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## The Role of the Ordinary Court in Protecting the Principle of Freedom of Competition in Algeria

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### Abstract:

It is widely acknowledged that Algeria has witnessed significant reforms in the economic and financial sectors, particularly after the promulgation of Law No. 88-01 on January 12, 1988, which included the directory law for public economic institutions aiming to abandon the previously prevailing socialist system. This became evident after the 1989 Constitution, which marked Algeria's shift towards a market economy that encourages individual initiatives. In order to preserve and promote competition within the framework of a market economy and ensure the general economic order, the Algerian legislator established the Competition Council under the Order 95-06 dated on January 25, 1995 (annulled). To further strengthen the principle of freedom of competition and establish its foundations, the Order n° 03-03 on competition was issued, which introduced various administrative bodies and judicial entities dedicated to protecting competition. Based on these grounds, we aim to illustrate the role of the ordinary court in protecting the principle of freedom of competition in Algeria.

**Keywords:** Freedom of Competition. The Ordinary Court .Algeria .

## 1. INTRODUCTION

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It is undeniable that free competition is deemed one of the fundamental principles of the market economy, as it leads to the provision of various services with high quality and at reasonable prices. However, there are certain behaviors and practices that restrict competition and limit its effectiveness. It is worth noting in this regard that the Algerian legislator has offered special protection for economic agents to work in an environment characterized by free competition giving that the Algerian legislator has set forth provisions ensuring the freedom of industry and trade in Article 61 of the amended and supplemented 1996 Constitution (according to its latest amendment in 2020). The article states: "Freedom of trade, investment, and entrepreneurship is guaranteed and performed within the framework of the law."

As a result, the amended and supplemented Order n° 03-03 was issued in 2008 and 2010, which annulled the previous Order n° 95-06 in order to adapt with the economic developments and address the gaps that existed under the previous order. Through the amended and supplemented Competition Law, it becomes evident that the legislator has granted certain entities the authority to supervise practices restricting competition, organize market, and promote competition. These entities include the Competition Council and the judicial bodies empowered by the law to oversee and prevent anti-competitive practices. It is worth noting that these bodies consist of both ordinary courts and administrative bodies, aiming to enhance the authority of competition in Algeria, particularly in the framework of the government's efforts to join the World Trade Organization (WTO).

Based on the aforementioned, we have chosen the title of our topic to be:

"The Role of the Ordinary Court in Protecting and Promoting the Principle of Competition in Algeria"

This is intended to address the following questions: What is the meaning of the principle of competition? What are the practices that restrict competition in the Algerian law? What is the competence of the ordinary court in overseeing and preventing practices restricting competition? This leads us to answer the following problem: What is the role and extent of the ordinary judiciary in protecting and promoting the principle of competition in Algeria answers of these sub-questions will lead us to answer the fundamental question of this study which is: what is the role of the ordinary court and to what extent it contributes in the protection and promotion of the principle of competition in Algeria?

In order to find an answer this problem, we have divided our study into the following two axes:

The first axis addresses the concept of the principle of competition.

The second axis discusses the mechanisms through which the ordinary court protects the principle of competition.

## **2. The notion of the principle of free competition**

In this first axis, we will discuss the concept of the principle of competition by providing a definition to this notion. Then, we will delve into the principles upon which the principle of competition is based.

### **2.1 Defining the principle of free competition**

If we refer to the legislator's definition of competition, we find that this latter generally does not delve into defining concepts, leaving room for jurisprudence to delve into the

different concepts. We note that, through Order 03-03, which relates to amended and supplemented competition laws, it becomes clear that the Algerian legislator did not provide a definition of competition. The focus was instead on the intended goal behind the competition law, considering it aimed at determining the practice of competition in the market, avoiding any practices restricting it, and monitoring economic concentrations to enhance economic efficiency and improve consumer welfare.(Order 03-03, on competition, amended and supplemented)

Linguistically speaking, competition refers to a natural desire to work hard in order to succeed. The French term "concurrence" comes from the Latin word "Cum-Ludere," which means "to play together or run with." Hence, the concept of competition, in its common usage, implies a state of opponents, rivalry, conflict, and a sort of continuous animosity .(Mahrez, 1994, p. 07)

The term "competition" is mentioned in the Qur'an, where Allah encourages competing in good deeds to attain abundant blessings. This is expressed in the following verse: "The last of it is Musk, so for this, let the competitors compete." (Quran, Surat Al Mutaffifin 26)

