Institute of Standardization undertakes the task of regularly examining the specifications once every five years, in order to maintain, revise or cancel them, and whoever is concerned has the right to initiate the examination at the Algerian Institute of Standardization. Consequently, the applicant becomes legally obliged to respect all legal requirements under the penalty of criminal accountability in the event of a violation<sup>25</sup>.

**- Institution standards or specifications:** Each specialized institution, on its own initiative, prepares specifications for its products in view of its own characteristics, as it specializes in all subjects that are not subject to Algerian specifications. It is also required that these specifications (institution specifications) do not contradict what is in place locally, as they include manufacturing methods and equipment made or used within the institution itself, It is mainly related to the various methods of making the product through its various stages and the means and equipment used in that. A copy of the institution's specifications is required to be placed on the standard body in charge of standardization<sup>26</sup>.

**1.2.The second requirement:the consumer's rights after the conclusion of the contract and its implementation**

Once the consumer's affiliation coincides with the acceptance of the entrant, we are in a very important stage in the implementation of the contract, and if it is the duty of the consumer to pay for the product acquired at the time and place specified in the contract, the entrant must fulfill a set of legal obligations such as the obligation to guarantee, and the commitment to safety .

### **1.2.1.The first branch: the right to guarantee**

The right to security According to the general rules, especially the text of Article 355 of the Civil Code, the consumer has the right to try the product he wants to buy, and the special rules affirm the consumer's right to conduct a product inspection and test it once it is received to ensure its safety. This is stipulated in Article 04 of Executive Decree No. 90/266 related to guaranteeing products and services by saying: "The consumer can demand to test products and services ....."<sup>27</sup> . Since the trial order is left to the desire and will of the consumer, this procedure is one of Obligatory obligations of the respondent<sup>28</sup> .

### **First: the important right to guarantee**

in implementation of the idea of the general economic system of protection, which aims to take care of the interests of socially, and economically weak social groups, the operator has an obligation to guarantee the product. The Roman law is the first to devote the rule of guaranteeing the hidden defect, according to which the seller bears certain

obligations if the sale shows a defect that the buyer was ignorant of<sup>29</sup>.

The obligation to guarantee is one of the most important duties that the Algerian legislator has assigned to the interventionist, as the latter is obliged alongside ensuring non-exposure, entitlement and ensuring hidden defects in the product or service offered for consumption<sup>30</sup>. This is stipulated in Article 13 of the Consumer Protection and Fraud Prevention Law 09/03 by saying: "Any person who acquires any product, whether it is a device, instrument, machine, hardware, or any other material, benefits from the guarantee by the force of law, and this guarantee also extends to services." And Article 03 of the aforementioned Executive Decree No. 90/266: "Every professional must ensure the safety of the product he provides from any defect that makes it unusable ....". Therefore, if a product defect appears during the warranty period, whether in whole or in part, it responds to the efficiency or quality, or the capacity or level of service required, or involves a risk, the respondent must guarantee it<sup>31</sup>. Either by repairing the commodity if possible, or replacing the product if it is not completely or partially usable even if it was repaired, or refunding it if it is impossible to repair the defect or replace the product<sup>32</sup>.

### **Second: After sales service guarantee**

Article 16 of Law 09/03 stipulated this commitment by stating: "Within the framework of the after-sales service, and after the expiration of the period of the specified warranty by regulation, or in all cases where the guarantee can play its

role, the concerned person must guarantee the maintenance and repair of the offered product.” In the market”. After-sales service in its broad concept includes all kinds of services granted after the conclusion of the contract of sale, which relates to the sale, whatever the method of payment, such as home delivery, repair and care, and in its narrow concept, These are services that require an additional price not covered by the sale price, in the sense that they are limited to maintenance and repair services only. We find this type of service is limited to only home appliances, And automated media, and cars, where it is intended to keep these things in good condition, for the longest possible period, and that it is not resorted to unless it is not possible to implement the guarantee<sup>33</sup>.

### 1.2.2.The second branch: The right to safety

The industrial development, whether related to food, natural or industrial products, or even in the field of services, has produced advanced ways in production, employment, transportation and distribution. It may carry with it severe damages, or side effects, that affect the health, safety and security of the consumer, who he has acquired in ignorance of its specifications, nature and source<sup>34</sup>.

