

Unfair Commercial Practices under Algerian Law

Lekssasi Sid Ahmed ^{1,*}

¹University of Adrar, Algeria, Laksaci79@univ-adrar.edu.dz

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ABSTRACT

Competition law is considered a relatively modern form of legislation that emerged in developed countries adopting a market economy and pursuing economic development. With the expansion of commercial exchanges, particularly in light of the emergence of competitors employing misleading methods such as commercial fraud, trademark imitation, and the dissemination of rumors that harm the reputation of competitors, as well as attracting customers through unlawful inducement or exploiting the commercial reputation of others, the phenomenon of unfair competition has become increasingly evident.

This situation has required the legislator to intervene in order to protect competition, competitors, and consumers simultaneously. Such protection is ensured through the establishment of strict legal rules and provisions aimed at combating these practices, as well as prohibiting behaviors that constitute abuse and disrupt the balance of commercial relations among competitors within the market.

1. Introduction

Trade, in its broadest sense, seeks to generate profit through the attraction of the largest possible number of customers. To achieve this objective, traders employ a variety of methods and commercial strategies designed to increase customer engagement and loyalty, thereby fostering a competitive business environment. Such competition constitutes a fundamental pillar of modern market economies, as it stimulates innovation, enhances the quality of goods and services, and contributes to price efficiency for the benefit of consumers.

Nevertheless, competition may, at times, deviate from its legitimate framework and evolve into practices that are inconsistent with the principles of fair competition. These practices are often aimed at harming competitors, misleading consumers, or distorting the equilibrium of the market. In this context, unfair competition can be defined as any commercial conduct that contravenes established legal norms and professional standards, leading to market disruption or the acquisition of undue advantages through unlawful means. Consequently, traders who suffer harm as a result of such practices are entitled to seek legal redress, particularly through actions for compensation grounded in the doctrine of unfair competition.

1.2. Research Problem

In light of the foregoing, the central research problem of this study may be formulated as follows:

To what extent does the Algerian legal framework effectively combat unfair commercial practices and ensure the protection of fair competition within the market?

1.3 Research Structure

In order to address the aforementioned research problem, this study is organized according to the following sections:

- The conceptual framework of unfair competition.

- Legal protection against unfair competition.
- The competent judicial authorities in cases related to unfair competition.

2. The Conceptual Framework of Unfair Competition

2.1. The Concept of Unfair Competition

The position of legislation has been clear and explicit in combating practices that are contrary to fair competition. The Algerian Constitution of 2020 guarantees, under Article 61, that “freedom of trade, investment, and entrepreneurship is guaranteed and exercised within the framework of the law.” (Algerian Constitution, 2020, Art. 61) , By referring to this provision, it can be inferred that the Algerian Constitution implicitly prohibits unfair competition. However, given the strong connection between competition and economic activity, it is rare to find a commercial activity or competitive environment completely free from practices that undermine fair competition.

With regard to defining unfair competition, legal scholars have differed in establishing a precise definition that clearly identifies and condemns practices falling within the scope of unlawful competition, whether they consist of restrictive practices or acts that harm commercial establishments. (Zina Ghanem Abdel-Jabbar, n.d., p. 1)

2.1.1 Linguistic Definition of Competition

Linguistically, the term *competition* is derived from the verb *to compete*, which implies the presence of another person or entity with whom one competes. (Khair Abdu Al-Rahman Al-Samadi, n.d.). The expression *valuable or precious* refers to something that individuals compete for or desire to obtain.

2.1.2 Legal Definition of Competition

The expansion of the principle of competitive freedom has led many countries to pay greater attention to the phenomenon of unfair competition. This has resulted in the development of legal provisions that establish limits governing both economic freedom and the freedom of competition. These developments are largely a consequence of the continuous transformations experienced by international economic organizations in recent years.

From a legal perspective, competition may be defined as the free entry of enterprises into the market while respecting their economic independence and ensuring consumers’ freedom of choice . (Khaled Abdel-Fattah Mohamed Khalil, 2002, p. 68). It is also understood as the process of rivalry between enterprises operating in the same market and engaging in similar economic activities, with the objective of attracting the largest possible number of consumers and satisfying their needs.

