

General economic law

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Sixth hexagonal

Educational Unit: Basic

Article: General Economic Law

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Aims of education:

Through the General Economic Law Scale lectures, the student learns about the stages of his or her upbringing and composition, and then about the jurisprudence and legislative definitions that dealt with the term of general economic law and its sources, as well as about a view on general economic law, and the sources and principles of general economic law.

The student's previous acquisitions depend on several parts such as the theory of law, right and general theory of crime, and the measure of the Code of Civil and Administrative Procedure.

Content of the article:

- Understanding and Sources (Principles)
- Public sector and public economic institutions (concept, organization and management)
- Public Economic Law Journals (Financial and Economic Activity)

Evaluation Method: Exam + Continuous

References:

- Ahmed Jammeh, Emerging Capitalism, Dar al-Marefa, Cairo, 1988.
- Ahmed Rashad Musa, State Role in the Contemporary Economic System, Egyptian Society for Economics, Statistics and Legislation, Cairo, 1995.

- Faculty of Radawi, History of Economic Ideas and Facts, Halabi Publications, Damascus, 2002.

- Ter Si Mohamed, Legal Controls of Competitive Freedom in Algeria, Homeh House for Printing, Publishing and Distribution, Algeria, 2013.

Lecture 1:

General economic law

Recent developments in the world due to globalization and others have affected States' economies. As a result of this impact, States have had to establish a new legal system in line with it. Of course, general economic law has been found as a legal framework governing State intervention and keeping pace with economic developments. A Look at General Economic Law, Second Research: Sources and Principles of General Economic Law, Third Study: Areas of General Economic Law.

First Research: A Look at General Economic Law

In this study we will address the conceptual framework of general economic law, by dividing this research into two requirements, the first requirement: the concept of general economic law and the second requirement: the privacy and content of general economic law.

First requirement: the concept of general economic law

General economic law is a form of evolution of the concept of State intervention within a regulated legal framework, which we will recognize as such in two sections, section I: Definition of general economic law, and section II: evolution of the notion of general economic law.

Section I: Definition of general economic law

In view of the recent emergence of public economic law and the State's shift towards controlling its interference in economic activity, which has been accompanied by the establishment of economic institutions to impose State control over its national economy. In view of these developments, attempts have been made to define it differently in finding a precise concept of this law, including:

First of all, we can mention their view of economic law, where the jurist Farji proposed a definition of economic law, the Economic Development and

Regulation Act, whether it is the act of the state, the act of the private authority or by agreement of the two, in other words, economic law in Farji's perception, the law of economic concentration and the law of state intervention in the economy.

It can be said that there are signs of concepts of general economic law through this view, which speaks of the intervention of the State through the powers of its institutions, and hence we can mention some definitions that define the concept of economic law according to his view.

- General economic law is the law applicable to public persons' interference in the economy or public interference in economic matters. It has been defined by some as a separate law that seeks to regulate the interference of public persons in the economy and to influence economic actors who have been or are private, and it is also an expression of will in guiding the market, of its nature and its foresight.

- Al-Faqih d. linotte considers that general economic law relates to the development of an administrative people's economic policy by law.

It is the law of interference of the State with public authorities in economic life, and it is the sum of rules that seek at a certain time, and in a particular society, to ensure a balance between the interests of economic actors if they are common law, private law, or public economic interest.

- General economic law is in fact only legal mechanics by which public people attempt to change the normal behaviour of economic actors, also known as economic policy law.

- The general economic law defines it as the law of drawing up and establishing an economic policy for administrative persons by means of laws. The Fakih Trochet defines general economic law as a law covering all the rules applicable to relationships between legal persons and economic units when the public authority interferes in such relations, We also mention the definition of Fakih Devolve, which this law defines as the law applicable to public people's interventions in the economy and how it is regulated.

Through their definitions, some definitions of economic law can be inferred on the basis of which they are based:

- The law regulating economic development between the State and the moral person or between the moral persons.

- This is the law in which the State provides all facilities for public persons to engage in economic activities.

- Is that law in which public authority interferes in economic activities to ensure

Balance between the private interests of economic agents (public and private) and the public interest.

