

Protecting the Health Security of Consumers by Enforcing the Role of the Regulatory Authority for the Tobacco Market and Products Tobacco in Algerian Law.

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Abstract:

Tobacco is one of the most economically valuable commodities, but its indiscriminate consumption poses a risk to public health. The state therefore intervenes strongly to protect consumers. This includes raising taxes on tobacco, passing laws banning its promotion and advertising, and banning smoking in public places. However, increasing tobacco taxes can reduce consumption, leading to a decline in activity and limited competition in the industry. Balancing competition in the tobacco market with the goal of protecting public health is a major challenge. To address this, the Algerian legislature has established an independent authority to regulate the tobacco market. The effectiveness of this authority in implementing independent and effective economic control of the tobacco market, while taking into account consumer health, is examined.

Keywords: Public health, Tobacco Market Control Authority, Consumer, Competition.

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Introduction:

The trade in tobacco products contributes to the widespread use of this substance, making it a global problem with serious public health consequences. Addressing this problem requires effective national and international measures, including the establishment of legal and institutional mechanisms to regulate the tobacco market and the promotion of tobacco products.

Commercial transactions involving the sale of tobacco products are often driven by commercial interests, with profit taking precedence over the health security of individuals. Tobacco is widely recognised as one of the greatest threats to public health, causing millions of deaths worldwide each year. Despite its harmful effects, tobacco companies prioritise sales volume over health considerations. Such practices can lead to lower tobacco prices, increasing its availability on the market, which in turn stimulates its trade. As a result, the prevalence of smoking increases, which is a clear violation and failure to ensure health safety.

To eradicate such irresponsible business practices, countries around the world, including Algeria, are seeking to regulate the tobacco market and trade in tobacco products through international agreements

and national legislation. The state intervenes rigorously to protect consumers, mainly by increasing taxes on tobacco products in its annual finance laws. In addition, laws are enacted to prohibit the promotion and advertising of tobacco products and to ban smoking in public places. However, the increase in tobacco taxes inevitably leads to a reduction in consumption, which in turn weakens the economy and restricts competition, thereby undermining the principle of free competition.

In an effort to reconcile the interests of consumers with the revitalisation of competition in the tobacco market, the Algerian legislature took the initiative of creating an independent administrative authority to regulate the tobacco market after abolishing the natural monopoly on this commodity. However, an examination of the establishment of this authority, and the state's belief that it is the sole guardian of public health, reveals that the state is intervening in one way or another to manage competition in the tobacco market. Following the creation of the Agency for the Regulation of Tobacco Activities and Tobacco Products under the 2001 Finance Act, it was placed under the supervision of the Minister of Finance, who is also its chairman. This confirms the strict intervention of the executive authority in the tobacco market. The question therefore arises as to whether this form of governance achieves impartiality in this market.

Therefore, the aim of this study is to highlight the importance of the Tobacco Market Control Authority in establishing an independent and effective economic control that takes into account the interests of consumers and protects their health. This leads us to the problem statement for this study:

How did the Tobacco Market Control Authority contribute to ensuring the health security of individuals?

In order to answer the problem statement, we will use the descriptive and analytical methods, as they are appropriate for the research topic. The descriptive method will be evident through describing the elements of the study, which are health security and the tobacco market control authority, and establishing the relationship between them. The analytical method will be evident through the analysis of relevant legal texts related to the subject in order to identify gaps and shortcomings.

First Axis: The Conceptual Framework of Health Security and the Tobacco Market Control Authority

In this axis, we will discuss the concept of health security, which is closely linked to the exercise of health-damaging commercial activities. We will then provide an overview of the Tobacco Market Control Authority, which is considered to be one of the most important economic regulators. Finally, we will establish the relationship between health security and the Tobacco Market Control Authority, as the latter is one of the most prominent products that pose health risks and require strict regulation in its trade.

First: The concept of health security in the context of health-damaging commercial activities

To understand the concept of health security, we will first look at its meaning in society. We will then explore its content and highlight its priority beyond risks and commercial interests.