Algerian law has addressed unfair competition in Ordinance No. 03-03 , relating to competition, which identifies the practices and acts that restrict competition. These acts are categorized under what the law refers to as restrictive practices of competition, which aim to prevent behaviors that may distort or undermine fair competition within the market. (Ordinance No. 03-03, 2003)

The Algerian legislator has also dealt with this issue through Law No. 04-02, which establishes the rules applicable to commercial practices. Article 26 of this law provides that: “Any unfair commercial practice contrary to commercial customs, through which an economic agent infringes upon the interests of one or more other economic agents, is prohibited.” (Law No. 04-02, 2004)

These legal provisions are based on the principle that any act committed by a person which, through fault, causes harm to others obliges the person responsible for it to provide compensation. (Ilham Zaoum, 2011, p. 24)

Unfair competition is therefore governed by the rules of civil liability, in accordance with Article 124 of the Algerian Civil Code, which states that: “Any act whatsoever committed by a person that, through fault, causes damage to another obliges the person responsible for it to provide compensation.” This provision establishes the general principle of liability for personal acts and is based on three fundamental elements: fault, damage, and the causal relationship between them. (Algerian Civil Code, 1975)

Such acts arise whenever commercial customs and professional standards are violated. Accordingly, unfair competition is based on the use of methods and practices that contradict established commercial norms, which are assessed according to the rules of civil liability. For this reason, the Algerian legislator has prohibited such practices, considering them unfair acts that violate commercial customs and professional ethics, and which may cause harm to competing traders within the market. (Sami Ben Hamla, 2013, p. 182)

2.2. Forms of Unfair Competition

Unfair competition refers to any practice that contradicts fair and honest commercial practices. This latter concept is considered a flexible and broad notion that varies over time and from one place to another. Such variation also applies to the methods used in competition, as their manifestations continue to evolve, and innovation in this field appears to have no limits. (El Djilali Aja, 2012, p. 289)

For this reason, acts of unfair competition—and more specifically their forms—are adaptable to the developments of the time and place in which they occur. Accordingly, this section presents some forms of unfair competition that have sometimes been classified as restrictive practices of competition, at other times as practices contrary to competition, and in certain instances as manifestations of the expansion of commercial practices.

2.2.1. Prohibited Agreements

The principle of freedom of contract is one of the most fundamental principles whose application competition law seeks to regulate and limit. This limitation aims to prevent agreements that may harm consumers' interests on the one hand and the public interest on the other, as such agreements may inevitably lead to the restriction of competition among economic operators.

Referring to Competition Law No. 03-03, the Algerian legislator explicitly prohibited such agreements under Article 6, which provides that:

“Practices, acts, agreements, and explicit or implicit arrangements are prohibited when they aim to obstruct, restrict, or distort the freedom of competition within the same market or within a substantial part of it...” (Ordinance No. 03-03, 2003)

In particular, this prohibition applies when such agreements aim to:

Limit access to the market or restrict the exercise of commercial activities within it.

Reduce or control production, market outlets, investments, or technological development.

Divide markets or sources of supply.

Obstruct the determination of prices according to market rules by artificially encouraging price increases or decreases.

Apply unequal conditions for the same services toward commercial partners, thereby depriving them of the benefits of competition.

Make the conclusion of contracts with partners conditional upon the acceptance of additional services unrelated to the subject of those contracts, either by their nature or according to commercial customs.

Facilitate the granting of public contracts in favor of those engaged in such restrictive practices.

In practice, agreements are not considered prohibited practices unless certain conditions are met. The Algerian legislator has therefore provided several examples of such agreements, though these examples are illustrative rather than exhaustive.

2.2.2. Price Fixing

In principle, prices should be determined according to the rules of competition within the market, free from any constraints or conditions. Their determination should therefore be left to the mechanisms of supply and demand. This principle is affirmed in Article 4 of Ordinance No. 03-03 relating to competition. (Ordinance No. 03-03, 2003)

However, the fixing and control of prices constitute one of the most prominent means of distorting competition. Price-fixing agreements may be either implicit or explicit. Collective alliances formed by groups of traders may establish price lists for the goods they produce, and the members of these alliances commit themselves to respecting those prices. Such collective price lists are considered practices that aim to restrict competition by pre-determining the selling prices of products or goods instead of leaving them to the forces of supply and demand. (Moayen Fandi Al-Shannaq, 2010, p. 154)

The Algerian legislator has addressed this form of commercial practice through Articles 22 and 23 of Law No. 04-02, which classify the following acts as unfair commercial practices:

- Increasing or reducing regulated prices.
- Falsifying the cost of goods and services.

