



Government's Maximum Prices as a Protective Measure for Consumers – the Oil Case

In June this year, the Government of Kosovo determined the maximum commercial profit margin for oil¹. According to the Government, this decision was taken to regulate the price of oil products and to protect consumers from large fluctuations of market prices.

Through the administrative instruction, the Government determined for a period of 30 days (June 25 – July 24) the price limit of oil products, with wholesalers being allowed a commercial profit margin of two (2) Euro cents per liter, whereas retailers were allowed twelve (12) Euro cents per liter².

This instruction also determined the maximum allowed price of sales per liter of each product, namely price ceiling. This price was calculated and published daily by the Ministry of Industry, Entrepreneurship and Trade (MIET), based on the average supply price of the last ten (10) million liters of diesel, one (1) million liters of gasoline and other oil products from Kosovo Customs to which 12 cents were added for overhead expenses, thus reaching the maximum allowed sales price.

In addition to the issue of legality, this government decision also led to discussions regarding the damages and benefits from the intervention of the executive in the free market economy.

Using the example of oil products, the government³ announced the drafting of a draft-law on the protection of supply of basic products.

1 Government of the Republic of Kosovo. Administrative Instruction No. 03/2022 on the Regulation of Prices of Petroleum Products and Renewable Fuels and Other Protective Measures. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=59904> (last accessed on 18.08.2022).

2 On August 24, the Government announced the amending and supplementing of the administrative instruction for oil products, a decision that has not yet been published in the official gazette of the Republic of Kosovo.

3 The government takes a decision on the high prices of basic products, Kosovapress. 2022. <https://kosovapress.com/qeveria-merr-vendim-per-cmimet-e-larta-te-produkteve-themelore/> (last accessed on 18.08.2022).

This brief analysis delves into the concept of the maximum price as a form of price control, the legal framework for such decision, examines the impact of the decision in changing oil prices in Kosovo, and provides recommendations to the Government for the process of protecting the supply of products food by law.

What is the maximum price and when can it be applied?

The maximum price, also known as the price ceiling, is a type of price control, where the maximum price that a seller is allowed to set for a good or service is determined.⁴ Usually defined by law by a regulatory authority, maximum prices are mostly determined for essential products, when such goods become unaffordable for consumers.

Price controls have a long-documented history dating back to the French Revolution⁵, whereas in the 20th century, this policy was used extensively in several western countries during the Second World War⁶, culminating in price controls in the United States of America⁷ (oil and food prices, rent, interest rates) and the United Kingdom during the 1970s. In general, price controls began to fade out during the 1980s, with governments favoring deregulation after an inflation drop.⁸

Maximum price for goods and services are usually introduced as a form of addressing inflation, monopolies or the large difference between demand and supply in the market, to protect consumers.

Proponents of the maximum price policy argue that such a measure is required to curb price increases⁹. On the other hand, critics argue that this intervention does not address the fundamental issue of inflation, disrupts the balance between supply and demand resulting in a lack of supply, encourages a decline in the quality of goods and services as a way to increase profits, and increases bureaucracy and expenses for supervision of the enforcement of the measure¹⁰.



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⁴ Troy Segal, Price Ceiling. Investopedia, 2021. <https://www.investopedia.com/terms/p/price-ceiling.asp> (last accessed on 18.08.2022).

⁵ Fiona M. Scott Morton, The Problems of Price Controls. Cato Institute, 2001. <https://www.cato.org/commentary/problems-price-controls> (last accessed on 18.08.2022).

⁶ Justin-Damien Guentte, Price Controls: Good Intentions, Bad Outcome. World Bank Group, 2020. <https://documents1.worldbank.org/curated/en/735161586781898890/pdf/Price-Controls-Good-Intentions-Bad-Outcomes.pdf> (last accessed on 18.08.2022).

⁷ Gene Haley, Remembering Nixon's Wage and Price Control. Cato Institute, 2011. <https://www.cato.org/commentary/remembering-nixons-wage-price-controls> (last accessed on 18.08.2022).

⁸ Ben Casselman & Jeanna Smialek, Price Controls Set Off Heated Debate as History Gets a Second Look. The New York Times, 2022. <https://www.nytimes.com/2022/01/13/business/economy/inflation-price-controls.html> (last accessed on 18.08.2022).

⁹ Edison Jakurti, Le ta konsiderojmë vendosjen e çmimeve tavan [Considering the setting of price ceilings]. Sbuker, 2022. <https://sbunker.net/op-ed/91434/le-ta-konsiderojme-vendosjen-e-çmimeve-tavan/> (last accessed on 18.08.2022).