That law regulates the relationship between the state and economic agents in the development of economic development.

These definitions have touched upon many aspects of general economic law and have disregarded the specificity of this law. The latter is a new law that uses its own legal methods and rules. The new law thus becomes an extension of old laws relating to the economic field.

Lecture 2:

Section II: Evolution of the notion of general economic law

- The evolution of the idea in England

Before the industrial revolution took place on the European continent, England, beginning in 1215, was the cradle of many basic documents in the field of basic movements of the English individual. These are charters that remain to this day the subject of interest from London scholars and researchers in international human rights matters, the most important of which are: The Magna Carta of 1215, a basic human rights document edited by representatives of the feudal class for the purpose of determining the vast powers held by the despotic King, had a profound impact on the recognition of many fundamental human rights such as the right to individual liberty. (The King's freedom of movement has the right to express an opposing opinion, the right to individual property, the right to trade) in addition to guaranteeing the personal freedom of judicial and administrative individuals: The 1628 Petition for Rights: A Historic Petition for Rights Founded for a Basic Rights System in England Forced the English Government Led by Charles I to Repeal a Tax Levy that Parliament Did Not Vote on. Legality of Rights 1689: On 25 October 1689, it was ratified by a parliamentarian, the most important of which was the prohibition of any

suspension of any legal effect by the King, as well as the criminalization of the imposition of any tax or the establishment of courts by the King without the consent of the Parliament while guaranteeing personal freedoms, and the right to petition the citizen.

- **The development of an idea in France**

In 1879, the French State abolished crafts and replaced them with a new legal system based on the individual labour contract. It established a paid labour market. The First World War authorized Parliament to establish an international regulation on labour matters, thereby initiating public authorities to intervene in economic affairs by: The direct accreditation of public utilities by the French public authorities in 1848, which became known as the concession contract, also introduced the Government of the People's Front after the French legislative elections of 3 May 1936, and finally supported and strengthened the administrative public institution that has the capacity to be located in the premises of public authorities.

Lecture 3:

Second Requirement: Privacy and Content of General Economic Law

After addressing the most important definitions of general economic law, we have decided to define its specificity and content in this requirement by dividing it into two sections, section I: the specificity of general economic law and section II: the content of general economic law.

Section I: Specificity of general economic law

Economic relations arising from the exercise of economic activities are regulated by other laws such as commercial law, labour and tax law, corporate law and other laws regulating the economy of states. However, general economic law has the characteristic of linking the branches of public law with private law.

Private law regulates ordinary relationships between persons. Common law is characterized by the use of the general authority of its powers. Nevertheless, it achieves the meaning of combining the aims of the two laws in the realization of both the private interest and the public interest.

It can be said that economic law has the specificity of regulating the work of economic agents, taking into account the State's systematic interference in economic activity.

The scope of general economic law also extends to all economic areas, such as certain laws, the scope of which is defined by the rules in which it operates, such as commercial law, which defines the concept of merchant and business and their relationship with one another. and also the corporate law of the company and its types and the regulation of the methods of its establishment, how it operates and cases of its dissolution, The Labour Code also limits workers' rights and their relationship with employers.

Second Research: Sources and Principles of General Economic Law

The sources of general economic law have diversified and this is to expand its scope of application. Its principles of inclusion in many sectors controlled by the State have varied by a set of laws. In this section, we divided this research into two requirements, the first requirement: the sources of general economic law and the second requirement: the principles of economic law.

Lecture 4:

First requirement: Sources of general economic law

Identifying sources of public economic law is one of the most important points of our research, determining its mandatory strength and scope of application. This requirement can be divided into Section I: Internal Sources Section II: External Sources.

Section I: Internal sources

First, the Constitution

Algeria's constitutions have enshrined many legal texts in terms of economic matters, which must be regulated by the legislature in accordance with economic laws and which cannot be violated under constitutional control in accordance with the procedures laid down in the Constitution.

It is also the Constitution that defines the State's economic system and its foundations.