Under this law, any interference with regulated prices—whether through increasing or decreasing them, or through falsifying the associated cost values—is considered a practice involving “illegal pricing.” This is also confirmed by Article 12 of Ordinance No. 03-03, which states:

“It is prohibited to offer prices or apply excessively low selling prices to consumers compared with the costs of production, processing, and marketing, when such offers or practices aim or may lead to excluding an enterprise or preventing one of its products from entering the market.”

For this practice to be prohibited, certain conditions must be met:

a. Abusive Price Reduction: In order for this practice to be considered prohibited, the product must be offered at a price lower than its cost price. The abusive nature of the practice lies in offering a price below the cost of production.

b. Targeting Consumers: In addition, the sale of the product must be directed toward consumers and not limited solely to price reductions among economic operators, since consumers constitute the essential element driving market dynamics.

c. Restriction of Competition: The enterprise must aim, by selling at a price below cost, to restrict competition by excluding a competing enterprise from the market.

2.2.3. Practices Contrary to Competition

Under the pressure of competition and in response to consumers' needs, economic operators may sometimes attempt to strengthen their market position by using practices that are contrary to fair competition. In pursuit of maximizing profits, some operators may resort to misleading competitors and consumers through confusion, defamation, false claims, or through forgery and imitation. Such methods are considered contrary to the law, to commercial customs, and to contractual obligations and agreements, and they may therefore be described as practices that distort or undermine competition.

A . Acts of Confusion and Misleading Conduct

Legitimate competition among traders aims to attract consumers who seek the best products at the best prices, as well as high-quality goods and services. However, the pursuit of attracting the largest possible number of customers for a business or for particular products may lead a trader, manufacturer, or service provider to deviate from the legitimate and honorable objectives of trade. In such cases, they may resort to deceptive or unlawful methods in order to achieve their objectives.

Examples of acts of confusion and misleading conduct include the following:

- Any use of trademarks, symbols, commercial logos, or imitation of a product's appearance, shape, or color that may create confusion between goods or services. Such confusion arises when there is similarity or resemblance between the original product and the counterfeit one.
- Any fraudulent or deceptive practice employed by one competitor against another with the aim of obtaining profit through deceit, including the use of unlawful specifications in commercial activities. Fraud may relate to the quantity, quality, or nature of goods, or may occur through artificially raising or lowering the prices of goods with the intention of disturbing price stability or undermining the balance of supply and demand.
- Any false statements or claims that create a misleading impression for consumers or competing enterprises regarding the reality of the product or service subject to competition. These acts take the form of misleading practices, including for example:
 - False allegations or malicious insinuations intended to divert customers from a competitor, such as spreading rumors that a competing trader is on the verge of bankruptcy, questioning their credibility or reputation, or falsely claiming that their products are adulterated, harmful to consumers' health, contain prohibited substances, or violate legal or moral standards. Such behavior is intended to divert customers away from a competing economic operator. (Ahmed Dghish, 2017, p. 9)
 - False claims in the course of commercial activities that undermine confidence in a competitor's enterprise, products, or industrial and commercial activities.
 - Statements or claims used in trade that may mislead the public regarding the nature of goods, their manufacturing methods, or their characteristics.

b. Acts of Imitation and Forgery

One of the most significant manifestations of unfair competition that undermines the principles of honesty and integrity upon which trade is based is imitation and forgery. These practices are among the most serious prohibited methods under the law and are criminalized by legislation. (Algerian Penal Code, 1966, Arts. 213–215) , Through such acts, an economic operator seeks to mislead consumers and cause them to fall into error regarding counterfeit products. (Houssam Eddine Griouj, 2018, p. 118)

2.2.4 Abusive Practices in Competition

A . Abuse of Economic Dominance

A dominant market position does not, in itself, constitute a prohibited practice. Rather, prohibition arises when the enterprise concerned abuses its dominant position in a manner that restricts competition within the market. Such restriction may manifest in various forms. The Algerian legislator referred to several examples in Article 7 of Ordinance No. 03-03 relating to competition, which are provided as illustrative cases rather than an exhaustive list, thereby broadening the scope of prohibition.

Accordingly, any abuse resulting from a dominant position in the market, or from monopoly over all or part of it, is prohibited, particularly when it aims to:

- Limit access to the market or restrict the exercise of commercial activities within it.