¹⁰ David R. Henderson, Price Controls: Still A Bad Idea. Hoover Institution. <https://www.hoover.org/research/price-controls-still-bad-idea> (last accessed on 18.08.2022).

The legal framework for setting the maximum price for oil products as a protective measure in Kosovo

The Constitution of the Republic of Kosovo clearly defines that “a market economy with free competition is the basis of the economic order of the Republic of Kosovo”¹¹.

Decisions that restrict free competition are prohibited, except when explicitly permitted by law, as is the case with petroleum products and renewable fuels.

The commercial activity with petroleum products and renewable fuels in Kosovo is conducted according to the principles of legality and free competition, as defined by the Law on Trade in Petroleum Products and Renewable Fuels¹² (hereinafter, the Petroleum Law).

The Government’s decision to intervene in the oil market was based on Article 15 of the Petroleum Law, which envisages the establishment of maximum price and allowed wholesale and retail margins in cases of:

- sudden and continuing shortages of petroleum products or renewable fuels;
- natural disasters;
- non-adjustment of local prices to large price movements in the global market;
- unjustifiable difference of local prices from prices in neighboring countries.

MIET stated that¹³ it drafted the administrative instruction to protect consumers, after data confirmed by the Customs and Tax Administration of Kosovo (ATK) showed non-adjustments of local prices compared to fluctuations in the global market.

The authority responsible to identify non-adjustment of prices or distortion of competition and take relevant measures lies with the Kosovo Competition Authority (KCA), which is the most important market regulation institution in Kosovo.

Although not having a mandate to regulate prices of products or services, KCA does have a mandate to act when market competition is threatened, hindered, or distorted, as it did in the case of market competition disorder in November and December 2018¹⁴, when it fined 14 oil companies with 4 million Euros.

Due to the delay of over one year in the appointment of new members of the KCA Commission (the decision-making body that authorizes investigations), no investigative activity was initiated in Kosovo against possible distortions in the oil market.

The administrative instruction on the maximum price was not preceded by a KCA preliminary market investigation, but rather the authority approved the proposed decision of MIET to determine the maximum profit margin in the price of oil and renewable fuels, stating that economic operators still have an opportunity to compete within the defined margin.

¹¹ Constitution of the Republic of Kosovo, 2008, Article 10. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702> (last accessed on 18.08.2022).

¹² Government of the Republic of Kosovo, Law No. 08/L-018 on Trade with Petroleum Products and Renewable Fuels. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=55139> (last accessed on 18.08.2022).

¹³ The government takes a decision on oil prices. Koha, 2022. <https://www.koha.net/arberi/331379/qeveria-pritet-te-vendose-per-regullimin-e-cmimit-te-naftes/> (last accessed on 18.08.2022).

¹⁴ Over 4 million Euros in fines against 14 oil companies. Kallxo, 2020. <https://kallxo.com/lajm/mbi-4-milione-euro-gjoha-per-14-kompani-te-derivateve/> (last accessed on 18.08.2022).

The effect of setting the maximum oil price in Kosovo

The price of oil has increased steadily in 2022, particularly after the sanctions of western countries against Russia due to it starting a war in Ukraine. Compared to last summer, prices have almost doubled, reaching the highest levels since 2008¹⁵.

Kosovo does not have its own refinery, thus imports all fuels from the countries of the region. At the beginning of 2022, diesel prices in Kosovo ranged from €1.25 to €1.35 per liter, reaching the peak at the end of June, where one (1) liter of diesel had an average price of €1.91.¹⁶ an increase of over 50% in just six months.

For the 30-day period that the Administrative Instruction 03/2022 on the Regulation of Prices of Petroleum Products and Renewable Fuels was in force, the average daily price of oil dropped by 11.5% or 22 cents, from 1.91 Euros per liter as of June 25, to 1.69 Euros per liter on July 24, 2022¹⁷.

The following table shows that during application of the instruction oil prices in Kosovo generally reflected the price trends in the international stock markets¹⁸.

TABLE 1: The reflection of the oil price on the international stock exchange and the average oil price in Kosovo during the period when the administrative instruction was in force.

