

**The shift towards civil and administrative penalties instead of criminal liability
in competition law.**

تراجع المسؤولية الجنائية لصالح العقوبات ذات الطابع المدني والإداري في قانون المنافسة

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Laboratory name: The impact of international maritime legislation on the legal maritime system in Algeria.

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Date of submission: 03/04/2025 /Date of final acceptance:17/09/2025 Date of publication :September

Abstract:

Competition law has experienced a notable transition from criminal penalties to civil and administrative sanctions, owing to their adaptability and effectiveness in market regulation. Monetary fines, administrative directives to halt anti-competitive behaviors, and civil reparations for impacted parties have demonstrated greater efficiency, particularly considering the challenges associated with proving the mental element in criminal liability.

The Algerian legislator formalized this approach through Ordinance No. 03-03 on competition, mirroring the actions of the French legislator in the Commercial Code (Articles L.464-2 et seq.), which prioritizes preventive, economically focused sanctions over conventional punitive criminal measures.

Keywords: Decriminalization; Competition; Compensation; Fines.

ملخص:

شهدت تشريعات المنافسة تحولاً من العقوبات الجزائية نحو الجزاءات المدنية والإدارية، وذلك لمرونتها وفعاليتها في ضبط السوق. فالغرامات المالية، والأوامر الإدارية بوقف الممارسات، والتعويض المدني للمتضررين، أثبتت نجاعتها مقارنة بصعوبة إثبات الركن المعنوي في المسؤولية الجزائية.

وقد كرس المشرع الجزائري هذا التوجه من خلال الأمر 03-03 المتعلق بالمنافسة، مثلما تبناه المشرع الفرنسي في قانون التجارة (المواد L.464-2 وما بعدها)، حيث منحا الأولوية للجزاءات ذات الطابع الاقتصادي الوقائي على حساب العقوبات الجزائية التقليدية.

الكلمات المفتاحية: إزالة التجريم؛ المنافسة؛ التعويض؛ الغرامة

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Introduction:

Combating business crimes necessitates the implementation of various measures to ensure success, by which Enhancing oversight and transparency in financial operations is crucial to preventing opportunities for such crimes. Additionally, imposing deterrent penalties on those involved is essential to bring them to justice and discourage others from committing similar offenses. Success in this endeavor also hinges on the activation of international cooperation, as countries must collaborate to share information, expertise, and improve cooperation in this domain. It should be noted that criminalization was a fundamental feature of previous competition laws, which imposed severe penalties, including imprisonment, on perpetrators of illegal practices. However, with the passage of time and in view of the speed of the business field and the potential damage it can cause, a qualitative leap has been made to eliminate this approach and to focus more on fines as a means of achieving protection.

For instance, in Algerian legislation, anti-competitive practices¹ were classified as business crimes under Law No. 89-12. However, with the introduction of Ordinance 03-03 on competition, the repressive policy was relaxed, abolishing imprisonment penalties based on the principle of decriminalization.

The question can therefore be asked: **what is the impact of decriminalization on anti-competitive practices in order to protect the free competition?**

The importance of this study lies in the fact that the shift towards the decriminalization of anti-competitive practices aims to reduce the burden on the criminal justice system and the decriminalization of management acts. In addition, this shift may allow for a more flexible and rational treatment of these practices through the imposition of appropriate fines.

This issue necessitates an analytical approach to the various amended texts of competition law. This involves examining the stages of legislative recognition of the decriminalization of practices deemed anti-competitive and analyzing the underlying objectives of the legislator in limiting the intervention of criminal law in the realm of competition law.

However, for the acceptance of the idea of decriminalization of anti-competitive practices, the advantages that were presented on the ruins of the negatives of the criminal rule have not been achieved, considering that this policy is beneficial in promoting competition, innovation and stimulating economic growth, since financial sanctions have less negative impact on economic activities compared to criminal sanctions.

