

Restrictions on the principle of prices freedom in Algerian legislation

القيود الواردة على مبدأ حرية الأسعار في التشريع الجزائري

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abstract:

As a result of global economic changes in general, in particular the mid-1980s, Algeria began to retreat from the monopoly economic policy, of adopting freedom of trade and industry under the Constitution of 1996, However, freedom of trade and industry is guaranteed and exercised within the framework of the law, The legislator has created a legal framework for the establishment of a set of principles that enshrine economic freedom, the most important of which is the principle of prices freedom, worthy to note that the adoption by the legislator of freedom of competition and prices by Ordinance No.95-06 of 25 June 1995 of competition before this is explicitly enshrined in the 1996 Constitution, But if the principle of price freedom is an original principle in the market, it cannot be fully taken, The State can interfere through regulation to control and limit it in order to maintain market activity, normal competition and consumer protection.

Keywords: monopoly, prices , fixing , competition , economic agents.

ملخص :

نتيجة للتغيرات الاقتصادية العالمية عامة والوطنية خاصة منتصف الثمانينات بدأت الجزائر تتراجع عن السياسة الاقتصادية الاحتكارية، متبنية حرية التجارة والصناعة بموجب دستور 1996 على أن حرية التجارة والصناعة مضمونة وتمارس في إطار القانون، فعمل المشرع على التأطير القانوني لإرساء مجموعة من المبادئ التي تكرس الحرية الاقتصادية وأهمها حرية المنافسة من مظاهرها مبدأ حرية الأسعار، والجدير بالذكر كان تبني المشرع لحرية المنافسة والأسعار بموجب الأمر رقم 95-06 في 25/01/1995 يتعلق

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بالمنافسة قبل أن يكرس ذلك صراحة في دستور 1996، غير أنه إذا كان مبدأ حرية الأسعار يشكل مبدأ أصليا في السوق فإن هذه الحرية لا يمكن اتخاذها على إطلاقها، فبإمكان الدولة التدخل عن طريق التنظيم لضبطها والحد منها حفاظا على نشاط السوق والسير العادي للمنافسة وحماية المستهلك.

الكلمات المفتاحية: الأسعار، تحديد، منافسة، متعاملين اقتصاديين

Introduction :

Soon after independence, Algeria adopted a socialist approach, which has reflected in the nature of its economy, based on the strategy of central planning and the dominance of the public sector over the national economy through monopoly policy.

As a result of the global and national changes of the mid-1980s, Algeria began to retreat from this oriented economic policy and adopted the principle of freedom of trade and industry in accordance with the 1996 Constitution, However, due to the modernity of the Algerian economy for such liberal economic concepts, the legislator was obliged to provide a legal framework for such a transition by establishing a set of principles, the most important of which was the freedom of competition, Moreover, the legislator adopted the freedom of competition and pricing by Ordinance No.95-06 of 25/01/1995 related to competition ¹, before devoting it explicitly in the 1996 Constitution, through article 37, which states that the freedom of trade and industry is guaranteed and exercised under the law.

Liberalization of economic activity through removing restrictions on the exercise of commercial and industrial activity will inevitably benefit the national economy, It is through its economic growth will be achieved, and then the recovery of the consumers lifestyle of in terms of goods and services, purchasing power and choosing the best prices and the finest goods, this is on one hand, on the other hand, we cannot ignore the fact that the absolute and unregulated economic freedom has consequences that may lead to the elimination of free competition, The real liberalism does not exclude the prior intervention of the State, which requires the creation of appropriate mechanics and mechanisms that will conduct the tight management, control and regulation of the market.

The legislator's embodiment of the pricing freedom was due to his awareness of the importance and impact of price competition, where price is used as a means of changing market data, Price is a variable element across all stages of economic transactions, it changes as the value and position of the thing sold changes, so price is an important element of

competition. However, if the principle of pricing freedom is original, this freedom cannot be taken absolutely, This is confirmed by the Constitutional Amendment in 2016 ² under Article 43/3 that this freedom is exercised within the framework of the law, in which State can intervene by regulating certain conditions and requirements for the legal regulation of this freedom in order to maintain market activity and the regular conduct of free competition, and this is included in the article 5 of the amended and supplemented Ordinance No.03-03 related to competition, which states that margins and prices of goods and services can be determined, roofed and ratified through regulation, and the State can also take temporary measures to determine the profit margins and prices of goods and services or roof them in case of the excessive and unjustified rise of goods, in order to eliminate all forms of speculation and maintain the purchasing power of consumers.

