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the legal framework of the bank of algeria: an analysis of the monetary and banking law 23-09

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The banking system constitutes the backbone of economic activity and plays a vital role in promoting economic development. A prosperous economy cannot exist without a well-developed and efficient banking sector. In this context, the Algerian legislature has undertaken a series of regulatory and structural reforms aimed at strengthening the banking system. Law No. 23-09 on monetary and banking matters introduced several key reforms, notably assigning the Bank of Algeria the responsibility of serving the public interest by steering monetary policy in alignment with national priorities. These reforms also seek to enhance the resilience of the banking sector against sudden financial shocks and to improve the competitiveness and operational efficiency of banks. This study primarily adopts an analytical approach to examine the relevant legal texts, complemented by a descriptive methodology.

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Introduction:

The banking system is the main engine and an essential element of any economic system, influencing various economic activities. In response to evolving economic needs, the Algerian legislature has undertaken reforms, authorizing the Bank of Algeria to supervise, guide, evaluate, and implement monetary policy in alignment with economic requirements. These reforms aim to integrate the banking system into the global economic order and ensure it meets international standards, enabling it to face the challenges of economic globalization. For the system to function effectively, it must be aligned with the government's economic plans, which can only be achieved through a clearly defined strategy formulated by the Monetary and Banking Council. The key issue under investigation is: Does the new legal framework of the Bank of Algeria, as outlined in Code 23-09, align with the public service requirements?

THE FIRST TOPIC: A Conceptual Framework of Monetary Policy

Monetary policy It is defined as is basic mechanism on which economic policy is based on and used to implement government's projects. The Bank of Algeria is pursuing a strategy by using the various tools available to achieve the objectives and principles of economic policy.

First requirement: the Definition of monetary policy

It is defined as a set of rules, procedures and measures taken by the monetary authority (Mustafa Qasmiya, 2022 p38).

So it's the sum of banking actions and regulations taken by the Central Bank to control cash to serve the needs of investors and development requirements, thus serving economic policy.

As far as the Algerian legislature is concerned, it does not mention it, but by reference to article 35 of the Monetary and Banking Code, we find that for the first time it has spoken about it and worked to achieve it, by ensuring price stability and maintaining economic growth while ensuring financial stability, by regulating cash movements, monitoring loans and controlling liquidity.

The Central Bank is committed to publishing an annual report on its activities. This report contains, in particular, the elements required for a good understanding of monetary policy, which should lead to the submission of a statement to Parliament in its both chambers, where discussion of arguments take place.

It can be said from the foregoing that monetary regulation is a mechanism used

by the Bank of Algeria in a specific period of time through a set of instruments to influence and attempt to control the cash supply and guide it in line with government schemes.

Second requirement: Targets for monetary politicians: Article 35 of Act No. 23-09(code official, 2023). Main objectives of the legislature, through the reforms introduced, are to ensure price stability, increase in economic growth and ensure monetary and financial stability.

First section: Ensuring price stability: This means that inflation should remain low. However, Algeria's transition to a market economy must be left to free supply and demand. As a public asset, it adopts the principle of free pricing, but it has not allowed it to release it to interfere with the pricing of goods with large consumption, or in the event of serious market disruption, disaster or chronic difficulty in supplying, speculative state, and its aim is to protect consumers and maintain economic public order.

second section- Maintaining high economic growth: Promoting high growth rates is through attracting investment as an effective factor in achieving well-being(LEHACHMI ABDUSSALEM, 2021 P565) The efficiency of a State ' s economic system is measured. It contributes to raising the growth rate by:

1: Investment and technology use: Technology is the main driver of economic development and the transition from a consumer to a productive society, without which there is no room for development or competition at the domestic or international level, as it has become one of the key factors determining, the success or failure of developments (ZINEB Mohamed ABDUSSALEM, 2014p52)

2: Investment and improvement of the balance of payments. Indicators that help economic policy makers to direct and manage which in turn lead commercial banks to raise interest rates on loans, thereby reducing the volume of credit. Domestic demand for goods and services is reduced, thereby reducing the overall level of prices within the State, encouraging State exports and reducing domestic demand for imported goods (LEHACHMI ABDUSSALEM, 2012p565). Or by controlling the volume of capital transferred abroad through both quotas and quantity.