The Constitution of Algeria cites certain legal articles which provide for economic matters, including: article 21, which gives the State the right to regulate foreign trade;

Article 37, which enshrines the principle of freedom of trade and industry, article 52, which stipulates the principle of the right to property, and the article which equates individuals in the performance of tax and the affordability of public costs.

second: Legislation (Law)

The Algerian legislature has passed a lot of laws regulating economic issues in many areas trade regulation, trader status and commercial relations in commercial law, Determination of tax types and how to collect them in tax law Laws relating to employment, both in private and in the public sector Land Ownership System, Mines and Incinerators Laws legal arsenal prepared by the Algerian legislature for the protection of the national economy.

Third: Regulatory Laws

These laws are the main source of general economic law. They include the powers vested in them. We find that the regulatory authority conferred upon them by the law is one of the most important powers of the executive branch embodied in the President of the Republic and the First Minister conferred on them constitutionally. Article 125 of the Constitution stipulates that: "The President of the Republic shall exercise regulatory matters in matters not reserved for the law, for example, the organization of public transactions."

Lecture 5:

Section II: External sources

External sources of law are generally defined in international treaties, treaties, declarations and conventions ratified by the State and in force within its territory.

Among the most important international sources of public economic law, I should like to mention the following: "Recommendations of the United Nations Organization: the solemn declaration of the founding of the United Nations on 24 October 1945, and the adoption of the Charter establishing it on 26 June 1945, immediately after the declaration of the end of the Second World War

(1939-1945), the objectives of which are set out in the following: Economic, Social and Social Council Social rights; human being.

Second requirement: Principles of economic law

We have chosen some principles that we deemed to complement any economic system that seeks to open up the market, which we have touched upon by dividing this requirement into the following branches.

Lecture 6:

Section I: The principle of freedom of trade and industry

As a result of its policy of economic openness to the market, Algeria has adopted the principle of freedom of trade and industry in article 37 of the 1996 Constitution, which states: Freedom of trade and industry is guaranteed and Tamar is guaranteed under the law. This provision is observed to have come absolutely unallocated. s rights ", in which he made no distinction between Algerian and alien regarding the use of such freedom, and this principle also encompasses, inter alia, guarantees of freedom of innovation in article 38, which guarantees the integrity of State institutions in the treatment of investment in article 28, The State's responsibility for the security of persons and property to ensure the lawfulness of expropriation in accordance with article 20 thereof; Ensuring that there is no violation of human integrity as stipulated in article 34 thereof s right to property ", guaranteeing the right to property in the text of article 52 unconditionally.

The principle of freedom of trade and industry means that everyone has the right to initiate and engage in one or more activities, based on his own desire and free choice, without the need for a permit or control.

In other words, opening the field of commercial and industrial activity, for free activity and for private initiative without certain restrictions or impediments except those imposed by economic control requirements.

This principle encompasses the freedom of commercial and industrial activity and does not include free occupations and not peasant activity, and the purpose of enshrining this principle is to prevent authority

from interference in private persons' free activities.

Section II: Principle of freedom of investment

The principle of freedom of investment was first enshrined in Act No. 10-90 of 14 April 1990 on cash and loans, article 183 of which stipulates: "Non-residents are authorized to transfer capital to Algeria to finance any economic activities not expressly reserved for the State, its subsidiary institutions or any legal person...". and then confirmed by the Algerian legislature in Legislative Decree No. 12-93 of 5 October 1993 on investment promotion, and in Ordinance No. 03-01 of 20 August 2001 on the development of amended investment, supplemented by article 4 thereof, as follows: (Investments are made in complete freedom, taking into account legislation and regulations relating to regulated activities and environmental protection...) article 37 of the 1996 Constitution stipulates that "freedom of trade and industry is guaranteed and exercised under the law".

Lecture 7:

Section III: Principle of title

Inheritance is a right guaranteed in the Civil Code and the Constitution of any State. It is the right of the person to exercise powers over the thing he or she is found to possess in any way within the limits established by law and until the realization of his or her own interests.