- Reduce or control production, marketing outlets, investments, or technological development.
- Divide markets or sources of supply.
- Obstruct price determination according to market rules by artificially encouraging price increases or decreases.
- Apply unequal conditions for equivalent services toward commercial partners, thereby depriving them of the benefits of competition.
- Make the conclusion of contracts with partners conditional upon their acceptance of additional services that are unrelated to the subject of those contracts, either by their nature or according to commercial customs.

B . Monopoly

From an economic perspective, monopoly refers to the exclusive control of a market or service by a single entity (Algerian Competition Council, 2016). According to the scholar Hisham Gad, monopoly may be described as “an act that leads to control and dominance with the aim of creating constraints on the availability, quality, and prices of goods, with the objective of eliminating competition or forcing competitors to exit the market.”

Monopoly thus implies the control of a market by one, two, or several entities. It may take different forms, such as oligopoly or knowledge-based monopoly. It should be noted, however, that the mere existence of monopoly over a product is not in itself prohibited. Monopoly becomes unlawful when it leads to the elimination of existing competitors in the market or prevents potential new competitors from entering the market. (Adnan Baqi Latif, 2012, p. 83)

In reality, the existence of a monopolistic situation in the market is not necessarily problematic, provided that the monopolistic enterprise did not obtain its position through unlawful means and does not engage in unfair practices aimed at maintaining its dominance. Moreover, market entry barriers or expansion barriers should either be absent or at least minimal. For this reason, the constitutional legislator has abandoned the principle of prohibiting monopoly as a constitutional rule. Nevertheless, this does not prevent the monitoring and regulation of monopolistic situations by the Algerian Competition Council, in accordance with the powers granted to it under the provisions of competition law. (Ghalia Koussem, 2021, p. 466)

3. Legal Protection Against Unfair Competition

3.1. Action for the Cessation of Unlawful Acts

An economic operator who has suffered harm has the right to bring an action for unfair competition against the economic operator responsible for the harmful act, on the basis of the rules of civil liability, which are founded on the following elements:

- Fault
This requires that the defendant has engaged in practices that distort competition and are contrary to legal provisions and to the principles of commercial fairness. Fault is considered one of the most critical elements of the action.
- Damage
Damage refers to the loss suffered by the injured party, for instance when they are deprived of their relationship with customers, because the unfair conduct has caused customers to shift away from the injured party's products or services.

Paragraph 6 of Article 27 of Law No. 04-02 provides that: “Causing disruption in the organization of a competing economic operator and diverting its customers through unfair methods, such as damaging or destroying its advertising means, misappropriating client lists and orders, engaging in unlawful brokerage, or disturbing its sales network, constitutes an unfair commercial practice.”

Thus, unfair competition may arise when a competitor suffers harm due to the use of abnormally low prices or other unfair methods intended to attract customers, or when a competitor exploits relationships with employees of a competing enterprise, or misappropriates its customer lists. (Sami Ben Hamla, 2016, p. 187)

- Causal Relationship
This refers to the direct relationship between the fault committed by the competing economic operator that gives rise to unfair competition and the damage suffered by the injured party. (Ahmed Dghish, 2017)

Based on Article 124 of the Algerian Civil Code, and in cases involving violations of the provisions of Law No. 04-02, as amended and supplemented, such acts may constitute unfair commercial competition, particularly when they violate the provisions of Articles 19, 26, 27, and 28 of the same law.

Furthermore, the injured economic operator may bring an urgent action before the summary judge when such practices are likely to cause immediate and serious harm, in order to obtain a summary judicial order requiring the cessation of the unlawful conduct . (Ahmed Dghish, 2017)

3.2. The Consequences of Bringing an Action

The effects of an action for unfair competition generally manifest in two main aspects:

- Compensation of the Injured Economic Operator
Article 124 of the Algerian Civil Code provides that “any act whatsoever committed by a person which, through fault, causes damage to another obliges the person responsible for it to provide compensation.” Compensation therefore consists of the payment of a sum of money to the person who has suffered harm as a result of an unlawful act. (Belhadj Bouchaaib, n.d.)
- Cessation of the Unfair Practice
This measure represents a legal or administrative intervention issued by a competent authority, such as the judiciary, the Ministry of Trade, or consumer protection bodies. Its purpose is to put an end to conduct or practices that violate legal provisions or professional ethics and that cause harm to consumers or competitors. In this context, the judge may order the cessation of the unlawful commercial practice.