#### First: the content of the right to safety

The French jurisprudence is the first to acknowledge and acknowledge the existence of a commitment to safety in some contracts, by considering it an attached and implicit obligation of one of the contracting parties, This is in the context of his study and jurisdiction in disputes of transportation contracts at the beginning of the twentieth

century. The scope of application of this obligation has also been extended to other contracts until it was applied in sales contracts at the end of the twentieth century. Under the obligation, the debtor is not obligated to what is permitted only in the contract, Rather, his duties extend to include all his requirements in accordance with the provisions of law, custom and justice<sup>35</sup>.

The content of the obligation to ensure safety is determined by two elements. The first is the consumer's right to physical integrity. This means that all the functions of his body members remain in their natural state, which is decided by all the laws of contemporary countries, while the consumer's right to the safety of his money from each count represents the second component<sup>36</sup>. There is a vast difference between the goal pursued by the obligation to ensure hidden faults, and what the commitment to safety implies. The first aims to ensure that the consumer has access to a product that is suitable for the use for which he was made, While the second guarantee aims at the consumer obtaining a product that includes a level of safety, provided that it is not a source of harm to it or those surrounding it<sup>37</sup>. It is worth noting that the Algerian legislator mentioned this obligation under Article 04 of Law 09/03, which states: "... everyone involved in placing foodstuffs for consumption must respect the mandatory safety of these materials, and ensure that they do not harm the health of the consumer", as stipulated in Articles 5-6-7-8 of the same legislation.

### **Second: The scope of the right to safety**



The scope of this obligation is determined in terms of the persons covered by the safety guarantee and in terms of the products involved.

- **In terms of people:** The obligation to ensure safety does not extend to the consumer category only, but extends to every person who is exposed to any kind of damages, whether material or moral, due to the consumption or use of products or services offered in the market, including the professional outside his area of specialization. This is what almost all comparative legislations have taken, and the judiciary has followed through on them. Whereas, the Algerian legislature restricted the range of persons benefiting from safety assurance to the consumer category only<sup>38</sup>.

- **In terms of subject:** Article 09 of Law No. 09/03 stipulated that the products intended for consumption should be safe in terms of the legitimate and expected use of them, and not to harm the health, safety and interests of the consumer. Article 11/03 defines the product as: Every good or service may be the subject of a waiver in return or for free. "Accordingly, the issue of guaranteeing safety focuses on products, which are divided into:

\* **Goods:** Article 18/03 defines the commodity as: "Every material thing can be waived for free or for free." As defined in Article 02 of Decree 39/90 related to Quality Control and in the name of the goods as: "Every<sup>39</sup> Fraud Suppression movable can be weighed, weighed, or estimated by the unit, and may be the subject of commercial transactions." Goods may be agricultural, industrial, or animal products or materials. Food and others.

**\*Services:** Article 03/16 of Law 03/09 defines the service as: "Every work performed, other than delivering the good, even if this delivery is dependent or supported by the service provided. «As defined in Article 02 of Executive Decree 90/39 related to quality control and repression: "Every effort is made except for the delivery of a product even if this delivery is attached to the effort presented or in support of it." Thus, service is every performance, or effort that can be evaluated with money, Whether material or moral, except for the delivery of the product, which is one of the obligations of the seller<sup>40</sup> .

## **2.The second topic: Administrative control as a mechanism for consumer protection Control**

it is one of the preventive mechanisms devoted to protecting the economic interests of the consumer, as it is not possible to imagine a competitive market without the availability of a regulatory system to control it. . Because the existence of practices that harm the economic interests of consumers remain very strong, which necessitates us to address the issue of censorship<sup>41</sup> .

In an effort to defend the health of the consumer and protect his economic rights, The legislator installed several administrative bodies and institutions, and summed them up with an enormous amount of powers and powers in this field. The role of these bodies also varies according to the purpose for which they were established, as it is entrusted with the task of monitoring and regulating the economic life that gathers whether the consumer is a professional, or a professional among them, and whether these devices carry

out their duties, whether at a national or a local level<sup>42</sup>. These administrative bodies aspire to an effective role in the field of consumer protection, whether related to the preventive aspect in order to avoid any danger to the safety and security of the consumer or his material interests, or deterrent, which is implemented in the event of violations by the intruders. As this regulatory body represents the practical and practical aspect of protection that the legislator seeks through its enactment of Law No. 09/03 related to consumer protection and the suppression of fraud<sup>43</sup>.