Date:	Average price of 1 liter of oil (diesel) in Kosovo (€)	Trends	The price of a barrel of crude oil (WTI) in the international market (\$)	Trends	Price of a barrel of crude oil (Brent) ¹⁹ in the international market (\$)	Trends
25.06.2022	1,91		105,2		107,54	
06.07.2022	1,78	-6.8%	94,7	-8.7%	97,23	-6%
16.07.2022	1,75	-8.3	97	-5.8%	99	-4.3%
25.07.2022	1,69	-11.5%	96,5	-6.3%	100	-3.4%
06.08.2022	1,72	-9.9%	90,4	-12.2%	96	-7.2 %

¹⁵ Scott Disavino, Oil price surges to highest since 2008 on delays in Iranian talks. Reuters. 2022. <https://www.reuters.com/business/energy/oil-price-set-surge-further-iranian-talks-delays-2022-03-06/> (last accessed on 18.08.2022).

¹⁶ Average daily price for basic items. Kosovo Agency of Statistics (KAS). https://askdata.rks-gov.net/pxweb/sq/ASKdata/ASKdata_Prices_Consumer_Price_Index_Daily_indicators/cmimet_ditore.px/ (last accessed on 18.08.2022).

¹⁷ Ibidem.

¹⁸ Trading Economics. WTI Crude Oil. 2022. <https://tradingeconomics.com/commodity/crude-oil> (last accessed on 18.08.2022).

¹⁹ Trading Economics. Brent Crude Oil. 2022. <https://tradingeconomics.com/commodity/brent-crude-oil> (qasur për herë të fundit me 18.08.2022).

Using the average oil price of June 25, 2022 (date when the maximum price entered into force) as a comparative unit, we observe that the drop in the price of oil in international stock market during the 30 days of the implementation of the measure was also associated with a drop in the average price in Kosovo.

For one month, the price of a barrel of oil in the international stock market saw a drop of 6.3% (WTI) and 3.4% (Brent), whereas in Kosovo, during this period, there is a decline in the price of oil (diesel) by 11.5%.

A different situation appears in the 30 days prior to the entry into force of the maximum price decision, during which the fall of the price of oil in the international stock exchange was associated with a continuous increase of oil prices in Kosovo.

TABLE 2: The reflection of the oil price on the international stock exchange and the average oil price in Kosovo during the 30-day period prior to the entry into force of maximum price decision.

Date:	Average price of 1 liter of oil (diesel) in Kosovo (€)	Trends	The price of a barrel of crude oil (WTI) in the international market (\$)	Trends	Price of a barrel of crude oil (Brent) ²⁰ in the international market (\$)	Trends
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Price of oil in the international stock market is not the only factor impacting the price of oil in Kosovo. It is, nevertheless, the most significant factor for the change of domestic prices. Judging from this perspective, the maximum price policy resulted successfully in following the changes in the international stock market. Other factors impacting the oil price, but which are not included under this analysis, are the price at the time of purchase, transportation costs, excise, customs duty, custom clearance costs, cost of quality control, value added tax, etc.

One of the main concerns with the maximum price policy is the risk that economic operators may drastically increase prices after the protection measure ends, however, such a situation was not observed in Kosovo. In the next three weeks after the repeal of the maximum price, the average price of one (1) liter of diesel did not change by more than three (3) cents.

²⁰ Trading Economics. Brent Crude Oil. 2022. <https://tradingeconomics.com/commodity/brent-crude-oil> (qasur për herë të fundit me 18.08.2022).

FIGURE 1: Average price of one liter of oil during three weeks after the repeal of the administrative instruction.

25 KORRIK

01 GUSHT

10 GUSHT

15 GUSHT

17 GUSHT

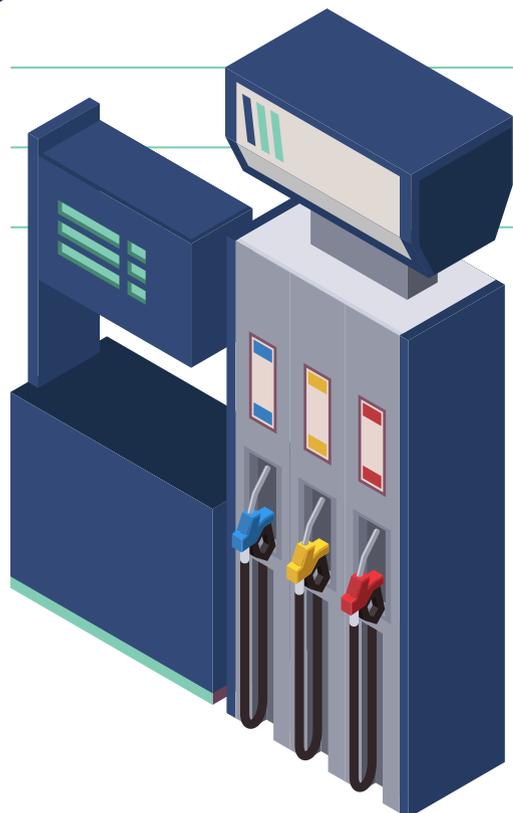
1.69

1.71

1.68

1.68

1.67



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According to the president of the Kosovo Oilmen Association, Mr. Fadil Berjani, MIET made a technical error in the calculation of the profit margin. According to him, setting the profit margin below the market equilibrium harms small businesses that do not have sufficient financial capacity to cover operational costs for as long as the maximum price measure lasts, and may lead to their bankruptcy.