1- The importance of health security in society:

Health is an issue of widespread interest in the social context, and health security strikes a balance between serious efforts to achieve it and exploitative investments that capitalise on human suffering to generate profit. Health occupies a critical position in the global economy, as the health market is profitable and lucrative for investors and those seeking to maximise their wealth, particularly in the era of global trade and interconnected markets¹.

The primary objective of health education is to inform individuals and communities about their health and the health of their environment in order to promote social, cultural, economic and civilisational

development. It involves the continuous maintenance and promotion of this growth. Health awareness refers to citizens' familiarity with health-related information and facts and their sense of responsibility for their own health and the health of others. In this context, health awareness includes deliberate health practices based on understanding and conviction. It also means transforming those health practices into habits that are performed unconsciously or without conscious thought. In other words, health consciousness is the goal we should strive for and achieve².

In this context, we can say that health education contributes significantly to social stability, as it forms the basis of a healthy society, protected from risks that affect the health of individuals. One of the most important aspects of health education is to encourage people to stop using tobacco products because of their serious and potentially fatal health risks.

2- The content of health security:

The content of health security encompasses several interrelated elements of varying importance and impact. The scope of work and interest plays a role in determining this, distinguishing between national health issues and those limited to regional and international contexts. The scope influences the level of effort, funding and factors involved. Consequently, health security content can be categorised into national and international domains based on the level of scope³.

At the national level, the content of health security is rooted in national health policies, whose agendas outline comprehensive health coverage goals. At the international level, the efforts of the World Health Organization (WHO) focus mainly on coordinating action and guiding shared visions for health improvement⁴.

3- Prioritising health safety beyond interests and commercial considerations:

The priority of global health security should go beyond interests and commercial considerations. The approach to health within the international economy must undergo a radical transformation in beliefs and management methods. Health needs should not be sacrificed in favour of interests and commercial gambles. The potential gains from the pursuit of global health security offer the opportunity to improve the situation of poor and vulnerable countries, thereby increasing opportunities for interdependence. The returns to community health contribute to economic growth and increased national income, leading to increased spending. These indicators lay the foundation for increased global consumption, higher growth rates, market prosperity and the strengthening of other dimensions of human security in the context of competition and the presence of human values and conscience⁵.

On the other hand, health emerges as a fundamental human right and an aspect of human security. Looking at the concept of security in human rights treaties, human security in its broadest sense includes the element of health and the multitude of threats to it⁶.

One of the most significant risks undermining health is the proliferation of harmful substances in the marketplace, including tobacco and other tobacco derivatives. If the trade in these substances is left unregulated in a framework of free competition, it will inevitably lead to social harm, especially among the high-consumption group of young people. Effective mechanisms must therefore be put in place to regulate tobacco activity in each country, ensuring that the promotion of tobacco products in the marketplace is consistent with consumer health by regulating competition. One such mechanism, as provided for in Algerian law, is the authority responsible for regulating the tobacco market and tobacco-related products, which we will discuss in the following section.

Second, the conceptual framework of the authority that regulates the tobacco market and tobacco products:

The gradual withdrawal of the State from the regulation of economic activities has led to the matter being left to market rules and economic operators. However, this withdrawal must be compensated for by the market's need for the presence of public authority. This has led to the establishment of less strict and more flexible rules, as well as the adoption of legal systems adapted to the new economic changes⁷. As a result, administrative authorities have been created to regulate activities, known as independent administrative authorities, which are responsible for regulating activities. Among the authorities created by the Algerian legislature to regulate the tobacco industry is the authority to regulate the tobacco market and tobacco products.

1- The intended meaning of independent administrative authorities in the field of economic control:

The term "independent administrative authorities" in the field of economic regulation refers to the evolution of the market due to economic changes that require new methods and mechanisms to manage it. This led the State to look for new mechanisms to manage the tobacco industry in line with developments in the economic arena, in particular to promote free competition. This led to the creation of legal mechanisms entrusted to economic regulators, which were granted legal personality and financial independence. These authorities have the task of protecting competition, while at the same time possessing several characteristics, such as authority, administrative nature and independence, which contribute to their impartiality and transparency in carrying out their duties.