Article 674 of the Civil Code stipulates: "Property is the right to enjoy and dispose of objects provided that they are not used in a manner prohibited by laws and regulations." The Algerian legislature has linked the issue of the right to enjoy and dispose of property, provided that it is not inconsistent with the laws in which the work is carried out, to remove the right to act and to enjoy the meaning of the release and to include it under the prerogative of referring articles 677, 679 and 681 to State intervention mechanisms. A date titled Nationalization and another time titled Expropriation for Public Benefit and developed under the title Takeover.

Third Research: Areas of General Economic Law

The definition of the concept of general economic law is more defined by addressing its areas and which we will address in this study by dividing it into two requirements.

First requirement: Economic control authorities

Independent administrative authorities are responsible for controlling economic activity. They do not simply monitor a particular activity in the economic sphere, in order to achieve balance and to enable them to perform their functions in controlling the market. They have been entrusted with the competencies formerly of the traditional administration.

Lecture 8:

Section I: Justification of economic control authorities

First: Economic and Financial Developments

The economic crisis that has existed in Algeria since the 1980s, after the decline in petroleum revenues and the deterioration of socio-economic living, imposed a

Economic and financial developments, the most important of which were the entry into the Wali Monetary Fund and the adoption of the free market, opening the space for investment for foreigners and national properties, and the development of economic rules and techniques, namely the powers of economic control and the control of the economic field.

The institutional system's vulnerability to economic developments in a globalized world

The old economic system has proved to be unsuccessful in resolving crises in all sectors. What has made it more difficult to solve these problems is the emergence of globalization. The lack of experience and qualifications in the old structures enabling them to manage economic sectors. Their lack of specialization has made their intervention difficult in adapting to the new and evolving economic and financial realities.

Section II: Characteristics of economic control authorities

First: Efficiency and effectiveness

The Algerian State is constantly striving to bring about changes and comprehensive reforms to the public administration, which is the engine of economic and financial activities.

Second: Direct contact with the economic environment

Direct communication requires the presence of bodies directly related to the economic sector that oversees its development and follow-up, which distinguishes the powers of economic control over old state structures.

Two thirds: working transparently and impartially

Management members may be inclined to work on one side but not on the other, making the task of achieving equality and freedom of competition difficult, in order to do so the control authorities operate with all transparency and impartiality, thereby enhancing confidence in their actions and achieving legitimacy in respect for the law.

Lecture 9:

Second requirement: Economic public sector

We will divide this requirement into two branches as follows.

Section I: Economic Public Enterprise

Article 05 of Act No. 01-88 states: "Public economic institutions are joint stock companies or limited liability companies in which the State and/or local groups directly or indirectly own all shares/or shares, and therefore we can define the public economic institution narrowly as a commercial company in the form of shareholders or limited liability companies. This character was later confirmed.

Commercial Institutions of Public Economic Enterprises Ordinance No. 25-95 of 25 September 1995 concerning the management of commercial capital of the State, article 23 of which states that economic public enterprises controlled by public holding companies or in which they own the contributions of commercial companies are subject to public law.

Article 25, paragraph 01, of the same Ordinance states: "The establishment, organization and functioning of public economic institutions shall be subject to the forms of capital companies provided for in the Commercial Code. This commercial nature of public economic institutions is further confirmed by Ordinance No. 04-01 of 20 August 2001 on the organization, operation and privilege of public economic institutions, which abolished Ordinance No. 25-95. Article 02 stipulates: "Public economic institutions are commercial companies in which the State or any other moral person subject to public law possesses the majority of social capital directly or indirectly and is subject to public law.

Lecture 10:

Section II: Public enterprises of an industrial nature

Commercial (E.P.I.C)

A public institution of an industrial and commercial nature is the most common form of state intervention in the economic field, a form inherited by Algeria from the colonial system. Despite the sharp doctrinal disagreement raised by this institution, Algerian legislature has not paid attention to it. Article 44 of Act No. 88-01 defines it as: "A public authority that is able to finance its exploitative burden in part or in whole through the proceeds of a commercial production sale carried out in accordance with a pre-prepared tariff and the general conditions book which defines burdens, limitations and, where appropriate, the rights and duties of users.