In order to respond to the above problem, the following plan has been adopted:

First section: The concept of decriminalization

Second section: Evolution of the Deterrence Jurisdiction in the Field of Anti-Competitive Practices.

First section: The concept of decriminalization

The concept of decriminalization in competition law refers to the removal of penalties imposed on companies that violate competition laws. This concept aims to encourage companies to comply with the law and to achieve fair competition in the market. Decriminalization includes measures such as reducing fines or exempting companies from fines altogether, on condition that companies correct their behavior and promote fair competition. It serves as an effective tool to motivate companies to comply with the laws and achieve integrity in the market.

First sub-section: The content of decriminalization

The subject of decriminalization is regarded as one of the most significant aspects of Algerian competition law. Previously subject to severe criminal sanctions, anti-competitive practices are now classified as administrative infringements, meriting only fines instead of criminal penalties.

The idea of decriminalization stems from the fact that anti-competitive practices do not constitute criminal behavior in the traditional sense, but rather economic and commercial acts intended by operators to obtain greater profits. Therefore, the imposition of criminal sanctions on them is considered harsh and disproportionate to their economic nature².

The decriminalization of anti-competitive practices does not mean that they are permitted or not punishable, but rather that they are punishable by severe fines that can reach a certain percentage of the turnover of the offending entity. This also includes other penalties like forced fines and the requirement to publish the Competition Council's decisions.

First: Definition of Decriminalization

This term involves modifying laws concerning certain actions so that they are no longer classified as crimes, with the elimination of associated criminal penalties. However, scholars have yet to establish a unified definition for the term, due to variations in its translation between languages and its overlap with similar concepts. This challenge is particularly relevant in the context of modern criminal policies, which have highlighted the need to address the drawbacks of criminal intervention, especially in economic law³.

The Belgian Commission for the Review of Criminal Law has defined the decriminalization as eliminating the criminal aspect of certain manners or actions, meaning they are no longer regarded as crimes and the related criminal sanctions are removed. The Commission notes that this concept extends beyond criminal law to include the examination of the legitimacy of these acts across various other legal domains⁴.

- *LECLERCQ's* definition of the idea of decriminalization is the removal of the criminal nature of certain acts that do not cause significant harm, and therefore the cessation of the imposition of criminal sanctions on them. The aim is to make

criminal law more balanced and proportionate by assessing offences and imposing penalties more fairly and effectively⁵.

- Others define it as the reduction or abolition of the criminal nature of an act, usually through legislative changes to laws relating to crime and punishment. The punishment for the act is reduced or eliminated, sometimes because of changing social or cultural circumstances or to achieve specific legal objectives. This reduction or abolition must be carried out in accordance with legal procedures and after a detailed study of the potential impact on society and justice⁶.

- The roots of the process of decriminalization of certain acts in France go back to the French Revolution in 1791, when the criminalization of homosexual practices was abolished in the new French Penal Code and the associated penalties were removed. This tolerance was then adopted in Italy in 1890, in Denmark in 1933, in the United Kingdom in 1982 and in the United States in 2003⁷.

Second: Justifications for decriminalizing anti-competitive practices

Decriminalization in business law aims to strike a balance between freedom of trade and investment and law administration. This approach enhances the business and innovation climate, encourages investment, boosts market competitiveness, and fosters technological advancement and innovation. Such measures bolster the economy and strengthen the state's position in the global market. There are justifications and reasons for maintaining certain limited sanctions, which can be outlined:⁸

- The nature of the activities: Anti-competitive practices are inherently economic or business crimes rather than traditional criminal offenses. Thus, traditional penalties like imprisonment may not be suitable for the dishonest economic acts. Instead, imposing substantial fines may be a more appropriate alternative.

- Negative effects of criminal sanctions: Severe criminal sanctions can have a negative impact on the economy and society, such as the cost of imprisonment and social sanctions on workers and their families, so fines are considered more effective and proportionate.