A- The concept of independent administrative authorities in the economic sector:

The concept emerges within the framework of the market economy, which separates the state as a participant and producer from its role as a market regulator. In the transition from a state-dominated to a regulatory role, the state intervenes using modern mechanisms to organise economic life and maintain economic control. The aim is to establish a balance between the rights and obligations of each party by setting rules and monitoring compliance⁸.

Regulation aims at privatisation and the revival of free competition. Economic control ensures the quality of services through competition, which was absent before its introduction⁹. The technology of economic control is a balancing act between the principles of market economy and state intervention in economic activities. Market economy does not mean the complete absence of any framework for the competitive process¹⁰.

The introduction of economic control led to the creation of modern bodies dedicated to ensuring fair competition in the market, known as "independent administrative authorities". These authorities first appeared in the United States in 1889 through the so-called independent agencies. The British model also contributed through quasi-independent non-governmental organisations.

The experience of independent administrative authorities then spread to Europe, including France, influenced by the American and British models. The creation of such agencies in France was in fact a response to the new role of the State¹¹.

Under competitive pressure, economic operators often seek to increase their economic power in the market by engaging in behaviour and practices that restrict the principles of free competition¹². These principles are based on the fundamental concept of industrial and commercial freedom, which gives economic agents and institutions the freedom to pursue additional economic power. While competition is, in principle, legitimate and appropriate, it should be noted that the unrestricted and unlimited application of this principle can lead to counterproductive results in the competitive dynamics of the market. It is therefore necessary for the legislator to intervene and establish a framework for the regulation of competition¹³. In many cases, reality shows that organisations resort to restrictive practices that hinder

competition. This is reflected in the Algerian legislator's adoption of the provisions of Decree 03/03 on modified and complementary competition¹⁴, which introduced the concept of "restricted practices" in place of the concept of "anti-competitive practices" used in the repealed Decree 95/06.

B- The scope of data protection for independent administrative authorities

Independent administrative authorities are characterised by the powers enjoyed by traditional administrations. Firstly, they have a character of authority. Second, they have an administrative character. And thirdly, they have the attribute of independence, which gives neutrality to their tasks.

B-1 The quality of authority:

The term "Autorités" (authorities) indicates that we are dealing with organisations that are not merely advisory in nature. On the contrary, the term highlights the powers conferred on these organisations, which include the power to take decisions and to exercise various powers commensurate with the tasks assigned to them¹⁵.

Furthermore, the term "authority" implies the power to command and to issue final reports. As a result of this characteristic, these authorities combine the powers of the traditional state authority in issuing individual or regulatory decisions with the powers of the judicial authority in imposing penalties and sanctions. This emphasises the authoritative nature of these bodies¹⁶.

It should be noted that some of these independent administrative authorities have real coercive powers traditionally recognised by judicial authorities, such as the Competition Council¹⁷.

B-2 Administrative nature:

It is a well-established principle in legal thinking that it is not enough to describe a body as an authority simply because it has an advisory role in its work. It must also have the right to take decisive decisions in the field in which it intervenes. The legal provisions contained in Law 2000-06, which includes the 2001 Finance Law, explicitly state that the Agency for the Regulation of the Tobacco and Tobacco Products Market has certain powers that enable it to take decisive decisions in its field of activity¹⁸.

Legally, the administrative nature of these bodies is confirmed by the fact that the legislator has explicitly classified them as independent administrative authorities. The administrative nature of the independent administrative authorities is also demonstrated by the fact that disputes concerning their decisions are decided exclusively by the administrative judge, with some exceptions granting the ordinary judge the power to decide certain disputes¹⁹.

B-3 Independence:

Independence is one of the most important characteristics that distinguish independent administrative authorities as the main driving force in the performance of their functions and duties. Independence in this context refers to the liberation of these authorities from any tutelage or peaceful authority²⁰. This does not contradict their subordination to the State, since they act in the name and on behalf of the State. They are public authorities²¹. These authorities enjoy legislative autonomy, which allows them to escape subordination. They are isolated administrative authorities with their own logic in their work²².

The Algerian legislator has explicitly recognised the independence of some regulatory authorities. For example, the Competition Council is an independent administrative authority under the law²³.