Competition is a form of freedom in engaging in human activities in general and economic activities in particular. The law recognizes and establishes regulations for this freedom, prohibiting any abuse of the right to compete. This means that anyone who enjoys the freedom of trade, whether they are a natural person or a legal entity, is entitled to the freedom of competition .(Mahrez, 1994, p. 11)

Competition entails granting freedom and creating space for the mechanisms of supply and demand to operate smoothly and easily between producers and consumers. It encompasses regulatory, legal, and economic approaches to ensure the proper functioning of market mechanisms that embody freedom of pricing and the freedom to access the market, trade, and conducting transactions with integrity and transparency.(Al-Mahi, 2007, p. 12)

Competition is thus one of the foundations on which a market economy relies. It fosters the development of trade, whether it is domestic, local, or international in nature.

Competition is defined as "the situation in which there is a free, complete, and genuine confrontation between economic agents in terms of supply, demand, expertise, services, production, and capital.(Shawalin, 2002, p. 103)

It is considered a method of social organization that imposes a series of approaches and concepts on economic agents, as determined by specific legal texts on competition. Its purpose is to distribute scarce resources in a rational manner, improve production methods, enhance product quality, and stimulate industrial and technological progress. Competition compels each agent to improve production methods and reduce the costs of goods and services to the lowest price possible. It is seen as an integrated approach and a well-regulated system to achieve economic and social development.(Arziki, 2011, p. 17)

The freedom of competition is considered a manifestation of the freedom of industry and trade, as some perceive it as competition against traders or industrialists attempting to attract customers through means such as quality, reasonable prices, and the location of commercial establishments .(Official Gazette, Issue No. 76, dated December 8, 1996)

It should be noted that the principle of freedom of competition is based on two fundamental freedoms: "freedom of industry and trade," as stated in the Algerian Constitution

of 1996, amended and supplemented,(Official Gazette, Issue No. 76, dated December 8, 1996)particularly in Article 37, and "freedom of prices." These two freedoms are complemented by the principle of exemption from liability and the legitimacy of competitive harm resulting from the processes of racing and crowding, in line with the declared logo, "The customer belongs to those who know how to reach them" .(Tayorsi, 2010, p. 65)

### **2.2The principles of competition**

Referring to Order 03-03 on the amended and supplemented competition regulations, it becomes evident that competition is based on a fundamental and crucial principle, namely the principle of price freedom (01). Furthermore, this order encompasses practices restricting the principle of competition freedom (02) as well as economic concentration (03).

#### **2.2.1. The principle of freedom to price**

The legislator addressed the provisions related to the freedom to price that we summarize as follows:

Considering that the freedom to price constitutes a principle of competition freedom, prices related to goods and services are determined freely and fairly. Price freedom is exercised while respecting the legal and regulatory provisions that govern prices, and it should be practiced based on fairness, transparency, and pertaining to the price structure related to production, distribution, service provision, importation, and sale of goods in their original condition. This includes profit margins concerning the production, distribution, and service provision, as well as transparency in commercial practices.(Article 03 of Law 10-05, dated on August 15, 2010, amending and supplementing Order 03-03 on competition.)

It is possible to determine price margins for goods and services, particularly homogeneous categories, or to set a ceiling or approve them through regulation. Measures regarding profit margins and prices of goods and services can be taken based on the proposals of the relevant sectors for the following reasons: to stabilize the prices of essential goods and services or those with wide consumption in case of significant market disruption, to combat speculation, and to preserve the purchasing power of consumers.

However, in the case of excessive and unjustified price increases, especially due to market problems, disasters, supply difficulties in a specific sector or geographic area, or in the case of natural monopolies, temporary measures can be taken to determine profit margins and prices of goods and services or to adopt price ceiling.(Article 04 of Law 10-05, dated August 15, 2010, amends and complements Order 03-03 concerning competition.)

#### **2.2.2. Practices restricting the principle of free competition**

It is evident from the amended and supplemented Order 03-03 on competition, that practices that restrict and hinder competition are included in the second chapter titled "Principles of Competition" in sections 06-07-10-11-12 of the same order. Agreements that restrict competition, abuse resulting from market dominance and monopolies, abuse of economic dependence, any monopolistic act or contract, selling at low prices—these are all practices that are considered anti-competitive under the provisions of Order 03-03.