- Promoting competition: It is believed that decriminalization and the use of fines only will encourage companies to innovate and compete more without fear of harsh criminal sanctions.

- Efficacy of execution proceedings: penal proceedings can be complex and time-consuming, which can hinder the effective enforcement of competition law. Fines are seen as a more efficient and quicker method for implementation.

- Alignment with global trends: To stay competitive, many developed and developing countries are implementing decriminalization policies in their competition laws, encouraging others to adopt similar approaches.

The Second sub-section: Rules for decriminalization

The legislator in business law must establish clear rules to define the scope of decriminalization and to eliminate criminal penalties, ensuring that behaviors excluded from criminalization do not undermine legal legitimacy. This process helps

delineate boundaries, enhance the effectiveness of business-related laws, and curtail unlawful conduct⁹. The following are key rules that help to decreasing criminalization:

First: Economic and Legal rules:

The legislator cannot be arbitrary in the idea of decriminalization, whereby it recognizes the criminal act and removes this description whenever he decides. Rather, it is limited by economic and other legal controls in economic law.

1) Economic rules:

Economic effects are a crucial factor in the decision to decriminalize. Removing criminal penalties for certain practices can reduce the costs related to prosecution and imprisonment and alleviate the burden on both the judicial and economic systems. In addition, decriminalization can open the door to new investment and job creation in related sectors.

On the other hand, the costs associated with criminalization need to be taken into account when deciding to remove criminalization, as some criminalized practices may be a source of government revenue through fines and fees. Therefore, the financial implications must be thoroughly assessed before deciding to remove criminalization.

Moreover, the stability in business activities must be a key consideration when deciding to decriminalize. Decriminalizing certain practices might affect specific sectors of the economy, potentially leading to market disruptions or changes. Therefore, a full assessment of the potential impact on the economy must be made before the decision to decriminalize is taken.

2) Legal rules:

The concept of decriminalizing competition law involves reclassifying anti-competitive practices from economic crimes to financial violations subject to administrative sanctions and fines. The legal guidelines for this process can be summarized as follows:

- Substituting criminal penalties with fines, imposing significant financial penalties on offending companies rather than resorting to imprisonment.
- Transferring punitive authority to administrative bodies, such as the Competition Council, while eliminating judicial jurisdiction for prosecuting these violations.

Second: Procedural and Ethical rules:

In addition to the economic and legal controls for the decriminalization of acts in economic law, especially with regard to anti-competitive practices, this is also subject to procedural and other ethical rules.

1) Procedural rules:

Simplifying and speeding up procedures to ensure that cases are decided quickly and that fines are imposed within a short time:

- Reclassifying sanctions to align with the nature of the economic offenses and the situations of the economic agents.

- Achieving flexibility and effectiveness in the fight against Practices that restrict competition, while maintaining the deterrent effect of severe fines on offenders.

2) Ethical rules:

The process of decriminalizing certain acts is based on the principles of human rights and fundamental freedoms. It aims to reduce unnecessary suffering and to enhance the human dignity of the persons concerned:

- Damage prevention, a central ethical principle of decriminalization, aims to alleviate rather than completely eradicate the negative effects associated with anti-competitive practices.

- Respect for privacy, so that decriminalization policies must respect the right of individuals and institutions to privacy and private life, and avoid unjustified interference in personal decisions that do not harm others.

- Equality and non-discrimination should be upheld in decriminalization policies, ensuring that they are applied fairly and without bias, regardless of individuals' race, gender, religion, or social and economic background.

- Transparency and accountability are crucial; the decriminalization process must be open and based on scientific data and evidence, with clear mechanisms for accountability to ensure proper use of authority.

Second section: Evolution of the Deterrence Jurisdiction in the Field of Anti-Competitive Practices

This involves addressing prohibited practices such as price-fixing or market-sharing agreements, preventing the abuse of dominant market positions, and managing mergers and acquisitions that could impact competition. These measures ensure effective enforcement of competition law, deter violations, and contribute to a fair and competitive environment that safeguards the interests of both consumers and businesses¹⁰.