2- Establishment of the Tobacco Market Regulatory Authority under Algerian law

In 2000, under Law No. 2000/06²⁴ on financial legislation, the Algerian legislator took the initiative to establish the Tobacco Market Regulatory Authority in the tobacco sector. Article 33 of the law states: "The Law on Indirect Taxes is supplemented by Chapter Three, 'Tobacco Production', which includes

Articles 298 to 300, and states as follows: The Minister of Finance shall establish the authority to regulate the tobacco market and tobacco products.

The purpose of economic regulation in the tobacco sector is to provide the Tobacco Authority with the necessary powers to carry out its tasks in a transparent and impartial manner, which is the essential characteristic of economic regulation²⁵.

The aim of these authorities is to achieve a certain balance in the market and also to monitor the economic activity for which they have been set up²⁶.

Reading the provisions of Executive Decree No. 04/331 on the regulation of the manufacture, import and distribution of tobacco products²⁷, which is based on the aforementioned Law No. 2000/06, it can be seen that Articles 5 and 6 of the Decree are included in the second section entitled "Conditions for the granting of temporary licences for the exercise of tobacco activities and the granting of accreditation to tobacco manufacturers". Furthermore, the legal provisions also indicate that the Tobacco Authority has regulatory powers over tobacco activities, as evidenced by certain obligations imposed on tobacco manufacturers or through which the Tobacco Market Regulatory Authority can exercise its control over tobacco activities²⁸.

Thirdly: The relationship between health security and the authority regulating the tobacco market

In order to deal with the various factors imposed by competition in the new economic context, the State was forced to create legal mechanisms entrusted to economic regulators. These authorities were given legal personality and financial independence with the task of protecting competition and ensuring fair competition between economic operators in compliance with the rules and laws laid down in the Competition Act. This law is of great importance in defining the conditions for the exercise of competition in the market in order to increase the economic and political efficiency prescribed by the State, in addition to consumer protection²⁹.

One aspect of the right to health relates to legislative issues and the establishment of laws aimed at achieving public health security for individuals. This is the core of health policy. In this regard³⁰, the essence of the right to health is achieved through legal regulation by following the mechanisms of law enforcement in determining the path of several elements, including

Consumer protection laws;

Ethics laws for the medical professions;

Control laws for agricultural, food and medical products;

Subsequent control laws for agricultural and food products;

... and other areas³¹.

We also add another aspect, which is the adoption of mechanisms to regulate commercial activities, especially those whose content may be harmful to health, such as tobacco.

The principle of the right to health is interpreted in different ways, such as the right to treatment, the right to certain social services, and the prohibition of the dissemination of health-damaging materials in advertising. The National Consumer Protection Council can play a role in the media³², as it has the right to express its opinion on consumer information, awareness and protection activities, in accordance with Executive Decree No. 92/272³³. Furthermore, we note that most laws related to public health, especially when specifically mentioned, are in the interest of individuals in the name of health for all. However, if we look at the content of the protection and promotion of public health, we find the preventive factor, which focuses on the fight against drugs and psychotropic substances and the suppression of their illegal use and trafficking. Article 65 of Law 85/05, which relates to the protection and promotion of health³⁴,

prohibits the advertising of tobacco and alcohol. It appears that the content of health law in this context is subject to the public interest and is based on the well-being of the community rather than the individual. Therefore, public authorities should collectively protect people from threats to their health³⁵.

Second axis: the role of the Tobacco Control Agency in achieving public health security

The Algerian state is making considerable efforts to achieve public health security at all levels and through various activities and sectors. The role of the regulatory state requires the control of economic activities, in particular the tobacco industry. For this reason, the Tobacco Control Authority was established to contribute to the achievement of public health security through its structure, activities and assigned responsibilities, especially considering that tobacco is considered a sensitive and dangerous substance for the health of consumers. This is what we will discuss in this axis.