Furthermore, it is worth noting that the legislator, under Order 03-03, added practices that are considered contrary to competition but were not found in the previous order 95-06. On the other hand, the previous order included concentrations within the scope of anti-competitive actions. However, in the current order, concentrations are addressed in a separate

chapter titled "Economic Concentration."

**A- Agreements that restrict competition:** as stated in the provisions of Article 06 of the Order 03-03, on competition, amended and supplemented aiming to: Restricting market access or engaging in commercial activities within it.

Restricting or controlling production, distribution channels, investments, or technological advancements.

Sharing markets or supply sources

Obstructing price determination based on market rules by artificially encouraging price increases or decreases

Applying unequal conditions for the same services towards trading partners to deprive them of the benefits of competition

Subjecting contract agreements with partners to accepting unrelated additional services, whether based on their nature or commercial practices

After amending the competition law under Law No. 08-12, particularly Article 05, which complements the provisions of Article 06 of Order 03-03, the following paragraph, has been added:

Allowing the granting of public transactions for the benefit of those engaged in these restricted practices.

Furthermore, we note that for these agreements to be considered practices restricting competition, some conditions must be met. These conditions include the existence of an agreement, the infringement of competition freedom, and the presence of a causal relationship. As for the case of an explicit or implicit agreement aiming to adopt a mutual plan by a group of economic agents for the purpose of undermining competition within a single market for goods and services, if the conditions are not met, it does not constitute a violation that disrupts the stability of each economic operator's decision in the market .(Belqassem, 2006, p. 14)

As for the condition of infringing competition freedom, these agreements aim to undermine the principle of competition and restrict it. The agreements explicitly or implicitly seek to disrupt the principle of competition in production, trade, and services. Regarding the existence of a causal relationship, it is a necessary condition as it requires the intention of the parties to restrict competition and their willingness to undermine the principle of competition, even if the agreement parties do not achieve this goal, as it poses a danger that should be eliminated, which happens very often.(Jalal Mas'ad, 2012, p. 72)

The important aspect of all these cases is that there must be an agreement between the parties that leads to impeding or restricting free competition, whether by fixing price, reducing production, restricting market access for competitors, or sharing market or sources of supply .(Katou, p. 37)

**B- Prohibition of abuse resulting from market dominance and monopolies:** It is considered an act of market dominance or monopoly when any action may lead to:

- Restricting market access or engaging in commercial activities within it
- Reducing or controlling production, marketing outlets, investments, or technological advancements
- Market sharing or sourcing.
- Impeding price determination according to market rules by artificially encouraging

price increases or decreases.

- Applying unequal conditions for the same services towards business partners, depriving them of competition.

- Subjecting contract conclusion with partners to their acceptance of unrelated additional services, whether due to their nature or according to commercial practices .(Order 03-03, on competition, amended and supplemented)

As for the concept of dominance, it is defined in Article 03 of Order 03-03, on competition, amended and supplemented as “the position that enables an entity to obtain an economic power position in the target market, which hinders or prevents effective competition and enables the entity to significantly prevent the actions of its competitors, customers, or suppliers.

These actions are considered prohibited practices that constitute economic dominance or monopolistic practices in the market.

However, Article 09 of Order 03-03, on competition, amended and supplemented set forth an exception regarding agreements or practices resulting from legal or regulatory application. These agreements, which originally restrict or hinder competition, are considered permissible if they contribute to economic or technological development, improve operations, or enhance the competitive position of small and medium-sized enterprises in the market. It is important to note that the benefits of such agreements and practices can only be obtained with the approval of the Competition Council .(Order 03-03, on competition, amended and supplemented)

**C- Any monopolistic action or contract:** It is prohibited to engage in any action or contract, regardless of its nature, that allows a company to exercise a business activity falling within the scope of competition law .(Law No. 08-12, amending and supplementing the provisions of Order 03-03 on competition)

The reason behind the legislator inclusion of such conduct as acts that hinder competition is that a monopolistic contract is a contract in which the seller commits to the buyer to exclusively provide the goods or services covered by the contract with the intention of distributing them in a monopolistic manner. This contradicts with the principle of freedom of competition .(Boulahlais, p. 30)

**D- Arbitrariness in the exploitation of economic dependency:** This is the type of practice that Article 11 of Order 03-03, on competition, amended and supplemented, deems as arbitrary. Such practices include:

- Refusing to sell without legitimate justification
- Linked or discriminatory selling
- Conditional or discriminatory selling
- Conditional selling by acquiring fewer quantities
- Ending commercial relations sol grounds of the refusal of the counterparty to accept unjustified commercial terms
- Any other action that minimize or eliminates the benefits of competition within the market

**H- Selling at lower prices:**This is what Article 12 of Order 03-03, on competition, amended and supplemented, stated. As it prohibits arbitrary pricing offers or practices that sell products to consumers at prices that are significantly higher than the costs of production,

transformation, and marketing. Such practices may lead to the exclusion of a company or hinder its products from entering the market. The legislator has clearly prohibited the practice of selling products at arbitrarily reduced prices or merely offering such prices. Selling at arbitrarily low prices is not only a sales strategy but rather a practice restricting competition aimed at eliminating competitors to gain control of the market. The ultimate goal is to return to regular prices, as this is the true objective of the process. From the consumer's perspective, they may initially perceive these practices as beneficial since they believe they are purchasing products at a price lower than the production and marketing costs. However, the reality is different .(Belqassem, 2006, p. 62)

The initial practice serves as a trap, as customers are enticed to make more purchases. Some scholars have described this type of practice as "an island of losses in a sea of profits," highlighting the deceptive nature of such practices .(Belqassem, 2006, p. 62)

### **3. Economic concentration:**

Here, we address (a) the concept of economic concentration and (b) the conditions for economic concentration.

#### **A- The concept of economic concentration:**

Firstly, it should be noted that the legislator did not define economic concentration, but rather referred to cases that are considered forms of economic concentration as specified in Article 15 of Order 03-03, on competition, amended and supplemented. These cases can be summarized as follows:

- If two or more previously independent institutions merge.
- If an individual or several natural persons with influence acquire at least one institution, or if an institution or several institutions, or a part of them, are obtained directly or indirectly through acquiring shares in the capital, purchasing the institution's assets, or through a contract or other means.
- If an established joint institution permanently performs all the functions of an independent economic institution

The legal scholar Blaise Jean Bernard defines economic concentration as: "the union or combination of two or more institutions within a specific legal framework, with the aim of bringing about a permanent change in the market structure, while causing the loss of independence for all the concentrated institutions, thus enhancing the economic power of the group as a whole" .(Selma, 2010, p. 88)

#### **B- Conditions of overseeing economic concentration**

Articles 17 and 18 of Order 03-03 stated the following conditions:

- The existence of a concentration that affects competition. As stated in Article 17:"Any concentration that may affect competition, particularly by enhancing the dominant position of an institution in a market, must be presented by its owners to the Competition Council, which will in turn examine it and decide on it within a period of three (3) months."
- If the concentration exceeds 40% of sales and purchases made in a specific market, because only the concentration process exceeding the specified rate of 40% of sales and purchases is subject to control, and if these sales and purchases affect or harm competition. This rate is determined by referring to sales and purchases in a specific market, requiring a prior analysis of the specific market to determine the share of the concentration parties within

it(Samir, 2010, p. 59)

It is worth mentioning that the process of overseeing concentration is not considered a restriction on trade, as some may think, because this oversight provides a definite guarantee for competition. This approach has been emphasized by the Competition Council in Algeria, which considers that "Overseeing concentration does not constitute an obstacle for institutions as much as it is a guarantee for preserving the necessary competitive environment for their competitiveness. Therefore, it represents an effective tool for providing suitable conditions for economic growth ." (Katou, p. 57)

## **4. Mechanisms for protecting the principle of competition freedom by the ordinary court**

If we refer to Order 03-03, on competition, amended and supplemented, it becomes evident to us that the Algerian legislator has granted the ordinary judicial authorities the power to confront, prevent, and combat practices restricting competition. This is achieved through the nullification of such practices in the first place and then by compensating any economic agent affected by practices restricting competition through a recourse mechanism.

### **4.1 The authority to nullify practices restricting competition**

According to Article 13 of Order 03-03, on competition, amended and supplemented, that reads as follows: "Without prejudice to the provisions of Articles 8 and 9 of this Order, any commitment, agreement, or contractual condition related to any prohibited practices under Articles 6, 7, 10, 11, and 12 above shall be null and void."

