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Institute for Economic Research and Policy Consulting

Policy Paper Series [PP/02/2019]

Reforming the law "On Prices" in Ukraine: Analysis and recommendations

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Berlin/Kyiv, July 2019

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Executive Summary

Price controls describe all regulations directly regulating the price setting by the suppliers of goods and services on markets. They usually take the form of either direct setting of prices (or maximum/minimum thresholds) by government or of limits on the profitability margin or cost mark-ups of goods. They form a part of a wider toolkit for governments to affect market outcomes, including competition policy, producer or product standards, direct market interventions by the state, taxes, subsidies and social transfers.

Economic theory yields relatively clear suggestions on when price controls are a useful instrument: Price controls can only be harmful in competitive markets. Non-competitive markets should, if possible, be made competitive using competition policy. Price controls should also not be used for social purposes: Social policy instruments should be used for social policy objectives. However, price controls are a legitimate instrument for regulating private provision of goods and services in natural monopolies which cannot be made competitive and where the market would yield inefficient results.

In Ukraine, the law “On prices”, no. 5007-VI from June 21, 2012 and the resolution no. 1548 of the Cabinet of Ministers of Ukraine from December 25, 1996 are the normal legislative context for price controls, although they have become much less widely used in recent history. Only 20 price controls remain in the resolution and of these, only 4 concern goods provided to and from private market participants. The practically most important price controls in the country, the regulation of natural monopolies through the “National Commission for State Regulation of Energy and Public Utilities” (NERC) exist essentially as a separate law.

Our analysis yields that the legal structure of price controls in Ukraine is neither unusual in an international context nor completely unreasonable. Nevertheless, the legal framework does contain the potential for rash introduction of misguided price controls without significant checks and balances. We hence suggest installing safeguards into the legal framework to make a rash and misguided introduction of price controls less likely.

Furthermore, we suggest removing some problematic aims of state pricing policy (for social purposes and economic guarantees to producers) as aims of state price policy from the law “On prices” and recommend cancelling the few remaining price controls on that some of the aims of state price policy could be reformulated to make the law less inviting on goods and services provided on competitive private markets. All in all, the Ukrainian legislation on price controls should be reformed in parts, but overall is not grossly inadequate.

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Acknowledgements

The authors would like to thank Robert Kirchner, Tymofiy Mylovanov, Pavlo Kukhta, Dmitriy Romanovicah and Dmytro Goriunov for valuable input, comments and suggestions during different stages of this project. All remaining errors are the authors’ sole responsibility. We are highly grateful to Sophie Paul for excellent research assistance.

Table of contents

1. Introduction

One of the most salient characteristics distinguishing a free market economy from a centrally planned economy are free prices. Allowing individual market actors to freely choose at what prices they offer and sell goods and services is one of the essential mechanisms allowing private markets to work and decentralised actors to bring about welfare-maximising equilibria.

The conceptual opposite of free prices determined by market forces and decentralised decisions of market participants are controlled prices, set by the state. Coupled with centralised decisions on production quantities, investment etc., price controls are a characteristic feature of planned or command economies, such as that of the Soviet Union. The lack of success of the Soviet economy and other socialist planned economies was in no small part related to the lack of the information transmitted by free market prices and resultant misallocations of productive resources[1].

At the same time, some forms of government interventions on markets that effectively influence prices are commonplace even in market economies, ranging from taxes or competition policy instruments to outright price regulation. Indeed, it is established mainstream economic thinking that this instrument has its place in correcting market imperfections.

This paper concerns itself with the issues of whether existing price controls legislation in Ukraine needs reform, what can be learnt from standard economics and from international experience. The main object of this paper is the post-Soviet “Law on Prices”. This law from 2012, superseding an older law stemming from 1990, together with a corresponding resolution of the Cabinet of Ministers of Ukraine, contains a framework for price controls in the economy. Despite having been significantly cut in scope over the past years (in particular, price controls for food were removed between 2016 and 2017[2]) and explicitly stating that free prices shall generally prevail, it still contains price controls for a limited range of goods and services and enables the state to set price controls for other goods and services. Not subject of this paper are price controls outside this law, especially price regulation in the energy market.