On this basis, it is worth wondering: What is meant by the freedom of pricing ? What are the restrictions on it in accordance with Algerian legislation?

In order to deal with this research question, we relied on the descriptive,

analytical approach through addressing the content of the principle of pricing freedom in the first section and the exceptions to this principle in the second section.

First section: Content of the principle of Pricing Freedom

Algeria has moved from an oriented economy to a free economy, abandoning the State's monopoly on economic activities, opening up the participation of the private sector, and establishing the freedom of trade and industry, Thus this principle has been a source for understanding the principles of the free economy, such as the freedom of competition and freedom of pricing, as they reflect the competitive activity, and this will be explained as follows:

1- The practice area of price freedom

The French revolution of 1789 achieved important principles, represented mainly in human rights and personal freedom, which economically, they have taken a form that embodies the freedom of trade and industry, due to the help of the social climate and philosophical thought supported by the supremacy of ideas, encouraging and promoting freedom of competition and the establishment of the classical school led by Adam Smith, which was considered the first nucleus of the capitalist system ³With the promulgation of the Declaration of Rights on 26 March 1789, annexed to the amended and supplemented French Constitution of 1958, it gave a

broad concept of freedom as the ability to do everything that does not harm others.

However, the legal existence of the principle of freedom of trade and industry is due to the Decree of Allarde on 2-17 March 1791, which states that everyone is free to practice any trade; profession; or craft ⁴The French Council of State through its famous decision "Daudignac on 22/06/192" confirmed that the administration cannot violate the principle of freedom of trade and industry guaranteed by law⁵.

The Algerian economic system defined the principle of freedom of trade and industry during the French colonial period, However, after independence, the economic pattern in Algeria was characterized by the restriction on private enterprises from engaging in economic activities, and the freedom of trade and industry was considered a conditional freedom ⁶. Thus, all the legal texts from the mid-1960s to the late 1980s came down to the socialist economic style through taking actions and policies such as nationalization and planning, which are not compatible with the principle of freedom of trade and industry, This has led to the monopoly of strategic economic activities by public institutions, the lack of investment incentives, and the lack of private sector participation in economic life.

With the promulgation of the 1989 Constitution, features of the private sector involvement in economic life began to appear, without any devotion to the principle of freedom of trade and industry, except for the distinction between public and private property belonging to the State, which may be subject to private property, and it was supported by the National Property law, the Monetary and Loan law, and the Legislative Decree related to Investments⁷, With the issuance of the 1996 Constitution, article 37 explicitly devoted the principle of freedom of trade and industry, which states, "the freedom of trade and industry is guaranteed and exercised within the framework of the law." This phase was coincided with the issuance of Ordinance No.03-03 related to competition, which was bolder in expressing economic freedom, including the principle of freedom of competition and freedom of pricing, and has led to the openness and the recovery of the private sector that has been monopolized by the State, such as the openness of telecommunications, electricity, mines, fuels, and the liberalization of the foreign trade sector.

The text of article 37 of the 1996 Constitution was brief and implicit, as compared to the text of article 43 of the law No.16-1 that contains the constitutional amendment, which came explicitly to devote the foundation of freedom of trade and industry, in which the freedom of investment and trade is recognized and exercised within the framework of the law, and the State works to improve the business climate, encourage

enterprises, ensure market regulation, protect the rights of consumers, and prevent monopoly and unfair competition.

Thus, the principle of free trade and industry has become a source of absorption of several principles imposed by the free economic pattern, such as the freedom of competition and freedom of pricing, as they are principles that express competitive activity in the market, this requires the clarification of what is meant by both : the price and the principle of pricing freedom.

1-1- Concept of the Principle of Pricing Freedom

The principle of pricing freedom is a principle that is branched from the principle of free trade and industry. A free economy cannot be conceived under a regulated price system, the meaning of pricing freedom is that the State should move away from regulating and fixing prices administratively and leave prices free and subject to supply and demand mechanisms.