3: Investment and employment: When the Bank of Algeria increases the cash supply, interest rates decrease, thus attracting investors to lend to the investment process.

Third Section: Maintenance of monetary and financial stability: Maintaining financial stability has become a priority for all countries. The Bank of Algeria must therefore strengthen it by providing the necessary funding for the implementation of investment projects that underpin any attempt to achieve economic stability(Mohammed TARISH, 2017p328)

Perhaps the most important form of maintaining monetary stability is controlling the exchange rate and providing the mandatory reserve for banks:

1: Exchange rate control: It is a typical indicator of a country ' s economic situation by maintaining its stability at a level close to purchasing power parity, so raising it vis-à-vis other currencies may be a factor in which is consistent with the ultimate objective of monetary policy(LAHLOU Musa BOUKHARI, 2010 p65).

It can also be managed by imposing limitations on the flow of capital overseas, which also helps to maintain to the stability of balance of payment.

Article 64 states that the Bank of Algeria's role in foreign exchange conservation is as follows:

- purely legal and logistical regulation and its precautions.
- Also permitting the foreign banks to have offices representing them and allow the currency exchange offices to spread through the country

Additionally, according to Article 145, the Bank of Algeria sets up the currency market in accordance with Algeria's international commitments and the Council's exchange policy.

2: Bank reserve: The purpose of imposing a financial reserve ratio is to control the cash supply in order to protect depositors funds and ensure that they are reimbursed (Ahmad SHAABAN Mohammed Ali, 2013 p136). The requirements for setting up the reserve are an important instrument of monetary policy(journal official, 2023), to avoid financial crises and thus to lose the confidence of clients, thereby causing investors to withdraw their monies, thus creating a liquidity deficit and thus the Bank ' s inability to meet the credit that could expose it to bankruptcy.

Banks and financial institutions must have at least 20 billion Algerian dinars in cash when they are established. Financial institutions must possess 6.5 billion Algerian dinars. According to item 03 of the Bank of Algeria regulation 20-08, banks that were founded before this regulation was implemented, must comply with the provisions of the aforementioned regime for a maximum of 30 June 2021.

They must also prove that their assets are in fact higher than their opponents, to which they are bound in the direction of others.

THE SECOND TOPIC: The Institutional Competence of the Bank of Algeria in Executing Monetary Policy

First requirement: the independence of the Bank of Algeria: to be effective in achieving monetary stability, it must first be independent in its decisions and no party should interfere in its tasks, especially financial ones.

First section: Monetary and loan policy directions under the directed system

This stage witnessed several amendments aiming at achieving the conditions benefits for financial planning, as it did not rely on profitability and effectiveness in directing loans or monitoring their boiling or circulation due to administrative interference in their financial affairs, which caused difficulty in collecting debts and recovering loans from public institutions. In most cases, the monetary authorities set interest rates. This stage was also characterized by the stability and low level of interest rates and the differentiation between loans directed to the public and private sectors. It was noted that the interest rate charged on institutions is lower than those loans granted to individuals.

Beside The necessity of unifying monetary agreements between Algeria and other partners, especially those located on the Mediterranean coast, to prevent double taxation on one hand on the other hand to enable its economy to integrate more easily into the global economy. (Aicha ghessier, 2022p528)

Second section: Modern trends in light of the monetary and banking sectors:

The Monetary and Loan Law No. 90-10 issued on April 14, 1990, which aimed at improving the reputation of the banking sector, achieving the separation of monetary authority from the executive one, and opening the banking sector to private and foreign investment. It also aimed at cleaning up the financial position of public sector institutions. Thus it can be said The Bank of Algeria has been restored and given independence in making its decisions, as Article 9 of 23-09 stipulates that “The Bank of Algeria is a national institution endowed with legal personality and financial independence. It is considered a trader in its relationship with others, and is governed by commercial legislation unless it contravenes the provisions of this law. Its duties are to regulate the movement of cash, direct and monitor the distribution of loans, and control liquidity. Thus, it is charged with ensuring the safety of the banking system, and this will not be achieved unless it is granted a great deal of independence.”