First, an overview of the structure and operations of the Tobacco Control Authority:

The Tobacco Control Authority is supported by a diverse and specialised structure with specific conditions and techniques. It maintains relative independence in terms of membership and functions. The Algerian legislature has provided it with its own specific operating system, which we will examine in this study:

1- The composition of the Tobacco and Tobacco Products Market Regulation Authority "supports health safety":

Article 44³⁶ of the Algerian legislation on the establishment of the Authority states: "The Tobacco and Tobacco Products Market Regulatory Authority, chaired by the Minister of Finance or his representative, shall be composed of the following members:

- A representative of the Ministry of Defence.
- A representative of the Ministry of the Interior and Local Government.
- One representative from the Ministry of Health, Population and Hospital Reform.
- One representative from the Ministry of Agriculture and Rural Development.
- One representative from the Ministry of Commerce.
- One representative from the Ministry of Industry.
- One representative from the Ministry of Environment.
- A representative of the National Gendarmerie Command.
- A representative of the General Directorate of National Security.
- A representative of the Directorate-General of Taxes.
- One representative from the Directorate General of Customs

All representatives must have at least the rank of director. The list of members of the Authority is drawn up by decision of the Minister of Finance, on the proposal of the competent ministerial departments, for a period of three years, renewable once..."

This diverse composition of the Authority is notable for the predominance of the classic structure of traditional administrative authorities³⁷, with members representing the executive authority, headed by the President of the Authority, represented by the Minister of Finance or his representative. This diversity helps to ensure social and health security, particularly in the regulation of the tobacco industry. The member representing the Ministry of Health, Population and Hospital Reform plays a crucial role due to the impact of this sector on consumer health. On the other hand, regulatory functions require the presence of specialised members with competence and experience in the tobacco industry, given its sensitivity. The Algerian legislator recognised the importance of specialisation and allowed the authority to seek the assistance of qualified persons, as stated in Article 44 of Executive Decree No. 21-171.

The Algerian legislator also wisely limited the term of office to three years, renewable once. This specification helps to ensure integrity and uniqueness in the performance of the members' duties.

2- Functional independence of the Tobacco Control Authority:

Although the tobacco market has been opened up to free competition, the sensitivity of this activity, due to its danger to the health of consumers and its negative impact on public health, requires the presence of the State in the tobacco market. By withdrawal, we do not mean complete disengagement, but rather that the State remains solely responsible for public health. Since health is one of the most important issues of the general system, when it is linked to tobacco, the issue becomes relevant to the general economic system. Therefore, in one way or another, the state is obliged to protect public health. This justifies the intervention of the executive authority in the regulation of tobacco activities and the establishment of the Tobacco Control Authority, which can sometimes be perceived as lacking functional independence. This is particularly evident in the fact that it is empowered to adopt its internal rules of procedure by decision of the Minister of Finance³⁸. The Directorate General of Taxes is responsible for the custody of the Regulatory Authority³⁹.

As far as the functioning of the Authority is concerned, it meets in ordinary session four times a year, which corresponds to one meeting every three months. The regular meetings of the Control Authority are held in the second half of February every three months, with the possibility of changing the date in exceptional cases through the intervention of the President of the Authority. In addition, an extraordinary meeting may be held if necessary⁴⁰. The members of the Authority present their proposals on the subjects and issues to be included in the Authority's agenda, after being informed by the President of the Control Authority, with justification and documentation. In view of the sensitivity of the activity, the legislator has granted the Authority the power to summon any expert who can assist the Authority in its work, whether the request for assistance comes from the President of the Authority or from one of its members. In this case, the expert's participation requires the agreement of two-thirds of the members present. The expert does not take part in the deliberations of the members, but presents his study in a public meeting, accompanied by a report to the President of the Control Authority⁴¹. The public meetings end with the delivery of the concurring opinion, which consists of a series of opinions, including the obligatory request for an opinion and the obligatory examination or adoption of the opinion⁴². Thus, the concurring opinion of the Tobacco Control Authority on applications to grant or withdraw accreditation is considered a procedural step in the administrative decision-making process⁴³. It is therefore the initiator of the administrative decision through the concurring opinion, whether it is to grant or refuse accreditation. In this sense, the inspection authority exercises indirect economic regulation.

Secondly, the powers granted to the Authority as a qualitative contribution to the consolidation of health security.

The protection and realisation of health security in the tobacco industry is manifested in the fact that the Tobacco Control Authority is endowed with precise competences that reflect the protection of public health and, in particular, consumer health. These competencies include regulatory, advisory and enforcement functions that play a fundamental role in the regulation of tobacco-related activities.