This necessitates the involvement of relevant authorities to investigate and prohibit any unlawful conduct, particularly anti-competitive practices. In some instances, administrative control authorities are also responsible for examining these practices¹¹.

First sub-section: The competence of the criminal judge to deal with anti-competitive practices before its Decriminalization:

Granting criminal courts, the authority to examine anti-competitive practices was a significant step towards enhancing general deterrence and ensuring compliance with competition rules. This delegation allowed for the punishment of offenders through criminal sanctions, including fines and imprisonment.

This strategy demonstrated the legislator's view of the significant negative effects of anti-competitive practices on the economy and society, leading to their classification as serious economic crimes requiring intervention by the criminal justice system to address effectively.

Granting this authority to criminal judges would have fostered a culture of compliance among companies and economic institutions by highlighting the

seriousness of violating competition rules and the severe legal repercussions. This, in turn, aimed to promote a more honest and transparent economic environment.

Despite the above-mentioned benefits, giving the criminal judge this power was posing some challenges, such as the need to train judges on the complex issues of competition and to strike a balance between effective deterrence and the stability of the investment environment.

First: The establishment of special judicial bodies for the suppression business offenses

The measured evolution of economic law has been crucial in organizing commercial relations across various societies. Initially starting as customary rules, it developed into formal laws and legislation. Economic law has been essential in regulating international trade and investment, facilitating the free movement of capital and services across borders, and thus fostering global economic growth¹².

This was requiring mechanisms in form of sanctions and penalties to be imposed on any person or entity that violates the applicable economic and commercial rules and laws. These sanctions included financial sanctions such as fines and confiscation, as well as criminal sanctions for serious crimes¹³. The goal was to safeguard the rights of consumers and economic operators, ensure fair and transparent competition in the markets, uphold the health of the national economy, and enhance financial stability¹⁴.

In response to the corruption and economic crimes prevalent at the time, the legislator enacted Ordinance No. 66-180 on June 19, 1966, following the country's independence. This ordinance established special courts to address economic crimes, including bribery, smuggling, tax evasion, price manipulation, and other fraudulent activities in the commercial and financial sectors. Article 1 of the ordinance defined economic crime as follows: "The purpose of this ordinance is to suppress crimes affecting national wealth, the public treasury, and the national economy, committed by officials and agents of all ranks within the State, public institutions, local communities, and public companies..."¹⁵.

Second: The involvement of the criminal judge in the imposition of the sanction before the decriminalization:

Despite the legislator's efforts, Ordinance 66-180 failed to effectively address economic crimes and was later replaced by Ordinance 75-37, which focused on price regulation and the suppression of related offenses¹⁶.

Subsequently, the Algerian lawmakers adopted a new formula for regulating prices, repealing Ordinance 75-37 and replacing it with Law 89-12 on price¹⁷. A dedicated chapter on sanctions and penalties underscores the importance of enforcing penalties effectively, ranging from heavy fines to imprisonment, to address infringements and practices that undermine fair competition. This approach aims to provide a strong deterrent against monopolistic practices and protect the market. For instance, Article 66 of the law prescribes imprisonment for one to five years for prohibited agreements, while Article 67 stipulates imprisonment from six months to

two years for abusive practices such as discriminatory sales, refusal to sell, or conditional sales. Additionally, Article 75 introduces aggravated penalties, including up to ten years of imprisonment for repeat offenses and recidivism¹⁸.

It can be concluded that the involvement of the criminal judge was crucial in curbing economic crimes and deterring offenders during this period. The judge had broad authority to impose stringent sentences and penalties, including fines, imprisonment, and asset confiscation. This effectively communicated a strong stance against such crimes to society¹⁹.