Thus, it is evident that the legislator has granted the judicial authorities the power to nullify practices restricting competition through an action of nullity. To file a nullity action, these acts, contractual agreements, or contractual conditions must be related to any prohibited practices specified in Articles 6, 7, 10, 11, and 12 of Order 03-03, on competition, amended and supplemented. These nullity actions can be filled by any economic operator affected by such prohibited practices.

It should be noted that through the competition law, the legislator did not specify which parties are entitled to claim nullity. It is possible to refer to general rules, where parties to the obligation have the right to claim nullity, even if they participated in its implementation. It is also permissible for a third party, with an interest, to request nullity if it is related to the public order .(Aboubakr, 2013, p. 134)

The aim of the competition law is to protect competition and economic operators from any anti-competitive and restrictive practices, and to preserve the general economic system. Therefore, any practices or violations related to the restricted or anti-competitive principles are subject to absolute nullity. As a result, civil claims related to the nullity of prohibited obligations can be initiated by either party to the contract or any interested party who has been harmed by the contract .(Dherifa, 2011, p. 16)

The Order 75-58, which includes the amended and supplemented Civil Code, particularly regarding Article 102, paragraph 1, states: "If a contract is absolutely null and void, any interested party has the right to invoke this nullity, and the court can declare it *ex officio*. The nullity cannot be waived, and the claim for nullity expires in fifteen years from the date of conclusion of the contract."



Thus, it becomes clear that the law grants any interested party the right to resort to the court to nullify agreements or practices that restrict competition. This can be summarized as follows :(Nabia's, 2013, p. 143 )

**A- Parties to the contract:** It is permissible for any party to the contract, commitment, or contractual condition to claim nullification of what they have agreed upon. This means that parties who are harmed by these agreements and obligations have the right to seek nullification through legal proceedings. However, certain conditions must be met for filing a legal claim, including having the legal standing, interest, and eligibility to approach the competent judicial authorities.

As for the condition of quality, it is necessary that the direct claim for nullification of any agreement or commitment contrary to competition and its principles be initiated by a party who is legally illegible. This is stated in Article 13 of the Civil and Administrative Procedure Code. Legal quality is an important condition for accepting a claim of nullity. If legal quality is absent, the claim is not admissible, and the courts cannot proceed with it, examine its subject matter, and issue a judgment on it.

There is an opinion stating that personal and direct interest is expressed by the term legal quality. Another opinion distinguishes between direct and personal interest, as there are cases where the claim is brought not by the rightful owner but by someone acting on their behalf, such as a guardian or a legal representative. Legal quality refers to personal and direct interest, as the claimant is either the rightful owner or the legal entity that seeks protection.(Boudersa, 2006, p. 141)

In general, legal quality refers to a person's authority to initiate legal proceedings, either by themselves or through their legal representative.(Al-Aysh, 2009, p. 44)

- As for the condition of legal interest; it is an established principle in jurisprudence, judiciary, and legislation. It is recognized that where there is no legal interest, there is no lawsuit. Therefore, in a nullity claim, legal interest is considered an essential condition for its admissibility by the court. This is stated in Article 13 of the Civil and Administrative Procedure Code, which states: "...and has an existing or potential interest recognized by law..." Thus, legal interest is considered one of the necessary conditions that must be met by the claimant.

- Regarding legal capacity, the legislator considers it through Article 64 of the Civil and Administrative Procedure Code,(Law No. 08-09, dated on February 25, 2008) which states: "Cases of nullity of non-judicial contracts and procedures, in terms of their specific subject matter, are limited to the following:

- Lack of legal capacity of the parties,
- Lack of legal capacity or authorization for the representative of a natural or legal person"; it is an objective condition included in the plea of nullity. If legal capacity is lacking for the parties or the representative of a natural or legal person, this leads to nullity. Legal capacity is deemed part of the general legal system, as it is automatically raised if legal capacity is lacking.(Civil and Administrative Procedure Code)

Some argue that the legislator made a mistake by excluding legal capacity from the conditions for accepting a lawsuit. This is due to reasons including the fact that legal capacity is not always stable and can be present at the time of filing the lawsuit but may be absent or

interrupted during the course of the dispute .(Abdulrahman, 2009, p. 39)

**B- Third parties:** It is permissible for a third party to file a lawsuit to invalidate practices that restrict competition. In this regard, we can refer to the nullity lawsuit filed by a foreign party against an agreement. For instance, a lawsuit filed by a supplier who has been commercially boycotted as a result of an agreement between the car manufacturer and a group of dealerships affiliated with it, seeking the nullity of the agreement. The supplier bases their claim on the liability for negligence and the car manufacturer's fault against them. The Versailles Court ruled the nullity of the agreement based on Articles 7, 8, and 9 of the decree issued on December 1, 1986, rather than on the basis of negligence liability as claimed by the plaintiff .(Dherifa, 2011, p. 18)

**C- The Competition Council:** The Competition Council is empowered by law to file a lawsuit for nullity in cases where there are practices that restrict competition before the competent judicial authorities.