1- The role of the regulator in achieving health security:

By regulatory function, we mean the right of the Tobacco Control Authority, as well as independent administrative authorities in general, to have access to the necessary information within the framework of the economic investigations they carry out, without imposing a confidential nature on the documents in their possession. This role is one of the most important means available to economic regulators to fulfil

the tasks assigned to them, as regulation enables them to gather information and evidence to support their case⁴⁴.

Adherence to a market economy or free market and its principles of freedom of trade, industry and competition does not mean the complete elimination of intervention by public authorities, especially when it comes to certain sectors or specific activities. This is achieved by imposing restrictions or limitations on market entry through accreditations and licences granted by independent administrative authorities, in particular the Tobacco Control Authority⁴⁵.

The Tobacco Control Authority exercises its regulatory authority through two types of control: pre-entry control and post-entry control. These are manifested in the scope of its activities, whether through pre-entry control for entry into the industry or post-entry control for market surveillance.

A- The tribal control exercised by the authority on access to the profession is a preventive control:

is a preventive control If we examine the regulatory competence of the Tobacco Control Authority, it primarily concerns the way in which economic operators enter the tobacco and tobacco products market, which constitutes a tribal control of the practice. The authority's task is to examine the applications for approval submitted by manufacturers of tobacco products and to issue the necessary opinion on them, as set out in article 44, which is repeated in Decree No. 21-171 regulating the activities of tobacco manufacturers, importers and distributors⁴⁶.

These decisions are considered to be individual and regulatory decisions issued by this authority to frame the initial entry of economic operators into the market. They include decisions related to various licences and accreditations for the exercise of activities in the market. This protective regulatory role in the exercise of the profession ensures an adequate presence of economic operators in the market and, at the same time, legal and effective protection of consumers⁴⁷. The protective regulatory role is essentially aimed at ensuring the health safety of consumers. The Algerian legislator has therefore been keen to activate this role, which is entrusted to the Tobacco Control Authority, in particular through Executive Decree No. 21-171, which regulates the activities of tobacco production, importation and distribution. This decree supports the supervisory role of the authority and emphasises the importance of taking into account the opinion of the Tobacco Control Authority. Accreditation is granted or refused on the basis of compliance with the conditions established by the Minister of Finance within 30 days from the date of the Tobacco Control Authority's approval, thus underlining the legislator's recognition of the Authority's crucial role in regulating this activity.

B- Post market surveillance by the Authority:

This type of control is embodied in the performance of economic activities by obtaining information and documents related to the practice of the activity, as well as conducting the necessary investigations to monitor compliance with market rules and competition by actors⁴⁸.

Irrespective of the tasks performed by the Tobacco Control Authority as an independent administrative authority, the provision of information is essential to support its activities. This means that it must be recognised as a regulatory authority with the power to obtain the information necessary for its proper performance. Through these powers, it can conduct investigations and research to acquire any knowledge it wishes. It can also request information from individuals and entities, whether public or private⁴⁹. This mechanism serves as a means of market control, as it allows the Authority to have full knowledge and control of all aspects of the market, both small and large. The aim is to prevent violations and deviations at an early stage, while maintaining the stability of the activity by guiding it along the legal path established for it⁵⁰.

The Tobacco Control Authority contributes to ensuring health safety by activating its regulatory role, in particular by studying changes in the status of tobacco manufacturers and comparing them with their initial declarations recorded in the Conditions Register. Its role goes beyond monitoring the entry of the profession into the market. It also has the power to collect and analyse data on the economic and technical aspects of the market for tobacco and tobacco products⁵¹.

2- The Authority's advisory role in achieving health security:

The Algerian legislature has given the Tobacco Control Authority an advisory role. As we know, the advisory role of independent administrative authorities is crucial for the improvement, development and regulation of economic activities. Given that this authority is responsible for regulating economic activities related to tobacco and tobacco products and is composed of members with significant expertise in this sector, it is important for the relevant entities to take into account the opinions issued by the authority.

These advisory opinions and recommendations serve as a preliminary stage in the formulation of laws issued by the political authority. The political authority, by virtue of its composition, is obliged to seek the expertise of specialised bodies in order to provide it with accurate and technical information in relevant areas⁵².