### **2.1.The first requirement: The role of the interests of the Ministry of Commerce in protecting the consumer.**

The oversight bodies of the Ministry of Commerce differ from central, regional, and local or state agencies.

#### **2.1.1The first branch: Central agencies: It includes:**

##### **First: central agencies with general jurisdiction**

- **Minister of Trade** :Executive Decree No94/207 of 16/07/1994 regulates the powers of the Minister of Commerce with respect to quality and consumer protection, After these tasks were entrusted to the former Minister of Economy pursuant to Executive Decree No. 90/189 of 23/06/1990, which includes the powers of the Minister of Economy, Executive Decree No. 02/453 of 21/12/2002 to cancel the first executive decree (94/207). The powers of the Minister of Commerce<sup>44</sup> are defined in:

concerned bodies, the conditions for placing goods and services on consumption in the areas of quality, hygiene and security.

- To suggest all appropriate procedures within the framework of establishing the system of trademarks, protecting trademarks and original designations, and following up their implementation.

- Starts with the concerned economic dealers to develop self-censorship.

-It encourages the development of quality analysis laboratories and experiments and proposes formal procedures and approaches for quality analysis.

-Contributes to the establishment and development of the consumption law.

-Prepares and implements a media and communication strategy that relates to the prevention of food and non-food risks towards professional and consumer associations that its creation is encouraged<sup>45</sup>.

The Executive Decree No 08/266 of 19/08/2008, regulating the central administration of the Ministry of Commerce, entrusted the General Directorate for Control and Regulation of Activities and Legalization, as well as the General Directorate for Economic Control and Fraud Prevention, with the task of protecting the consumer and caring for his material interests.

### **- The General Directorate for Control and Regulation of Activities and Rationing**

The General Directorate for Control and Regulation of Activities and Rationing is tasked with preparing the legal

mechanisms for trade policy, adapting and coordinating them, and determining an apparatus for observing, monitoring and establishing markets. As well as proposing all the measures related to the exact economic, especially in the area of pricing, price regulation and profit margins, It also contributes to defining national policies, as well as general and specific regulations related to the improvement of the quality of goods and services and the protection of consumers. It includes five (05) sub-directorates as follows: Directorate of Competition and Services, Directorate of Quality and Consumption, Directorate of Market Regulation, Commercial Activities and Legal Professions, Directorate of Studies, Exploration and Economic Media, Directorate of Legalization and Legal Affairs <sup>46</sup>.

### **- The General Directorate for Economic Control and Fraud Prevention**

The tasks assigned to the General Directorate of Economic Control and the suppression of fraud vary, according to what is stipulated in Article Four (04) of Executive Decree 08/266 ,It monitors quality, repression and combating anti-competitive practices, as well as combating illicit business practices. It also waatch over to direct economic control programs and suppress fraud, while working to strengthen and modernize the monitoring function, In addition to carrying out investigations of national benefit regarding the imbalances affecting the market, the General Directorate of Economic Control and Fraud Prevention is adopting. . In order to be able to carry out the various tasks entrusted to it,

four (04) directorates were distributed at their level: the Directorate of commercial and Anti-Competition Control. Quality Control and Fraud prevention Directorate. Directorate of laboratory laboratories and quality analyzes. Directorate of Cooperation and Private Investigations. It is worth noting that he meets this directorate in France, the general directorate for competition, consumption and fraud prevention, Which works to regulate economic activity in the market and monitor the extent to which economic agents respect the legal and regulatory obligations imposed on them<sup>47</sup>.

### **Second: Specialized central agencies**

These devices have specific powers and no other, created with the purpose of providing effective protection that guarantees the safety and health of the consumer and is represented in:

#### **- The National Council for Consumer Protection**

Article 24 of Law 03/09 stipulated the establishment of this agency, and its role in protecting the consumer as a consultative body, by expressing his opinion on issues related to consumption, appears. And his proposal measures that contribute to the development and promotion of consumer protection policies. As for the powers of this body, the stipulation is stated in Article 22 of Executive Decree No. 12/355 of 02/10/2012<sup>48</sup> and it is represented in:

-Contributing to the prevention of the dangers that can be posed by the products offered in the market, in order to protect consumers 'health, material and moral interests.