We commence with reviewing the policy space of instruments affecting market prices in chapter 2. In chapter 3, we review standard economic theory on which instruments are appropriate for correcting what types of market imperfections. In chapter 4, we review the current legal situation and practice of price controls under the “Law on Prices” in Ukraine. Tentative recommendations for Ukraine are made in chapter 5.

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[1] E.g. G. Gutmann, H. F. Buck, Die Zentralplanwirtschaft der DDR – Funktionsweise, Funktionsschwächen und Konkursbilanz in Kuhrt, Buck, Holzweißig (eds.), „Die wirtschaftliche und ökologische Situation der DDR in den 80er Jahren“, 2013

[2]https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20Report_Kiev_Ukraine_4-25-2019.pdf; http://mmi.fem.sumdu.edu.ua/en/journals/2018/2/292-312

2. The policy space of price controls and related instruments

Price controls are only one possibility for governments to affect markets and market outcomes. In this section, we first present a brief review of the different instruments that governments can apply to correct situations in which there is a desire to change price-quantity equilibria on markets.

Essentially, there are four sets of instruments that governments can deploy to affect market outcomes: Regulatory instruments (a subset of which are price controls), market involvement of the state, public finance instruments and monetary policy. We will look at these and how they affect market outcomes in turn.

2.1 Regulatory instruments

Regulatory instruments are all ways in which the government can influence markets by setting rules on the behaviour of market participants. With regard to affecting prices, three distinct sets of instruments are most relevant:

- Price controls
- Competition policy
- Setting of producer or product standards

Price controls, the focus of this paper, describe all regulations directly regulating the price setting by the suppliers of goods and services on markets. Different types of price controls exist. The most basic ones are direct price settings (i.e. the government prescribes a specific price for a good), price floors (minimum prices), price ceilings (maximum prices) or price ranges (combination of minimum and maximum prices). However, more complex price controls exist also in the form of mark-up or margin caps where the government stipulates that the sales price of a good or a service may not exceed a certain absolute or percentage difference from the production price of the good or service. Another complex type of price controls are limits on price increases over time, including state-mandated indexation of prices (such as wages or rents).

Price controls have been used for a large variety of goods in the past, especially in the command/planned economies of Communist and Socialist countries, but also in western countries – e.g. by the USA in the context of heavy government control of the wartime economy during the first and second world wars and in the form of a 90-day freeze of prices and wages when the gold standard was abandoned in 1971[3]. At present, price controls have been largely abandoned in market economies but remain used in some specific cases and under specific justifications. Without evaluating these justifications here (as that will be done in the next chapter), the main present uses and justifications are:

- Regulation of (natural) monopolies such as energy provision or energy grids, postal services, copyrighted-protected medication. These interventions are usually justified by the economic reasoning that monopolists set inefficiently high prices, leading to a socially sub-optimal underprovision of their goods or services. At the same time, innovative policies such as the

[3] https://www.u-s-history.com/pages/h1689.html

unbundling of grids from goods/service provision has enabled governments to break what were previously considered natural monopolies such as electricity or rail service provision and liberalise at least parts of what used to be considered natural monopolies.

- Regulating prices in specific categories of services as varied as taxi services or legal advice. These tariff regulations are most often justified through arguments of consumer protection from intransparent pricing or by arguing that price competition would lead to a decay of product quality.
- Setting the prices of goods deemed to be "socially important". Price controls on socially important goods are usually justified by precisely that social importance – that it is necessary that poorer people can afford bread, for example. Whereas price controls on food and similar goods have become rare, in no small part due to heavy criticism of price controls leading to undesired side effects such as underprovision of these goods, they enjoy rising popularity at the moment in the form of **control of rent prices** in larger cities, for example in Germany.

Competition policy is another means of affecting market prices, especially of combatting excessive prices through monopolies or cartels of producers. Competition policy aims at ensuring that markets resemble the microeconomic ideal of "perfectly competitive markets" as closely as possible, in which a multiplicity of unrelated suppliers provide the respective good or service at the socially optimal price and quantity. Hence, the ultimate objective of competition policy is that the price/quantity equilibrium on markets should be the (optimal and efficient) one characteristic of a perfectly competitive market. Key components of competition policy are the combating of cartels (i.e. prohibiting and punishing collusion of market participants to fix higher prices in markets), merger control and the breaking up of monopolies.