**D- The Consumer Protection Association:** as provided by law, is authorized to request the annulment of practices that restrict the principles of competition in Algerian law through a legal action. This is because the primary objective of these associations is to protect consumers.

It is worth noting that such lawsuits are subject to a statute of limitations according to general rules, which is 15 years, as stipulated in Article 102, paragraph 2 of Decree 75-58, which includes the amended and supplemented Civil Law.

There are many challenges in the field of filing a lawsuit to invalidate practices that restrict competition, especially regarding the issue of evidence, which is characterized by its complexity. The burden is on the plaintiff to provide evidence that demonstrates that these agreements or various commitments are considered practices restricting competition. The general rule in evidence is that the burden of proof lies with the party filing the claim, as provided for in the amended and supplemented Civil Law, namely in Articles 323 to 350.

### **4.2 The claim for compensation for damages resulting from practices restricting competition**

In addition to the jurisdiction of the ordinary court to invalidate practices restricting competition, according to Article 124 of the amended and supplemented Civil Law: "Every act committed by a person in error that causes harm to others obliges the one who caused it to compensate." Furthermore, Article 48 of Decree 03-03, on competition and amended and supplemented, states that: "Any natural or legal person who considers themselves harmed by a practice restricting competition according to the provisions of this decree is entitled to file a lawsuit before the competent judicial authority in accordance with the applicable legislation."

This implies that every person who has incurred harm has the right to file a claim for compensation before the competent judicial authorities, as specified in the Civil and Administrative Procedure Law.

As for the individuals who are entitled to file a claim for compensation, it should be noted that an economic agent who has been harmed by an agreement restricting competition, abuse of dominance, or similar practices can request compensation for the damages resulting from such practices. Additionally, the Minister of Commerce or their legally qualified representative can file an independent lawsuit based on the disturbances affecting the general

economic system due to unlawful practices.(Adel, 2012, p. 144)

Consumer protection associations also have the right to file a claim for compensation for damages resulting from practices restricting competition.

It is important to note that the conditions for civil liability must be met, including fault, damage, and a causal relationship. This means that there must be a violation of competition principles as set forth in competition law. As for the damage, there must be a significant loss incurred by the trader or economic operator as a result of these restrictive practices of competition. Furthermore, there must be a causal relationship between the fault and the damage.

## 5. CONCLUSION

This research paper attempted to explore the role of the ordinary court in protecting and promoting the principle of competition. The research manifested the principle of competition is a fundamental principle for economic development, and one of its principles is the freedom of prices. The ordinary court is considered one of the institutions that contribute to the protection of the principle of competition, along with the Competition Council, which is the specialized authority in the field of protecting and promoting the principle of competition.

It should be noted that the ordinary court intervenes in two ways. Firstly, it nullifies practices restricting competition as stipulated in Order 03-03, on competition, amended and supplemented. The nullification is done through filing a lawsuit for annulment. Secondly, the ordinary court compensates those who have been harmed by such practices through a compensation claim, following the procedures specified in Algerian law.

Finally, numerous challenges arise in the field of filing a lawsuit for the annulment of practices restricting competition, particularly regarding the area of proof, which is characterized by complexity. This is because the burden of proof falls on the plaintiff to provide evidence showing that these agreements or various commitments are considered anti-competitive acts. The general rule of evidence is that proof is under the liability of the party filing the claim.

Through this research paper, we suggest the following recommendations:

- Training judges at the Higher School of Judiciary in the field of economic law, specifically to enhance their knowledge and understanding in the area of competition and its protection mechanisms.

- Organizing seminars and scientific conferences to raise awareness about the principle of competition, in coordination with trade authorities and associations active in this field.