We also note the empowerment of the criminal judge following the enactment of the new Competition Law No. 95-06, which added an important and fundamental role for a newly created administrative regulatory authority called the Competition Council. This authority has the right to notify the competent public prosecutor of the right to judge and prosecute, with a penalty of imprisonment from one month to one year²⁰, any individual or the involvement of others in practices deemed anti-competitive or in cases of abuse of a dominant position, as outlined in Articles 06, 07, 10, 11, and 12 of this decree.

It is observed that the legislator has started to signal the removal of the criminal judge's automatic authority to prosecute these crimes, unless there is explicit intervention from the Competition Council. The Competition Council, as the competent authority, is responsible for prosecuting offenses related to non-compliance with explicit and fair competition conditions and has the discretion to file lawsuits. This indicates a shift away from criminal prosecution and a retreat of criminal justice in this area.

Second sub-section: Transfer of the power to impose sanctions from the judicial authority to the competent administrative regulatory authority

The Competition Council is empowered to impose penalties and sanctions on individuals and companies that violate the rules of free and fair competition in order to limit practices that are contrary to proper competition. The Council is empowered to impose fines and other deterrent measures to enforce and achieve fairness in the market. This involves addressing prohibited practices such as price-fixing and market-sharing, preventing companies from exploiting their dominant positions, and managing mergers and acquisitions that could negatively impact competition.

Its specialization in criminal law is crucial because it ensures the effective enforcement of competition law and serves as a deterrent against violations, helping to create a fair competitive environment that safeguards the interests of both consumers and businesses. Punitive sanctions then act as a deterrent to prevent future violations and ensure adherence to regulatory controls.

First: Introduction of financial sanctions and fines instead of criminal sanctions

Financial sanctions are regarded as an effective tool for curbing anti-competitive practices, as established in Ordinance N03-03 on Competition. These sanctions aim to balance enforcing compliance with competition rules while avoiding severe criminal penalties²¹.

In this regard, the text of Article 15 of the old Competition Law, Ordinance 95-06 was repealed, an important initiative to decriminalize such practices, which was an indicator of the withdrawal of the criminal judge from the field of competition, and the competent courts no longer had any jurisdiction in this area²².

A review of the text of Ordinance No. 03-03 on competition shows that the Algerian lawmakers has given the Competition Council various powers as a central body to support its efforts in the field of competition. It has a consultative and preventive role, exercises the functions of economic regulation²³, is consulted on any proposed legislative or regulatory text related to competition²⁴ and provides its opinion to the government, local authorities, economic and financial institutions, professional and trade union groups, and consumer associations on competition-related matters²⁵. Additionally, it responds to requests from judicial authorities²⁶ for expert consultation on reported cases and practices²⁷.

Beyond its consultative role, the Competition Council also exercises a contentious supervisory function. This includes performing initial market surveillance through preventive measures, providing annual reports to public authorities, and issuing the Official Gazette of Competition²⁸.

Its contentious role is laid down in article 44, paragraph 2, which defines the powers of the Council in disputes concerning practices and acts referred to it, if they fall within the scope of articles 6, 7, 10, 11 and 12, after having been notified by the interested parties, to carry out the tasks of investigation²⁹, research and inquiry in order to establish the existence of prohibited practices and to issue its punitive decision.

Firstly, the role of the ordinary judge, whether civil or commercial, is crucial in directly overseeing anti-competitive practices once the scope of the Competition Council's authority under Ordinance 03-03 has been exceeded. This includes imposing civil sanctions, such as contract termination and compensation for damages caused by the parties involved³⁰.

Second: the strengthening of fines for anti-competitive practices:

Fines are an effective tool for altering business behavior and curbing monopolies and collusive practices that hinder free competition. They help protect consumer interests and enhance market efficiency. Competent authorities typically review, update, and adjust these fines regularly based on economic changes and market conditions to ensure they remain effective as a deterrent and regulatory mechanism³¹.