Furthermore, by referring to Article 38 of Law No. 04-02, it appears that the Algerian legislator considers unfair competition to constitute acts that may give rise to criminal liability. Consequently, the Algerian judge may apply all the sanctions and measures provided for under Law No. 04-02 to ensure the suppression of such practices. (Sami Ben Hamla, 2016, p. 192; Romisa Merabet, 2023, pp. 27–42)

3.3. Administrative Mechanisms for Combating Unfair Commercial Practices

- Administrative Protection Against Unfair Commercial Practices

The detection and verification of violations provided for under Law No. 04-02, which establishes the rules applicable to commercial practices, are carried out by the agents referred to in Article 49 of this law.

These agents include:

- Officers and agents of the Judicial Police as provided for in the Code of Criminal Procedure.
- Officials belonging to the special inspection bodies under the authority of the administration responsible for trade.
- Accredited agents affiliated with the tax administration services.
- Officials of the administration responsible for trade classified at Grade 14 or higher, appointed for this purpose.
- Powers of Authorized Officials Responsible for Inspection

The Algerian legislator has granted officials authorized to conduct inspections broad powers and authorities.

According to the provisions of Law No. 04-02 regulating commercial practices, particularly Article 49, these powers include:

- The Right to Access Documents
Pursuant to Article 50 of Law No. 04-02, the authorized officials may examine all administrative, commercial, financial, or accounting documents, as well as any magnetic or computerized data storage devices. They cannot be prevented from doing so on the grounds of professional secrecy.

These officials may also require the submission of such documents wherever they are located and may proceed with their seizure when necessary. In such cases, official reports of inventory or restitution of the seized documents are prepared, and a copy of these reports is provided to the person who committed the violation. (Aymen Ishaq & Taher Netitoui, 2019, pp. 37–38)

- The Right to Inspect Professional Premises and Open Parcels

The Algerian legislator has granted officials authorized to detect violations, pursuant to Article 52 of Law No. 04-02, the power to enter commercial premises and visit offices, annexes, and places of shipment or storage. In general, they may access any location, except residential premises, which may only be entered in accordance with the provisions of the Code of Criminal Procedure. Furthermore, while carrying out their duties, these officials may open parcels when necessary.

- Drafting of Official Reports and Investigation Reports

Investigations are documented through investigation reports, while the recording of violations is carried out through official reports (minutes). According to the provisions of Articles 55 to 59 of Law No. 04-02 regulating commercial practices, these articles establish formal requirements for the preparation of such reports and investigation records. These provisions require that the reports be drafted without erasures, additions, or marginal notes, and that they clearly indicate the dates and locations of the investigations conducted, as well as the observations recorded. They must also be accompanied by inventory documents of the seized products, where applicable.

According to Article 57, the official reports must be drafted within fifteen (15) days from the date of completion of the investigation. These reports must be signed by the officials who recorded the violation; otherwise, they are considered null and void. The report must also indicate that the offender was informed of the date and place of drafting the report and was notified of the need to attend the drafting process. If the report is drawn up in the

offender's absence, or if the offender refuses to sign it or contests the proposed measure, this must be explicitly recorded in the report.

- Notification of Official Reports

Pursuant to Article 55, paragraph 2 of Law No. 04-02, the official reports documenting violations are transmitted to the Provincial Director responsible for Trade, who then forwards them to the competent Public Prosecutor with territorial jurisdiction.

If the Provincial Director responsible for Trade determines that the elements of the violation are established, Article 60, paragraph 2 of Law No. 04-02 provides for the possibility of reaching an amicable settlement (conciliation) with the economic operators concerned, provided that the violation falls within the scope of a fine equal to or less than one million Algerian dinars (1,000,000 DZD), based on the report prepared by the authorized officials.