Additionally, a banking system was also established on two levels by distinguishing activity and follows up their operations. It is considered a last resort for lending to influence the banks' borrowing policies. According to Article 51 of 23 -09 The Bank of Algeria is the state's financial institution with regard to all its fund, banking and credit operations.

Second requirement: prerogatives of the bank of Algeria

The legislator assigned the Monetary and Banking Council to define, supervise. It can also propose to the government all measures that would improve the balance of payments, price movement, public financial conditions. In general it seeks to develop the economy, and inform the government of every emergency that might affect monetary stability. For this purpose, the Bank of Algeria performs the following (Code, Official, 2023 article 35.36.37):

- Regulating the financial market by directing loans to investment projects that contribute to improving financial returns and using modern payment methods to provide liquidity.
- Providing and diversifying banking services advanced that might affect monetary stability,
- Determining the methods of borrowing operations from abroad and authorizing them, and collecting all useful information to control and follow up on financial obligations abroad. It also manages and employs reserves and the exchange market.

The Bank of Algeria can carry out all operations on gold balances and bonds issued in foreign currencies and present them as guarantee for the active management of external public debts.

Third requirement: Bank of Algeria operations to achieve monetary policy.

To fulfil its duties, the Bank of Algeria carries out some operations that contribute to its success, and others that encourage investment in it.

First section: Monetary policy implementation processes:

the Bank of Algeria can do the following (Code, Official, 2023 article 43):

Carrying out loan operations backed by appropriate guarantees .

- Obliging banks to form mandatory reserves in the form of interest-bearing deposits at a rate determined by the Bank of Algeria.
 - Receiving liquidity in the form of blank term deposits.
 - Issuing borrowing bonds and repurchasing its bonds at the money market level.
- This issuance is not subject to the legal provisions .

- Discounting public bonds and re-discounting private bonds representing.
The Bank of Algeria can also conduct any monetary policy operation that it deems necessary, and it can also adapt the investment tools. The specificities of banking operations related in particular to Islamic banking.

If one of the objectives of monetary policy is to achieve financial stability, then in the event that a bank is exposed to a shortage of liquidity, the central bank (act official, 2023 article 47) can, according to its discretion, grant it emergency liquidity [Article 47 of Law 23-09]. Obtaining a full guarantee from the state to cover this process. The beneficiary bank must submit an action plan aiming at restoring its liquidity and paying the urgent liquidity granted to it.

Other powers created in Law 23-09 state that it is authorized to the governor, if it becomes clear to him that the situation of a bank or financial institution requires justified financial support, to call on the main shareholders to provide this support, and he can also regulate the contribution of all bank.

Second section: Investment promotion processes: The most important ones are the following (Code, Official, 2023 article 55):

- Trade in real estate,
- Dealing with state-owned movable assets,
- Financing for operations that have economic or social returns.

Fourth requirement :The Bank of Algeria ' s mechanisms for implementing monetary policy: To keep pace with international developments in the monetary and banking field, the Bank of Algeria established the Financial Stability Committee charged with precautionary oversight and crisis management, with the aim of revitalizing the national economy, enhancing financial stability, and enhancing transparency in financial transactions.

First section: Definition of financial stability: Financial stability is also guaranteed at the macro level through the macro-prudential policy, which aims to ensure the increasing resilience of the financial system by addressing and containing systemic weaknesses that could threaten it and by enhancing the resilience of the financial system in the face of aggregate shocks

The committee is established and is an authority charged with comprehensive precautionary monitoring and crisis management. It conducts all studies related to its tasks and objectives.