This approach ensures that penalties remain effective in achieving their intended purpose: maintaining market competitiveness and preventing unfair and monopolistic practices. It demonstrates the authorities' commitment to monitoring the market, maintaining its balance, and fostering healthy and fair development. This has been a consistent focus of the Algerian legislator throughout the various stages of competition law legislation.

The legislator has defined the criteria that allow the determination of fines to include both:

- Practices described as restrictive of competition (anti-competitive practices): Referred to in Article 56 of Ordinance No. 03-03, which provides for the possibility of imposing fines on companies that engage in activities or agreements that restrict competition or economic concentrations carried out without prior authorization or in breach of the conditions established. The aim is to deter anti-competitive practices and protect consumers from their negative effects. These fines were initially set at 7% of the amount of turnover, exclusive of tax, achieved in Algeria during the previous fiscal year, and then increased to 12% with the 2008 amendment by Law 08-12, Article 26. If the offender is a natural or legal person or a professional organization without a specified turnover, a fixed penalty of up to three million dinars (3,000,000 DZD) was set by Ordinance 03-03, which was then doubled by Law 08-12. In addition, under Article 57 of the Ordinance 03-03 on competition, a fine of two million dinars (2,000,000 DZD) was imposed on any person who participated in the organization of these practices, which was subsequently increased to a maximum of six million dinars (6,000,000 DZD).
- Enforcement and precautionary measures: Article 58 of Ordinance No. 03-03 on competition stipulates that companies failing to comply with the injunctions and precautionary measures outlined in Articles 45 and 46 within the specified time limits are subject to coercive sanctions, with fines not exceeding one hundred thousand Algerian dinars (100,000 DZD). This amount was later increased to one hundred and fifty thousand Algerian dinars (150,000 DZD) by a subsequent amendment, as detailed in Article 27, highlighting the severity of the financial penalties.
- Case of obstruction of investigation: This type of anti-competitive practice manifests itself when the institution is negligent in providing information, whether incorrect or ambiguous, during the file study stages or during the investigation procedures carried out by the Competition Council. In Article 59 of the previous Ordinance 03-03, the legislator provided for fines of up to 500,000 dinars (500,000 AD) and a daily fine of 50,000 dinars (50,000 AD) for any delay. Article 28 of Law No. 08-12 increased these penalties to 800,000 dinars (AD) in the first case and 100,000 AD in the second.
- For unauthorized economic concentrations or breaches of established conditions, fines were previously set at 7% of the turnover, before tax, achieved in Algeria during the last completed financial year, as specified in Article 61 of Ordinance 03-03. In cases of non-compliance with the conditions for establishing the concentration project, Article 62 of the same Ordinance stipulates fines of 5%.

Law 08-12 amended Article 62 of the previous law by clarifying that, in the event that the closed financial years are not covered within one year, the fines will be calculated on the basis of turnover excluding tax. This could allow companies to reduce the value of their turnover during the investigation period and consequently the fines imposed on them, thereby reducing the effectiveness of the response. This is

why the legislator added this provision to ensure the closure of the loopholes that the offending institutions could exploit, influenced by the changes made by the French legislator in this context³².

Conclusion:

This study shows that the new sanctions in the field of competition are different from the general criminal law because they aim to prevent monopolistic practices and to protect free and fair competition in the market. These financial sanctions are precisely defined to ensure their effectiveness in this area.

It is important to recognize that decriminalization in the field of competition plays a crucial role. It helps sustain a healthy and competitive economic environment while protecting consumers from detrimental monopolistic practices. Moreover, significant financial sanctions serve as a strong deterrent, ensuring adherence to competition law and safeguards the interests of all parties involved. Despite the significance of high financial sanctions, their effective implementation faces various challenges and obstacles.