However, if the violation falls within a fine exceeding one million Algerian dinars (1,000,000 DZD) but less than three million Algerian dinars (3,000,000 DZD), the Minister responsible for Trade may accept a settlement with the economic operators through a conciliation report, based on the report prepared by the authorized officials and transmitted by the Provincial Director responsible for Trade. (Aymen Ishaq & Taher Netitoui, 2019, pp. 37–38)

4. Competent Judicial Authorities in Unfair Competition Actions

4.1. Subject-Matter Jurisdiction

As a general rule, jurisdiction to hear actions relating to unfair competition is vested in the commercial division, since it is the body competent to adjudicate commercial disputes pursuant to Article 531 of Law No. 08-09. This concerns subject-matter jurisdiction, (Law No. 08-09, 2008, Art. 531), provided that the injured economic operator does not resort to the criminal route, as clarified by Article 38 of Law No. 04-02, which considers acts of unfair competition as criminally punishable offenses. In such a case, the harmed economic operator may constitute himself as a civil party in order to claim compensation.

At the same time, consideration must be given to the protection mechanisms provided for under intellectual property legislation, particularly in cases involving infringements of trademarks, industrial designs, or models, where jurisdiction may fall within the competence of specialized judicial authorities. (Sami Ben Halima, n.d., p. 191)

With regard to courts of first instance, jurisdiction is attributed to them because Algerian law does not recognize the principle of specialized jurisdiction within the judiciary. Instead, it adopts the principle of the unity of the judicial system. Although certain chambers may be designated to adjudicate commercial disputes, this is merely an organizational arrangement and does not affect jurisdiction itself. Consequently, if a commercial dispute is brought before a civil chamber, an objection based on lack of jurisdiction cannot be raised, and the chamber may proceed to hear the case.

Article 32, paragraph 2, of the Code of Civil and Administrative Procedures provides that: "The court shall have jurisdiction over all cases, particularly civil, commercial, maritime, social, real estate, and family matters that fall within its territorial jurisdiction. With regard to subject-matter jurisdiction, it shall be considered a matter of public order."

Accordingly, it becomes clear that the judicial authority having subject-matter jurisdiction to adjudicate unfair competition disputes is the ordinary court.

4.2. Territorial Jurisdiction

Pursuant to Article 37 of the Code of Civil and Administrative Procedures, it is provided that: "Territorial jurisdiction shall be vested in the judicial authority within whose jurisdiction the defendant's domicile is located. If the defendant has no known domicile, jurisdiction shall belong to the judicial authority within whose jurisdiction the defendant's last known domicile was located. In the event of the election of domicile, territorial jurisdiction shall belong to the judicial authority within whose jurisdiction the elected domicile is situated, unless otherwise provided by law."

Accordingly, the criterion for assigning territorial jurisdiction to the court within whose jurisdiction the defendant's domicile is located constitutes the general rule adopted by the legislator in determining jurisdiction with regard to the court before which the dispute is initially brought. (Nabil Saqr, 2008, p. 65)

This means that the Algerian legislator has granted the court within whose jurisdiction the defendant's domicile is located the authority to adjudicate the dispute. It is well established that the defendant's domicile, if the defendant is a natural person, is considered to be the place where he carries out his commercial activity. (Ilham Zaoum, 2011, p. 114)

However, if the defendant is a legal person, its domicile is considered to be the company's headquarters or one of its branches. Article 38 of the same law further provides that, in the case of multiple defendants, territorial jurisdiction shall lie with the judicial authority within whose jurisdiction the domicile of any one of them is located. Moreover, territorial jurisdiction in actions brought against a company may be established before the judicial authority within whose jurisdiction one of its branches is located, in accordance with Article 39, paragraph 4.

As previously indicated, the defendant's domicile is the place where he conducts his commercial activity when the defendant is a natural person, whereas in the case of a legal person, the domicile corresponds to the company's registered office or one of its branches. (Abdellah Boualtine, 2017, p. 76)

4.3. Summary (Emergency) Jurisdiction

Summary jurisdiction aims to adopt urgent and provisional measures in matters where there is a risk of loss of time, while preserving the existing situation until the dispute is decided on the merits. It constitutes a preventive mechanism intended to avoid consequences that may become irreparable in the future. The summary judge issues temporary orders through expedited procedures that do not affect the substance of the right. The jurisdiction of summary proceedings is established only when the following conditions are met:

The element of urgency: This refers to the existence of a real danger that may result in the loss of time or the occurrence of damage that would be difficult to remedy, such as the continued use of a counterfeit trademark or a defamatory campaign against a competitor.

- Non-interference with the merits of the case: The role of the summary judge is limited to adopting provisional measures without addressing the existence of commercial property rights or determining final liability.
- The existence of an apparent infringement: There must be clear preliminary evidence justifying the adoption of provisional measures, such as a striking similarity between two trademarks or the complete copying of advertising texts.