Before the economic openness, prices in Algeria were subject to the administrative determination system for products and services provided by the public institutions in accordance with Ordinance No. 75-37 related to prices and the suppression of violations of price regulation⁸, However, the explicit adoption of the principle of pricing freedom was due to the issuance of law No. 89-12⁹, in accordance with article 11, the prices are kept regulated, in addition to establishing a price declaration system as confirmed in article 18. In 1995, the legislator adopted directly and explicitly the principle of freedom of prices in accordance with article 4/2 of Ordinance No. 95-06 related to competition, which states that competition rules are the sole criterion for determining the prices of goods and services offered by enterprises. However, the text of Article 5 of the same ordinance allows the State to restrict the general principles of pricing freedom under specific conditions, as confirmed in article 4 of Ordinance No. 03- 03 related to competition.

The legislator has approved the freedom of pricing for products and services as a general rule in Article 4 of the amended Ordinance No. 03-03 amending the competition law, which stipulates that the prices of goods and services are freely determined in accordance with the rules of free and fair competition, and then the prices of goods and services in the free economy are subject to the rules of competition.

1-2- Concept of Price

The price is related to the lives of individuals in a society in return for the goods and services and all the benefits they receive in their daily lives. The price has a general meaning, it is the financial value for every return the consumer receives to meet his needs.

However, it is not always possible to determine the general meaning of the price, The real meaning of the price does not mean simply the financial value that covers the service or goods received by the consumer or economic agent; it does not mean a calculation covers cost and profit. In order to determine the meaning of the price, several measures must be taken into account, From the producer's point of view, the price reflects the monetary value obtained in return for the product, through which the producer, middleman, or distributor seeks to earn the greatest possible profit as a difference between the purchase price of the product and its price at which it is sold ¹⁰, In other words, for the seller the price is the primary means determined by the seller, taking into account the value of the revenue and the benefits from the sale, it is for him a means by which he gets back what he spent and achieves some profit ¹¹.

Price can be defined as the specific value of an individual's benefits from goods and services ¹², The concept of price from the consumer's point of view is the value paid by the consumer in order to satisfy his needs. The price must be equal to the total amount of benefits the consumer seeks to obtain and use the product ¹³, It is also defined as the amount of material and moral sacrifice that an individual bears in order to get a good or service ¹⁴, particular good, service, or benefit that the consumer expects¹⁵.

According to these definitions, the price is a monetary value of the benefits and an amount of material and moral sacrifice paid by the consumer in order to get goods and services, focusing on one side, which is the consumer, without regard to the other, the market and the surrounding circumstances, And this is what some definitions suggested that price can be adjusted upwards and downwards according to all variables and in line with buyers' purchasing potential and tastes ¹⁶, Price is the financial value of a good or service over a specified period of time, changing according to economic, social, and political conditions.

The meaning of the price is not different from that of the pay, both reflect the alternative value of the needs of individuals, consumers, and economic agents. However, the pay is one of the alternatives in compensation contracts. For example, in a sale contract, the pay may be less or more than the value of the sale, it is subject to the will of the contractors, Unlike the price it is determined independently of the will of the seller and the buyer, it is an amount determined by the owner of the goods or by a competent authority such as the Ministry of Commerce ¹⁷.

2- Controls on the Principle of pricing freedom

Article 43 of the 2016 Constitutional Amendment stipulates that the freedom of investment and trade is exercised within the framework of law, and the meaning of the state's right to intervene is to direct and control activities in the public interest. In other words, the price of goods and services according to article 4 of the amended and supplemented Ordinance No.03-03 on 19/07/2002 related to competition, prices are determined freely in accordance with the rules of free and fair competition and transparency, through informing economic agents or consumers adequately and thoroughly, that giving reassurance and stability in the market, away from manipulation and confusion, In order to achieve transparency in business practices, it is necessary to inform about prices, tariffs, terms of sale, and delivery of the bill.

2-1 Transparency of Business Practices

Transparency of business practices is one of the most important principles applicable to market transactions, between economic agents themselves and between economic agents and consumers. This transparency is represented mainly in the commitments of economic agents; they are as follows:

A- Commitment to Informing of Price and Tariff

Article 4 of the amended and supplemented law No.04-02 on 2/06/2004 determines the rules applicable to commercial practices, stipulates "the seller is obliged to inform the customers about the prices, tariffs, services and terms of sale", This provision contains an imperative rule by using the term "obliged" which makes it a matter of public order, Thus, the commitment to informing under this provision is a legal obligation, not subject to the contractors' will, but derived from the law and exists before the conclusion of the contract, and the economic agent bound by it, The commitment to informing is a legal obligation of the economic agent under which the consumers or economic agents have the right to know about goods and services, their prices, and the terms of the contract; by using legal means to ensure proper consent to complete commercial practice in accordance with the requirements of law ¹⁸, This is included in Article L113-3 of the French Consumption Law, aiming to achieve honest competition and not to protect the consumer through his knowledge of the price.