Second section: Composition of the Committee: The committee is headed by the governor or one of his deputies, two representatives from the Bank of Algeria,

two from the Ministry of Finance with the rank of general manager, and a manager from the Ministry of Religious Affairs specialized in Islamic banking. This diversity in the composition is for the accumulation of various experiences related to the financial aspect that contribute and work to achieve the goals of the committee appointed by presidential decree.

Third section: the roles of the committee, are (Code, Official , 2023 article 161):

- Preventive work to avoid potential risks that compromise the stability of banking operations,
- Implementing governance rules in the banking system,
- Working on a strategy to achieve the policy followed in the field of financial stability by the Central Bank. In the event crisis across all economic sectors, formulating a plan to prevent its occurrence, and establishing mechanisms to mitigate and manage its effects.

The purpose of Sharia supervision is to verify that the operational practices of the financial institution align with the edicts and principles of Islamic law (FARAH Aïcha, 2024 p214).

Conclusion:

Financial services and banking operations are essential components in the infrastructure of every economy, and their importance increases when banks finance the government's economic plans that contribute to achieving development. However, all this must be well-structured.

If maintaining financial stability is one of the priorities of any country's monetary policy, then the Bank of Algeria must work to provide confidence and security for depositors and third parties, through emergency financing, investment operations and other measures such as collecting its doubtful or overdue debts.

To ensure financial stability, it is crucial to enhance regulatory frameworks, improve transparency, promote financial inclusion, and adopt modern technologies. Strengthening risk management and fostering international collaboration will further support the Bank of Algeria's long-term development.

Results:

The legislator introduced new processes in the monetary and banking law

- to the implementation of monetary policy to aimed at maintain financial stability, by requiring banks to create mandatory reserves, issue borrowing bonds or conduct currency swap. Operations, in addition to granting emergency liquidity and investing bank funds.

Suggestions:

- The legislator must expedite the implementation of modern payment methods for all economic participants so that they can avoid dealing in cash and provide liquidity, which in turn contributes to fostering reassurance and security among customers and others.

Refernces

A – Laws

*Act No. 23-09 of 21 June 2023 contains the Monetary and Banking Code.
.Official Gazette, No. 43, 27 June 2023*

B – Books

*Abdussalem, Z. M. (2014). Multinational companies and standards of state
.sovereignty: Legal status of legal releases (1st ed.). Cairo*

*Boukhari, L. M. (2010). Foreign exchange policy and its relationship to
.monetary policy. Hussein Modern Library, Beirut, Lebanon*

*Ali, A. S. M. (2013). Bank monetary and banking policies within the Islamic
.banking system. University House, Alexandria*

C – Journal Articles

*Farah, A. (2024). Mutual banking institutions in light of Sharia law. Journal of
(1)Science and Knowledge Horizons, Amar Telidji University in Laghouat, 4*

*Qasmiya, M. (2022). The role of monetary policy in achieving financial stability
in Algeria during the period 2009–2019. Nama Journal of Economics and
.Trade, 6(1), 38*

*Belouafi, M. (n.d.). Algeria monetary policy. Al-FASSAR, Department of
(2) ,Economic Studies, Institute of Law, University Centre Tamanrasset*

*Safaria, M. (2022). The role of monetary policy in financial stability in Algeria
(1)2009–2019. Economic and Trade Development Journal, 6*

*Baghdawi, J. (2022). Bank of Algeria’s monetary policy strategy: Approaching
target-setting and tool selection for the period 2001–2019. Economics and
(1)Finance Journal, 8*

*Abdussalem, L. (2021). The impact of monetary policy on indicators of
economic stability in Algeria: An analytical study for the period 2000–2019.
(2)Journal of Legal and Economic Studies, 10*

*Aichaghessier. (2022). The role of stimulus policies in advancing investment in
Algeria. Journal of Science and Knowledge Perspectives, Amar Telidji
.University in Laghouat, 2(1), Article No. 1273*

*Tarish, M. (2017). Bank’s role in financial and economic stability. Knowledge
(22) ,Magazine, Economic Sciences Department*