This study has led to the following findings and recommendations:

First: The results

- The implementation of the decriminalization system in the field of competition poses certain challenges, such as the difficulty of proving collusion between companies and gathering sufficient evidence, as well as the high administrative and judicial costs associated with the application of financial sanctions. A balance must therefore be struck between harmful practices and civil sanctions in order to achieve the desired results.
- The removal of criminalization in the field of competition signifies a shift in the authorities' legislative approach, emphasizing financial sanctions over traditional criminal penalties. This change does not rule out the possibility of future adjustments in competition policy, where financial sanctions may be employed as a method of control and regulation rather than criminal sanctions.

This opens the door to much future study and research in this area.

- Although financial deterrence is emphasized, it remains important to consider principles such as proportionality between the harmful practice and the imposed sanction.

Second: Recommendations

- Review the deterrent competence of independent regulatory authorities and provide practical guarantees of follow-up before them to protect economic operators against anti-competitive practices, in order to be a real alternative to the criminal judge.
- The need to activate constitutional control over all legislative texts in the economic field, in order to ensure the success of the decriminalization of anti-competitive practices.
- Ensure that penalties are proportionate to the damage caused. Financial sanctions should be applied in a fair and transparent manner, taking into account the specificities of each case.

¹ In Ordinance 03-03 on competition, the legislator uses the term (Restrictive practices on competition in the second chapter) which are (disloyal alliances article 6- abuse of dominant position article 7- abuse of the state of economic dependence article 11-the absolute exclusive distribution clause article 10-abusive sales article 12).However, the French legislator uses the term (anti-competitive practices) in the French code of commerce. And for the reason of the true term, we use in this paper the term (anti-competitive practices) instead of (Restrictive practices on competition, mentioned in the second chapter of the Ordinance 03-03 on competition)

²- Elyas Bouzidi, “Decriminalization of business offences: Between Clarity of Regulations and the Necessity of Adapting to Business Life”, *Journal of Contract and Business Law Research*, University of Brothers Mentouri Constantine 1, Algeria, Vol. 07, No. 01, 2022, p. 144.

³Ben Gri Soufiane, “Decriminalizing Business Law”, Doctoral thesis, Faculty of Law and Political Science, Mouloud Mammeri University of Tizi Ouezou, 2019, p. 127.

⁴Redha Maiza, “Rationalizing Criminal Policy in Algeria”, Doctoral Dissertation, Faculty of Law, Saad Dahlab University, Algiers, 2016, p. 183.

⁵- M.J. Leclercq, “Variation sur le thème pénalisation, dépenalisation,” *Revue de droit pénal et criminologie*, Vol. 48, No. 10, 1978, p. 807.

⁶- Mahmoud Taha Jalal, “Principles of Criminalization and Punishment in Contemporary Criminal Policy”, *Dar Al-Nahda Al-Arabia*, Cairo, 1st edition, 2005, p. 247.

⁷- Serena Johnson, “Sodomy Laws in France:How the French Penal Code of 1791 Decriminalized Sodomy Without the Will of the People,” *Young Historians Conference*, 2020, p. 2.

⁸- Ben Jeddou Amal, “Reducing Criminalization and Punishment in Contemporary Criminal Policy,” *Journal of Legal Studies and Research*, University of Mohamed Boudiaf M’Sila, No. 10, 2018, pp. 196-199.

⁹- Elyas Bouzidi, “Decriminalization of economic crimes: Between regulatory clarity and the need to adapt to business life”, *op. cit.* p. 142.

¹⁰- Makhtour Dalila, “Application of competition law provisions within distribution contracts,” Ph.D. thesis, Faculty of Law and Political Science, Mouloud Mammeri University of Tizi Ouzou, 2015, p. 13.

¹¹- Following the 1989 constitutional amendment, which marked the State's shift from a socialist economy reliant on public ownership of production means to a market economy emphasizing private property, the legislator established twelve regulatory authorities to oversee the national economy. These authorities include the Competition Council, the Monetary and Credit Council, as well as regulatory bodies for postal and telecommunications services, water, electricity, and gas, among others.