Commitment to informing is not limited to only prices, but also tariffs on goods and services in accordance with article 4 of law No.04-02 states that " The seller is obliged to inform customers of the prices and tariffs of goods and services, and the terms of the sale ", this means to determine prices and publish them in a form showing the price of each

product and service for the consumer to purchase these goods or services at the real price¹⁹.

According to the above-mentioned law No.04-02, the economic agents are required to inform prices and tariffs both in their relationship with each other and with consumers.

Commitment to informing prices in the consumer-economic agent relationship is a fundamental consumer right and a means of promoting free and fair competition, in order to enable the consumer to have access to the basic characteristics of the products until he makes a conscious decision to purchase the product.

Informing of price protects consumers from discriminatory practices by the economic agents, in which the lack of information and publicity of prices leads the economic agent to offer different prices vary with different

categories of consumers²⁰.

In accordance with article 5 of Law No.04-02, the legislator has identified, for example, and not as a limitation, the ways to inform about prices and tariffs for the consumer using tags, labels, suspensions, or any other appropriate means, but they have to be visible and readable.

B- Informing of Sale Terms

Article 2 of law No.04-02 stipulates that " the seller is obliged to inform customers of the prices and tariffs of goods and services and the terms of the sale", This obligation goes to the professional buyer and the non-professional buyer in the consumer sense ²¹.

In accordance with article 9 of law No.04-02, when it comes to the commitment to informing in the face of the economic agents, the terms of the sale must include the ways of payment, Where appropriate, discounts, reductions, and recoveries, the way of payment is the last procedure negotiated by the parties in the conclusion of the sales contract, which grants, financial service to its customers, for example, the late payment grants the buyer the benefit of the item sold without paying the price, Concerning discounts, reductions, and recoveries, the price terms are closer to the terms of sale, The reduction means any price decrease granted by the seller given the importance of the quantity or the quality of the sought or purchased goods, or of the characteristics of the buyer's occupation or the service performed.

The deduction is any price decrease granted by the seller in order to compensate for a delay in the delivery and/or a defect in the quality of the goods, or the non-conformity of the service performance, The discount is any commercial decrease awarded by the seller to the buyers for his

loyalty, calculated based on the turnover, without counting the fees made by the seller within a certain period of time ²².

Under article 8 of Law No.04-02 the legislator obliges the seller before concluding the sale to inform the consumer in any way, depending on the nature of the product; of all fair and honest information concerning the characteristics of the product or service. Also, Article 8 added that the seller is obliged to inform the consumer of the terms of the sale, as well as the anticipated limits of the contractual liability for the sale or service.

C- Commitment to delivering the bill

The legislator has made dealing with the bills as an obligatory, Article 10 of Law No.04-02 ²³ stipulates that the sale of goods or the performance of services between economic agents must be accompanied by a bill or a document that takes its place, The seller or the service provider is obliged to deliver a bill or document that takes its place and the buyer is obliged to request either of them depending on the situation and to deliver them at the time of the sale or the performance of the service.

The bill is an arithmetic written commercial document in which the statement of goods sold or works performed; are recorded at the conclusion of the sales contract or the performance of the service, It is considered the means of proving the contract and the accounting document on which the tax authorities depend to determine the tax base²⁴, It is made between economic agents themselves or between them and consumers, subject to formal requirements containing specific data in accordance with article 2 of Executive Decree No.05-468.

Some certain commercial documents can replace the bill, such as a delivery receipt in frequent and regular commercial transactions after the authorization of the Department in Charge of Trade, The total bill is the bill that summarizes all operations made during a given month, and the transfer deed in which the movement of goods towards storage, packaging, or marketing units; are recorded without any commercial operation ²⁵.