Summary courts may also order several measures, including:

- Ordering the cessation of the unlawful acts.
- Seizure of the disputed products.
- Establishing the factual situation through the appointment of an expert.
- Ordering the closure of a commercial establishment or a website.

Procedure for bringing a case before the summary judge: This is done by filing an urgent action through the submission of an application containing the necessary information about the parties, the facts of the case, and the requested provisional measures. The application must be dated and signed. After payment of the registration fees, the defendant must be summoned within the shortest possible time under ordinary summary proceedings. In cases of extreme urgency, the time limit for summons may be reduced to 24 hours, particularly when the danger is serious and threatens to cause substantial losses to the competitor (for example, a request to open the doors of a workshop). Such actions may even be filed outside regular working days and hours. (Algerian Civil Code, 1975, Arts. 40, 84, 90)

4.4. Ordinary Jurisdiction

If the legislator seeks, on the one hand, to ensure the protection of competition in the market and, on the other hand, to safeguard natural and legal persons from any negative effects resulting from anti-competitive practices, the appropriate solution lies in entrusting this task to both the Competition Council and the judiciary, each according to the importance of its respective role.

The Competition Council occupies the most significant and prominent position as the primary authority responsible for protecting competition in the market. For this reason (Executive Decree No. 11-241, 2011), the legislator has granted it important powers (Ordinance No. 03-03, 2003, Art. 34), particularly in contentious matters. Its role is not limited to monitoring restrictive competition practices; it also extends to imposing financial penalties aimed at deterring their perpetrators (Ordinance No. 03-03, 2003, Art. 56).

However, genuine and comprehensive protection of competition cannot be limited merely to imposing sanctions on those who violate the provisions relating to such practices in accordance with Law No. 03-03. These practices often produce negative consequences in the form of damages, and this is where the judiciary intervenes.

The judiciary intervenes, first, as a second level of litigation, where territorial jurisdiction in this type of dispute is vested in the Algiers Court of Appeal, Commercial Chamber, which exercises national jurisdiction. This court is competent to examine appeals filed against the decisions and orders issued by the Competition Council. (Cherouat Hussein, 2012, p. 68)

Secondly, the judiciary intervenes as a court of first instance in order to eliminate the harmful effects of unlawful practices, notably by declaring such practices null and awarding compensation to those who have suffered damage as a result. This clearly demonstrates the effective role played by the judiciary in resolving disputes related to competition.

5. Conclusion

In conclusion, this research paper has demonstrated that competition is lawful as a general rule; however, it may deviate from the sphere of legality and enter the realm of illegality when unlawful competitive methods are employed in themselves. Despite the importance accorded by the Algerian legislator—similar to other comparative legislations—due to the significant and indispensable role of competition, the legislator has sought to regulate its rules by prohibiting any practice that may restrict competition in the market. This was achieved through the promulgation of Ordinance No. 03-03 relating to competition and Law No. 04-02 relating to commercial practices, which established various regulatory and supervisory mechanisms.

Nevertheless, the current legal provisions governing unlawful practices have not proven entirely effective. Evidence of this can be seen in the widespread prevalence of unfair competition practices within the commercial and economic environment. This situation requires all competent administrative and non-administrative bodies to combine their efforts, as well as the establishment of new institutional structures aimed at protecting competition and ensuring its integrity from the abuses of economic operators. Indeed, the need to safeguard the market is becoming increasingly important and necessary.

It should also be noted that the existing legal mechanisms remain insufficient in terms of their practical application, particularly in light of the technological developments affecting both competition and trade.

Accordingly, the following recommendations may be proposed:

- Increasing academic and legislative attention to actions for unfair competition in order to combat economic crime in particular and to prevent practices that may create market distortions.
- Strengthening awareness campaigns aimed at regulating the market and increasing awareness among both consumers and economic operators.
- Ensuring greater harmonization between the criminal and administrative approaches adopted by the Competition Council and the judicial authorities regarding competition-related practices.
- Implementing in practice the cooperation established under Article 38 of Ordinance No. 03-03 between the Competition Council and judicial authorities. Judges should not hesitate to exercise their right to request the opinion of the Competition Council whenever such consultation may contribute to resolving the disputes brought before them.
- Providing for custodial penalties (imprisonment) in addition to increasing the value of financial fines within the legal provisions governing unfair commercial practices.

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