- Contributing bills and regulations that could have an impact on consumption.
- Preparing annual programs to control quality and suppress fraud.
- Developing a strategy to upgrade product quality and protect consumers.
- Establish preventive measures to control the market.
- Establish mechanisms to protect the purchasing power of consumers.

### - **The Algerian Center for Quality and Packet Control**

This center was established by Executive Decree No. 89/147 of 08/08/1989 as amended and supplemented by Executive Decree No. 03/318 of 30/09/2003, which includes the establishment, organization and operation of the center. Whereas, Article Three (03) of it stipulated its competencies in the field of consumer protection, namely:

- Contribute to protecting the health and security of consumers and their material and moral interests.
- Upgrading the quality of the national production of goods and services.
- Training, information, communication and consumer awareness <sup>49</sup>.

### **2.1.2The second branch: the external interests of the Ministry of Commerce**

The external interests of the Ministry of Commerce have been recognized, as well as their validity and work, according to Executive Decree No. 11/09. Article 02 of it stipulates: “..... The external interests of the Ministry of Commerce are

organized in the form of state directorates of trade and regional directorates for them”<sup>50</sup>.

### **First: the regional directorates of trade**

It was mentioned in Article 10 of the Executive Decree 9/11 above, as it liaises and coordinates with the central structures of the Ministry of Commerce in the field of consumer protection and the suppression of fraud, It is entrusted with the tasks of framing and evaluating the activities of the state directorates of trade of its regional jurisdiction, organizing and carrying out all economic investigations related to competition, foreign trade, quality,

consumer protection and product safety. It also supervises:

- Preparing the oversight program in coordination with the central administration and state directorates and ensuring their implementation.

-Programming, organizing and coordinating inter-state oversight and inspection.

-Conduct, when necessary, specialized investigations in the field of quality, consumer protection and product safety.

The number of these districts is nine (09) distributed throughout the entire territory of the state, each of which includes a significant number of state districts<sup>51</sup>.

### **Second: State directorates of trade**

It compensated what was previously known as the state directorates of competition and prices, whose primary mission is to implement the national policy established in the areas of competition control, quality, and the suppression of fraud, As it monitors the extent of implementation of legislation and regulations governing these issues, it also



works to put into effect economic oversight programs and proposes all measures aimed at developing and supporting this function.

As for its role in protecting the consumer, we find it mainly:

- Contributing to the development of an information system on the state of the market.
- To propose all measures of a legislative and organizational nature related to the practice and regulation of regulated professions.
- To propose all measures aimed at improving the conditions for establishing, establishing and practicing commercial and professional activities <sup>52</sup>.

Each of these directorates contains inspection and control teams that are headed by team leaders, organized into five departments: Market observation and economic media, monitoring trade and anti-competitive practices, consumer protection and fraud prevention, administration and means, disputes and legal affairs <sup>53</sup>. Qualified employees in the field of economic control and the suppression of fraud at their level also carry out their supervisory duties, in order to raise the various violations and misdemeanors committed by the intruders, edit the minutes in this regard, and refer them to the Republic's competent representative regionally for judicial follow-up.

## **2.2.The second requirement: the role of local groups in consumer protection**

In order to protect the consumer from the various forms of damage that threaten him as a result of his products and services that are not in line with the applicable legal

specifications, The Algerian legislator did not limit the job of monitoring to specialized administrative bodies such as the Directorate of Trade and no one else, as he recognized this task for other administrative bodies similar to the local groups represented in the state and the municipality, because of their wide powers and powers in the field of administrative control <sup>54</sup>.

### 2.2.1.The first branch: The Governor' role

Article 114 of the state law states: "The governor is responsible for maintaining order, security, safety, and public tranquility" <sup>55</sup>.

On this basis, the governor has a significant role in the area of consumer protection at the level of the state region in which he exercises his regional competence ,As he is considered the first official to implement the national policy in the field of quality promotion, consumer protection and this suppression of fraud. Also, due to his enjoyment of this authority (administrative control), the law gave him the authority to take a set of preventive measures that would guarantee the health and safety of the consumer, such as withdrawing products that do not respond to the legitimate desires of consumption, Whether it is temporary or final, closing shops that register violations that require taking this action, or withdrawing the license based on an opinion or a proposal from the state interests of the relevant trade on the other hand.