2-2 Respect for competition rules

Economic agents may resort, through collusion, deception, and exploitation of economic power, to exclude a competitor from the market or prevent potential competitors from entering the market Ordinance No.03-03, amended and supplemented, prohibited these practices in order to avoid price speculation. The practices are as follows:

A- Prohibition of restrictive competition agreements

agreements can take several forms such as collusion, consensus and understanding, ratified in their entirety to obstruct or breach competition Article 6 of Ordinance No.03-03 amended and supplemented prohibits all practices, premeditated actions and agreements when they aim

or can be To aim at impeding, limiting or disturbing the freedom of competition in the same market or an essential part of it, such as limiting market entry, sharing markets or sources of supply, obstructing the setting of prices according to market rules by artificially encouraging high or low prices, applying unequal conditions for the same services To the commercial partners, etc...; and it is stipulated in the prohibited agreement restricting competition that it should be present, existing and obstructing competition.

B- Abuse in the position of dominance

The position of domination is a monopolistic situation and an economic power possessed by economic institutions, and according to which they enjoy a degree of independence in the face of their competitors working to establish actual competition in the market. This institution enjoys significant market shares that are not commensurate with the shares of other institutions.

Article 3/c of Ordinance No.03-03 amended and supplemented, stipulates that the dominant position is the position that enables the institution to enjoy a position of economic power in the relevant market and enables it to take individual actions in the face of its customers, competitors or suppliers.

In accordance with the text of Article 7 of Ordinance No.03-03 amended and supplemented, the legislator did not differentiate between the situation of domination and the situation of monopoly, making them one concept, considering the abuse in their use as a practice restricting competition, provided that it prohibits any abuse resulting from a situation of dominance or monopoly on the market or part of it with the intention of limiting From entering the market or engaging in commercial activities including its, sharing markets or sources of supply, obstructing price determination according to market rules by artificially encouraging price increases or decreases...etc.

C- Arbitrary status of economic dependence

The abuse in the economic dependency situation is the imposition by some institutions of arbitrary conditions towards other institutions present in the market and which do not have alternative solutions to reject these unfair conditions, In view of the adverse effects of these practices on competition, article 11 of Ordinance No.03-03, amended and supplemented, prohibits any institution from abusing the dependency status of another institution as a customer or a financier, This abuse is the refusal to sell or sell in combination, discriminatory or conditional upon the acquisition of a minimum quantity, or the obligation to resell at a lower price, etc., which results in the value of the goods on the market being

disproportionate to the value of the real cost of the product, hence the scarcity of the goods and the high demand against the low level of supply.

D- Sale at arbitrarily low prices

This practice is represented in the sale, that the economic agent offers to sell the good at less than the cost price, defying any competition up to the point of loss, With a view to achieving specific objectives aimed at bringing in as many customers as possible, preventing competitors from entering the market and increasing production, However, it should be noted in this context that sale at low prices is not always prohibited if it is intended to improve the position of the enterprise vis-à-vis its competitors, in accordance with Article 12 of Ordinance No.03-03, amended and supplemented.

A distinction must be made between selling at a low price and selling at a loss in accordance with the text of Article 19 of Law No.04-02, as selling at a low price requires that the commodity to be sold has been produced or financed until it is marketed, while selling at a loss lies in reselling the commodity in its condition without any change occurring.

- Second Section :Exceptions to the principle of freedom pricesses

Free competition is a fundamental principle of economic freedom and a legitimate act, even if it results in harm to others, as long as the competition is honest and takes into account the fundamentals of commercial dealing, however, it is not possible to talk about free competition without addressing the freedom to set prices on the part of economic dealers, since the origin is that prices contribute to determining the forces of supply and demand as a general asset, but consumer protection on the one hand and market regulation and stability, especially with regard to necessary goods and services, stood as an obstacle against the rule of freedom to determine prices.

Therefore, the intervention of the state to restrict this freedom was justified, which is to achieve social and economic goals to prevent any prejudice to the freedom of prices, For that, the state adopted several mechanisms and measures to determine prices.

1- State intervention in price fixing

One of the manifestations of market instability is the instability of the prices of goods and services and the interference with the purchasing power of the citizen, which necessarily requires State intervention to set prices under legal mechanisms and take temporary measures to limit price increases.

1-1- Purpose of State price-fixing intervention

The State strives to stabilize the market by providing goods and services by combating all forms of market isolation, high prices, scarcity of goods, and by protecting the weak party in light of freedom of contract.