In the free market economy, in cases where the price of a product is lowered by the intervention of the state, the demand for such product usually increases, whereas companies can reduce the supply because the profit is reduced, thus leading to a market shortage of the product. However, during the 30-day duration of the maximum price policy, no issues with supply, or reduction of the offer, were observed.

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A continued challenge in the oversight of enforcement is insufficient human resources of the Market Inspectorate (MIET), with only 120 market inspectors²² responsible to oversee the implementation of 15 laws and over 30 bylaws. On the other hand, control evasion incentives are always present among economic operators, with the simplest form being the reduction of the quality to lower costs and increase the profit margin²³.

In the case of determining the maximum price for oil, economic operators have generally observed the maximum price measure, with the Market Inspectorate (MIET) carrying out 128 inspections at oil retailers. During the 30 days that this policy was in force, measures were taken only against 11 economic operators for failing to comply with the administrative instruction.

In Kosovo, the inspection supervision of oil quality is carried out by the Market Inspectorate, Customs (before to the entry of the fuel in the domestic market), and by accredited testing laboratories. During the time that the maximum price instruction was in force, none of these institutions reported cases of reduction in the quality of oil products.

²¹ Direct communication with Mr. Fadil Berjani regarding the effects of the maximum price on oil businesses. 11.08.2022.

²² Law No. 03/181 "On Inspectorate and Market Supervision". 2013. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2703> (last accessed on 18.08.2022).

²³ Hugh Rockoff, Price Control. Econlib. <https://www.econlib.org/library/Enc/PriceControls.html> (last accessed on 18.08.2022).

Conclusions and Recommendations

The Administrative Instruction for the maximum price was generally respected by the economic operators, and there were no reports of product shortages or declines in the quality of oil. Additionally, a gradual drop in the price of oil was noted as a reflection of the drop in the price in the international stock market. Thus, as evidenced in this paper, the state intervention in determining the maximum price of oil was successful.

Since the Government announced the drafting of the law for the protection of the supply of basic products, D+ recommends the Government as follows:

- Price regulation through the Law on Protection of Basic Products should be done in cooperation with the Competition Authority, the Consumer Protection Council, business associations and other stakeholders, in order to guarantee the financial stability of the economic operators affected by such measures;
- The Law on the Protection of Basic Products must include provisions that clearly define and justify the circumstances when protective measures, such as profit margins and maximum prices, can be imposed;
- The drafting of the Law on the Protection of Basic Products is the appropriate tool, as Government's intervention in the free market economy through by-laws is prohibited under Article 119 of the Constitution of Kosovo²⁴. Any interference in free competition can only be done when the law explicitly allows such an intervention, as is the case with the Petroleum Law, specifically Article 15 which determines the regulation of prices and other protective measures;
- The adjustment of prices should be done only for temporary periods, updated in reasonable terms through by-laws deriving under this law, referring to market prices and the rate of inflation ensuring that the profit margin is affordable for economic operators;
- The government must ensure that regulation of prices of basic products by law is not extended beyond exceptional circumstances;
- The Law on the Protection of Basic Products must address the specifics of each product, as the law covers a various and differentiated products, rendering uniform regulation inappropriate;
- The government, in cooperation with economic operators, must take all necessary measures to guarantee the supply of basic products,, ensuring there are no periods with a shortage of products, or long waits for supplies;
- Human resources of the Market Inspectorate should be enhanced, through the movement of staff within the public administration, in order to increase inspections and guarantee the quality of products and compliance with competition rules by economic operators;
- The Market Inspectorate must conduct market surveillance after the conclusion of protective measures for basic products, in order to avoid any significant artificial increase in prices after the repeal of the law;
- Review the possibility to ensure that, in addition to the intervening protective measures, the rates of excise duty and VAT for basic products are reduced or lifted.

²⁴ Constitution of the Republic of Kosovo, Article 119, paragraph 3 "Actions limiting free competition through the establishment or abuse of a dominant position or practices restricting competition are prohibited, unless explicitly allowed by law."