Consequently, when the health and safety of the citizen is the subject of protection, the governor, whether as a

representative of the government or the state, must take the necessary measures and measures that will ensure some degree of protection necessary to prevent harm to consumers, Being directly responsible for taking the necessary precautions to maintain public health and hygiene. Moreover, the burden of implementing the national program for consumer protection falls on it, through its compliance with the instructions and directives of the Minister of Commerce issued to him in this regard. Also, according to the text of Article 113 of the State Law, it is obligated to ensure the implementation of all laws of the Republic, including the Law on Consumer Protection and the Suppression of Fraud and its various applied regulatory texts<sup>56</sup>.

### **2.2.2.The second branch: The role of the head of the Municipal People's Assembly**

In view of the municipality's chief authority in the area of municipal control, which he exercises under the authority of the governor of course, he has broad powers to protect citizens from the various risks and damages that may be caused or caused to them by the acquisition and consumption of various goods and services at the municipality level, And that these specialties were decided upon as the representative of the state, not the municipality. This is because the protection of the consumer from various forms of hazards is originally one of the functions of the state that he watches for itself. , Without giving it up entirely in favor of decentralized bodies. And since the head of the Municipal People's Assembly represents the municipal executive body, He ensures that the various laws are implemented across the

municipality's territory and materialized in the field, including those related to consumer protection and the suppression of fraud. It is also supposed to ensure the hygiene of consumables offered for sale. Because of that, health-keeping offices have been established at the level of each municipality, which has the following functions:

- Bacterial quality of water intended for consumption.
- The quality of consumables, consumption products and products stored and / or distributed at the municipality level.
- The quality of marine bathing water<sup>57</sup> .

It should be noted that ensuring health and maintaining public hygiene is one of the main tasks of the municipality, especially in the field of food hygiene and pollution control, and to this end the Municipal People's Assembly deliberates to draw up the local policy that guarantees this job<sup>58</sup> .

### **Conclusion :**

In view of the economic transformations that the international community has known in general, and the Algerian state in particular, and the large flow of domestic and foreign goods, and given the keenness of the economic dealers to reach the largest level of profit and commercial transactions, What negatively affected the consumer's health and material interests. Whereas, the traditional rules of protection stipulated in the provisions of the Civil Code based on guaranteeing hidden faults became alone unable to achieve legal protection for the consumer, And after the gap widened between the economically strong interventionist and the consumer as a weak party in his relationship with the former. The legislator is convinced of the need to intervene to

rebalance this relationship, trying to make what can be compensated. It only issued Law 02/89 related to the general rules for consumer protection, which was subsequently repealed under Law 03/09. The latter approved a set of rights for the benefit of the consumer, which are considered to be one of the obligations of the intruder, and all of them revolve in one orbit, which is the intervention of the intruder to ensure the safety of the consumer. Where this study based on the analysis of the texts of the articles of Law 03/09 reached results that can be summarized in:

- The economic openness that Algeria witnessed led to the liberalization of the local market and its conquest of foreign products and goods, and that many of them do not respond to the legitimate desires of consumption.

- The widening gap between the strong interventionist and the economically weak consumer, the legislator was forced to intervene to protect the latter through the issuance of the

Consumer Protection Law and the suppression of fraud

- The Consumer Protection and Fraud Prevention Law included a set of obligations that the responsibility of the entrant has, at the same time considered rights for the benefit of the consumer, such as the obligation to inform, the obligation to guarantee, and the conformity of the product, or what was expressed in the phrase the obligation of the intervention to ensure the safety of the consumer.

- Under this law, the legislator established a qualified monitoring body in the field of economic control and the suppression of fraud, whether at the local or even central

level, represented by the Ministry of Trade and its external interests.

- Given the administrative control that the local groups (state and municipality) possess, they are also legally eligible to take the necessary measures to maintain public order and public health in general, and the consumer in particular.

- According to the legislator, it is somehow in the protection of the consumer from the various damages that may be caused by the goods and services he possesses, but this is not sufficient in front of the lack of material and human capabilities placed at the disposal of the administrative bodies charged with oversight.

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- 9- As stipulated in Article 17 of this law.
- 10- The text of this commitment is mentioned in Chapter One of Chapter Two of Law No. 04/02 of 23/06/2004 specifying the rules applicable to amended and complemented business practices, Official Gazette No. 41 of 27/06/2004.
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