A- combating arbitrary monopoly

A monopoly is reflected in control of a good or service in the market and influence in order to create bottlenecks in the abundance, quality and prices of goods in order to eliminate competition or force competitors to leave the market, ²⁶ the legislator considered In article 7 of Ordinance No.03-03 of 19/07/2003 related to competition that monopoly is a restrictive practice, so all abuse resulting from the situation of dominance or monopoly on the market is prohibited, and this inevitably leads to wasting freedom of trade and industry and consequently controlling markets and inequality between economic operators in Entering the market as a result of the monopolist's control over him with the prices he imposes, and this is in accordance with the text of Article 7/4 of the aforementioned ordinance, as if the monopolist obstructs setting prices, according to market rules by artificially encouraging higher or lower prices.

An institution may exclude another or more enterprises from a particular activity by charging very low prices, possibly below the cost price, and invading a particular production market for a period after which it can exclude competitors and charge high, non-competitive prices to compensate for losses incurred during the artificial pricing period, This results in the exclusion of the other competitors, the compensation of all losses and the realization of monopoly profits, This is why the State intervened by enacting laws that allow it to regulate competition in the market, combat illegal competition in order to protect the national economy, provide goods and services and set prices by restricting economic freedom.

B- Elimination of speculation

Speculation is a fraudulent practice that aims to cause abnormal fluctuations in the market and take advantage of the situations by collecting self-profits, among The manifestations of speculation is the scarcity of offered commodities and their high prices in the market, especially those that are widely consumed.

Speculation takes several forms, which may be in the form of illegal agreements or fraudulent practices, according to the text of article 25 of Law No.04-02 and is represented in the possession of illegally imported or manufactured products or the possession of stocks of products with the aim of an unjustified rise in prices, or possession of a stock outside the subject of legitimate trade or the original industry registered in the

commercial register, and speculation can also take place in the form of offering offers in the market with the aim of causing price disturbances and limiting competition or offering high prices for The ones that sellers ask for.

C- requirements of economic public order

The Economic public order is a new element of public order based on the State's intervention in the economic aspect in order to ensure a minimum balance between the parties to the economic relationship ²⁷ to protect the weak parties in light of the freedom of contract, the Economic public order is a set of frameworks and principles that dealers must respect, as is the case with freedom of trade and industry, It includes the freedom to exercise it on the one hand and the commitment to freedom of competition on the other hand, while reconciling between a public interest and a private interest on the other hand, thus protecting the most vulnerable parties.

Algeria's adoption of a free economy and the opening of economic activity does not mean a violation of the rights of individuals with regard to their right to obtain goods and services, for that the state's intervention in areas of an economic nature, such as prices and supply to ensure the prevention of disturbances and provide as much balance as possible between opposite interests and thus control the market, Through a set of mechanisms enshrined in legal texts such as legislation on taxes, fees and prices.

2- Mechanisms to rationing the prices of essential goods and services

Article 5 of Ordinance No.03-03 on competition, amended and complementary provides that the prices of goods and services deemed strategic by the State can be regulated by decree after taking the opinion of the Competition Council, This text allows the State to intervene and determine the price of goods and services that it considers them a strategic in nature, as the strategic nature is what justifies the state's intervention in determining the price, which makes the issue of the strategy of goods and services a discretionary matter, sometimes difficult to resolve , which necessitated the amendment of the aforementioned Article 5 text under Article 4 of Law No.10-05 ²⁸ by deleting the phrase "goods and services" The strategy and enabling the state to intervene in all goods and services without exception, thus controlling the market, protecting competitors and consumers, ensuring purchasing power, and missing the opportunity for speculators to manipulate prices.

2-1- Rationing the prices of necessary goods and services

In accordance with article 5 of Ordinance No.03-03, the legislator has established a number of legal mechanisms, such as identification, ratification and roofing. The application of these mechanisms depends on the deposit of the price composition of the goods and services concerned with these measures with the authorities concerned. In accordance with article 22 or 2 bits of Law No.10-06, amending and supplementing Law No. 04-02 relating to the rules applicable to commercial practices, the composition of prices of goods and services, in particular those that were the subject of measures to determine or cap profit margins or price, must be deposited with

the relevant authorities before selling or performing the service.

They are legal mechanisms granted by the legislature to the public authorities to protect the national economy against all price manipulation and to give more credibility in orientation, regulation and control ²⁹.

A- Fixation mechanism

that the State set a certain price and obliged sellers and buyers to respect it and impose a sanction on anyone who exceeds it, and this is done through regulation. The goal of determining is to work directly on the management of some materials or services with social requirements so that the productive institutions can increase their profits.