¹²- El Mizaine website, <https://www.elmizaine.com>, accessed on 02/04/2024.

¹³- Fatima Zahra Firme, “Non-criminal sanctions and their effectiveness in reducing the danger of economic crimes”, *Al-Mufakir Journal*, University of Algiers 02, Vol. 06, No. 01, 2022, p. 313.

¹⁴- Free legal advice website, <https://www.mohamah.net/law/>, accessed on 02/04/2024.

¹⁵- Ordinance No. 66-180 of 21 July 1966 setting up special judicial councils to combat economic crime, *Official Journal of Algeria* No. 54 of 24 July 1966, amended by Ordinance No. 71-17 of 6 April 1971, *Official Journal of Algeria* No. 31 of 9 April 1971.

¹⁶- Ordinance No. 75-37 of 29 April 1975 on prices and the suppression of offences relating to price regulation, *Official Journal of Algeria* No. 38 of 13 May 1975 (repealed).

¹⁷- Law No 89-12 of 5 July 1989 on prices, *Official Journal of Algeria* No 29 of 19 July 1989.

¹⁸- Article 75 of Law No. 89-12: “In the event of repeated violation of the provisions of this law, the penalties provided for shall be doubled and the judge may also order, as an additional measure, the prohibition of business activity or the loss of the status of trader”.

¹⁹- Sheikh Najia, “The Specificity of Criminal Sanctions in the Field of Competition”, *Annals Journal*, Algeria 01, Vol. 32, No. 02, 2018, p. 27.

²⁰- Article 15 of Ordinance 95-06 of 25 January 1995 on competition, Official Journal of Algeria, No. 09 of 22 February 1995 (repealed).

²¹- Ordinance No. 03-03 of 19 July 2003 on competition, Official Journal of Algeria No. 43, published on 20 July 2003, as amended and supplemented.

²²- Despite the decriminalization of anti-competitive practices by Ordinance No. 03-03, which repealed Ordinance No. 95-06, the legislator overlooked the practices described as crimes, which were prosecuted by the newly created economic courts, in particular with regard to the crimes of monopoly and illegal speculation, as provided for in Article 172 of the Penal Code, amended by Law No. 66-156 of 8 July 1966, Official Journal of Algeria No. 49 of 11 July 1966.

²³- Article 34 of the former competition regulation, as amended by Article 18 of Law No. 08-12 of 5 June 2008 amending and supplementing Ordinance No. 03-03 on competition, Official Journal No. 36 of 2 June 2008, and Law No. 10-05 of 15 August 2010 amending and supplementing Ordinance No. 03-03 on competition, Official Journal No. 46 of 18 August 2010.

²⁴- Article 36 of Ordinance No. 03-03.

²⁵- Article 35 of the same Ordinance.

²⁶- Article 38 of the same Ordinance.

²⁷- Nawal Sari, "Competition law and general rules of obligations", Doctoral thesis in private law, Faculty of Law, Djillali Liabes University, Sidi Bel Abbès, 2010, p. 31.

²⁸- Executive Decree No. 11-242 establishing the Official Bulletin of Competition and determining its content and the procedures for its preparation, Official Gazette of Algeria, No. 39, 13 July 2011.

²⁹- Chapter Three of Ordinance No. 03-03, Articles 50 to 55, entitled: "Investigation procedures".

³⁰- Sheikh Najia, "The Specificity of Criminal Sanctions in the Field of Competition", op. cit., p. 273.

³¹- Souad Ghabba, "Legal Mechanisms for the Protection of Competition", Doctoral thesis, University of Benyoucef Benkhedda Algiers, Faculty of Law, 2017, p. 339.

³²- Ayad Karalfa Abu Bakr, "Prohibited Agreements in Competition Law", Master's thesis, Faculty of Law and Political Science, University of Oran, 2013, p. 121.

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