## 6. Bibliography List :

- Abdulrahman, B. (2009). *Explanation of the Civil and Administrative Procedure Code*. Second Edition, Expanded, published by Baghdad Algeria Publications.
- Aboubakr, A. K. (2013). *Prohibited Agreements in Competition Law*. Oran, a thesis for obtaining a Master's degree in Law specialized in Comparative Business Law, Faculty of Law - University of Oran.
- Adel, B. (2012, 12 07). *the liability of economic agents for practices restricting competition in Algerian law*. Tizi Ouzou, : a thesis for obtaining a Master's degree in Law, specialization: Professional Liability Law, Doctoral School of Basic Law and Political Sciences, FacultMouloud Mammeri University .

- Al-Aysh, F. (2009). *Explanation of the New Civil and Administrative Procedure Code*. Amin Publications.
- Al-Mahi, H. (2007). *Protection of Competition: A Comparative Study*. Mansoura, Arab Republic of Egypt: Modern Library for Publishing and Distribution.
- Article 03 of Law 10-05, dated on August 15, 2010, amending and supplementing Order 03-03 on competition. (s.d.).
- Article 04 of Law 10-05, dated August 15, 2010, amends and complements Order 03-03 concerning competition. (s.d.).
- Arziki, Z. (2011, 04 14). Consumer Protection in the Context of Free Competition. Magister Dissertation in Law, specialized in professional liability, Doctoral School, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou.
- Belqassem, A. (2006). *Competition Council*. graduation dissertation to obtain the Higher School of Judiciary certificate.
- Boudersa, A. (2006). *General Conditions for Accepting a Lawsuit: Between Theory and Practice*. Algeria : Dar Huma, 2nd edition.
- Boulahlais, I. (s.d.). Jurisprudence in the field of competition,. Constantine, a research paper submitted to obtain a Master's degree in Private Law, Business Law, Faculty of Law, Mentouri University, Constantine,.
- Civil and Administrative Procedure Code. (s.d.).
- Dherifa, M. (2011, 05 10). The Role of Ordinary Judicial Authorities in Implementing Competition Law. Tizi Ouzou , a thesis for obtaining a Master's degree in Law specialized in Professional Liability Law, Faculty of Law, Tizi Ouzou University.
- Jalal Mas'ad. (2012, 12 06). wife of Muhtawat, the extent of the impact of free competition on business practices,. a doctoral thesis in the field of business law, Faculty of Law, Tizi Ouzou University,.
- Katou, M. A.-S. (s.d.). *Competition Law and Business Practices according to Order 03-03 and Law 04-02*. Baghdad Publications, Algeria, year of publication ND.
- Law No. 08-09, dated on February 25, 2008. (s.d.).
- Law No. 08-12, amending and supplementing the provisions of Order 03-03 on competition. (s.d.).
- Mahrez, A. M. (1994). *the right to legitimate competition in economic activities*. Publisher and place ND.
- Nabia's, S. (2013). Crimes related to competition in Algerian law and comparative law. Oran, which is a thesis for obtaining a Master's degree in Law specialized in the relationships between economic agents/consumers, Faculty of Law and Political Science, University of Oran.
- Official Gazette, Issue No. 76, dated December 8, 1996. (s.d.). , amended and supplemented according to the latest amendment in 2020. Constitution of the People's Democratic Republic of Algeria.
- Order 03-03, on competition, amended and supplemented. (s.d.).
- Quran, Surat Al Mutaffifin 26. (s.d.).
- Samir, K. (2010). Tizi Ouzou, on the authority of the Competition Council in regulating the market, a thesis for obtaining a Master's degree in Law, specializing in State Transformations, Doctoral School of Basic Law and Political Science, Faculty of Law and Political Science, University of Moh.
- Selma, K. (2010). the Competition Council and the Regulation of Economic Activity. Boumerdes, a memorandum to obtain a Master's degree in Legal Sciences, Business Law branch, Faculty of Law, University of Mohamed Bouguerra, Boumerdes.
- Shawalin, M. A.-S. (2002). Economic Competition between Islamic Law and Civil Law. Magister Dissertation in Islamic Sciences, specialized in the principles of jurisprudence, Faculty of Islamic Sciences, University of Algiers.
- Tayorsi, M. (2010). *Rules of Competition and the General Economic System: A Comparative Study*. Tlemcen: Faculty of Law and Administration, Abu Bakr Belkaid University, Tlemcen.