The goods and services concerned specifically with regard to foodstuffs are pasteurized milk and packed in bags at production and various stages of distribution in accordance with Executive Decree No.01-05 ³⁰ and flour and bread in accordance with Executive Decree No.26-132 ³¹, and for services, tariff transportation tariffs have been determined, Passengers carried out by the National Railway Transport Company in accordance with Executive Decree No. 98-269 ³², and industrial products, the internal trading price of natural gas was determined in accordance with Executive Decree No.05-128 of 24/04/2005...etc³³.

B- Certification mechanism

Certification is the approval of a price proposed by the competent authorities or with experienced, such as the bureaus specialized in a particular sector, such as the Algerian Professional Office for Grains and the Algerian National Professional Office for Milk and its derivatives ³⁴.

C - roofing Mechanism

Roofing is the determination of the maximum price at consumption, as well as the maximum profit margins at production and import, and at wholesale and retail distribution of goods and services concerned ³⁵. Prices in this mechanism have room for free movement without exceeding the specified ceiling. Even and if the production costs that are included in the

price structure exceeds the price set by the State, in this case the latter compensates the economic agent in the difference between The real and the ceiling price, according to a document called the price structure that shows the nature and reality of the component price provided by the economic agent to the concerned authorities ³⁶.

Among the prices that have been capped by regulation are the prices of medicines used in wilderness medicine according to Executive Decree No.98-44 ³⁷ and sugar and oil according to Executive Decree No.11-108³⁸...etc.

2-2 - State intervention to curb price rises

The state's intervention was not limited to setting prices through the aforementioned mechanisms, but it came with that other measures that it resort to limiting price increases in specific cases according to the text of article 5 of Ordinance No.03-03 as amended by article 4/5 of Law No.10 - 05 that the state can take temporary measures to determine the margins and prices of goods and services or to cap them according to the same forms in the event of their excessive and unjustified rise, especially due to a serious market disruption, disaster or chronic difficulties in supplying within a particular sector of activity or in a particular geographical area or in cases of natural monopoly.

This article has identified areas of State intervention to limit price increases, but it is ambiguous with regard to what is meant by natural monopoly cases, With reference to the text of article 5 of the repealed Ordinance No.95-06, the natural monopoly is defined as market situations or an activity characterized by a single economic agent that exploits that market or activity, and hence The concept of a natural monopoly is the monopoly of economic agent by exploiting the market or monopolizing a specific activity, and this inevitably leads to price control, State intervention is not achieved merely natural monopoly, but must lead to an excessive rises in price.

Conclusion

The state's abandonment of the monopoly of the economic sector, the opening of the private sector's participation, and the consecration of the principle of freedom of trade and industry was a source for the assimilation of the principles of the free economy, such as the principle of freedom of competition and freedom of prices, as they are two principles that reflect competitive activity in order to expand market activity and open investments, which benefits the consumer on the one hand and the multiplicity of economic dealers who compete Real competition to provide the product at a reasonable price to build a strong commercial base and achieve economic growth on the other hand.

However, while the legislator has recognized the principle of freedom of trade and industry, its actual devotion to the market is still weak because of the chaos in the market, an uncontrollable parallel market and unstable prices, due to the lack of tension and an abysmal rise in prices that has affected the purchasing power of the citizen and the national economy in general, This has led the legislator to recognize the power of the State to set prices for certain goods and services and to strengthen its intervention as a public authority, which is responsible for protecting the purchasing power of the citizen.

However, lack of control by the competent interests of the State has made this determination beneficial to some other parties. For example, the price-fixing mechanism uses the high-income group as well as the low-income group in the sense of the fragile class, This runs counter to the social justice sought by the legislator by granting the State the right to set the price, not to mention the market knowledge of the depletion of certain items due to smuggling and the acquisition of profit from the real price difference and the subsidized price.

This requires a reconsideration of the provisions related to price by making the market a source for determining the price in order to meet the law of supply and demand and under specific conditions that regulate markets, while allowing the opening of neighborhood spaces and constantly monitoring competition, with the need to encourage national investment to achieve self-sufficiency for the materials subject to setting their prices until they dispense with These mechanisms, and the involvement of the state as an economic partner and competitor in the market, without limiting it to economic control only.

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