Returning to the executive decree regulating the activities of tobacco production, import and distribution, the Algerian legislator has empowered the Authority, after collecting and analysing data relating to the economic and technical aspects of the tobacco market, to make the necessary recommendations to the relevant ministerial departments. It is also empowered to contribute to the development and evaluation of strategies to combat the parallel market in tobacco products by clarifying the true picture of the market in tobacco and tobacco products through the dissemination of information⁵³.

To this end, the Authority holds meetings which conclude with the adoption of recommendations on the files studied within its mandate. These recommendations are adopted by a two-thirds majority of the members present⁵⁴. From this perspective, the Tobacco Control Authority truly acts as an advisor to the government and as a partner in the process of preparing regulatory texts for its sector⁵⁵. These powers are considered necessary in order to comply with its assigned function, and these recommendations and opinions fall within the scope of what is known as "unwritten law" or "quasi-legal means"⁵⁶.

Based on the above, it can be said that the commitment to health safety is the challenge facing this authority in order to achieve the purpose of its existence. This can only be achieved by giving it greater expertise, particularly in the advisory field, similar to the proposals and recommendations it makes to the Ministry of Health for the protection of consumer health. The Algerian legislator also stresses the need to register the net weight of tobacco, the number of cigarettes or cigars and the words "sold in Algeria" on tobacco products intended for the market. This should be accompanied by the appointment of a regulatory authority⁵⁷.

3- The role of repressive authority in achieving health security:

The role of the repressive authority in achieving health security is outlined in Article 06 of Executive Decree No. 21-171, starting from the second paragraph and beyond. It specifies the cases for the withdrawal of accreditation, stating that the accreditation will be withdrawn in the following situations:

- Failure to comply with the terms of the specifications.
- Failure to commence production after a maximum period of two (02) years from the date of accreditation.

- Failure to comply with applicable laws and regulations.

The tobacco product manufacturer shall be granted a period of thirty (30) days by the Tax Administration, from the date of discovery of the infringement, during which it shall be invited to remedy its situation. If the situation is not resolved within this period, the accreditation will be revoked by decree of the Minister of Finance, following the prior opinion of the Tobacco Control Authority.

From our study of the above article, it is clear that there are three explicitly mentioned cases of accreditation revocation, and given the significant consequences of this action on the reputation and economic activity of the operator, it is considered one of the most serious measures in the field of economic regulation. The purpose of this measure is to put a definitive end to the activity of the tobacco manufacturer by removing him permanently from the market⁵⁸ after clearance by the tax administration. The Algerian legislator therefore imposes strict conditions, as mentioned above, to underline the severity of the authority's repressive role and its uncompromising attitude towards violations of legal or regulatory provisions, particularly those relating to health.

Conclusion:

The Algerian legislator created the Tobacco Control Authority to help improve the safety of products and services in this sector. Aware of its sensitivity to public health, particularly the health dimension, the State has continued to intervene in this activity, despite its important role in promoting economic development.

The ultimate goal of economic regulation in the tobacco sector requires that the Tobacco Control Authority be granted the necessary administrative powers to carry out the tasks assigned to it in a transparent and neutral manner, particularly with regard to health safety in relation to the consumption and distribution of the sensitive substance of tobacco.

The lack of organic independence, reflected in a composition dominated by representatives of the executive, is a cause for concern. However, the presence of a representative from the Ministry of Health and Population and Hospital Reform is crucial given the serious health consequences of tobacco consumption.

The fact that the Authority is empowered to determine its internal operating rules by a decision of the Minister of Finance is a challenge to its functional independence. Nevertheless, the commitment to health security through the establishment of the Tobacco Control Authority is evident in the broad powers granted to it, whether in a regulatory, advisory or enforcement capacity

Recommendations have been formulated that emphasise the need to strengthen the regulatory framework for the tobacco sector through sufficient legislative texts that expand the Authority's competence and support its independence. Monitoring and evaluation within the Authority are essential to ensure the application of product and service safety measures, thereby contributing to consumer health. In addition, investment in specialised training and education for the Authority's staff, particularly in the health sector, is essential to improve their skills and abilities and ultimately safeguard consumer health and safety.

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