When governments set **producer or product standards** on specific markets, this is usually justified with consumer protection arguments – e.g. ensuring that individuals offering medical services are trained professionals, medicines are certified to be safe for use by the requisite authorities or airplane pilots have a minimum level of training. Nevertheless, such standards have a direct effect on prices. Standards for producers, especially if these come in the form of a limited number of licenses, correspond to barriers to entry to a market and may lead to the (artificial) creation of monopolistic situations, rendering this type of regulation to some extent the opposite of competition policy instruments.

2.2 Market involvement by the state

Direct **market interventions** by the state – by public institutions buying or selling (providing) goods or services - is another means for government to affect market outcomes. This can take the form of the government acting as the buyer or as a trader of goods and services with the immediate aim of ensuring a certain (often a minimum) market price. One example for such measures are the "market measures" in the context of the Common Agricultural Policy of the European Union, where public authorities of the member states buy and sell agricultural products in order to maintain desired price levels and protect EU agricultural producers[4]. As this policy has led to excess production levels being

[4] https://ec.europa.eu/agriculture/markets_en

permanently absorbed by government buying without the products being consumed, this practice has been considerably reduced in scope over the last years.

A related form of market intervention instruments are "**strategic reserves**" of important goods – often fuels, medication or food – intended to support markets in times where due to external shocks, supply shortages and consequent rapid market price rises occur. For example, Germany sold oil from its strategic reserve in 1991 during the first Gulf War when oil prices soared above USD 30 per barrel to soothe the price increase.

Finally, government intervention in markets can of course be achieved through **state-owned companies** providing goods or services, possibly as monopolies. Examples of this are state companies operating natural monopolies such as railway grids (where the conceptual alternative would be price controls imposed on private companies operating as – then regulated – monopolists) or state provision of housing. Justifications of state provision of goods and services motivated by market concerns range from economic reasoning for public provision of goods in natural monopolies to social considerations supporting the state provision of housing, especially for vulnerable groups of society or key workers in cities (public sector employees considered to provide essential services and due to limited incomes not able to afford housing rents or price sufficiently near their place of work)[5]. Of course, state companies also often are justified in different ways not motivated by the desire to change market outcomes, but because of strategic considerations (e.g. control over production of military equipment) or fiscal motivations (state lottery monopolies).

2.3 Public finance instruments

Taxes, subsidies and social transfers also affect market outcomes and can serve the same ends as price controls. **Taxes and subsidies** on the consumption/use of certain goods change the prices of these goods or services by driving a wedge between the (gross) price paid by consumers and the (net) price received by producers. Taxes usually lead to a reduction of the quantity produced and consumed, together with an increase of the (gross, inclusive of tax) market price for users of the good or service while subsidies lead to the opposite – more usage/consumption and lower prices for consumers.

Whereas most taxes (such as VAT) are mainly motivated by fiscal, revenue-raising concerns, some taxes are often explicitly (also) motivated by the concern to reduce the production/use quantities of goods. Such goods are usually goods with negative externalities – negative side effects on individuals other than the buyer of the good or service – such as polluting industrial production taxed with, for example, a Carbon tax, or "social bads" such as cigarettes, alcohol or gambling where the government desires to reduce the quantities of these goods and services consumed (along with enjoying often handsome fiscal revenues due to the often price-inelastic demand for such goods).

Social transfers (including both explicit transfers as well as any changing of the redistributive effects of income and wealth tax systems) do not affect relative prices of individual goods but the buying power of societal groups receiving transfers altogether. Especially when price controls are called for to lower the "excessive" prices for some "socially important" goods, economic reasoning often

[5] https://www.peabody.org.uk/find-a-home/key-workers-regency/about-the-scheme

suggests that the underlying problems should be solved through explicit redistributive measures rather than price controls.

3. When should price controls be used?

As seen in the previous section, price controls are only one class of instruments within a much larger toolkit of state instruments for affecting markets and prices. Of course, all these instruments have their respective pros and cons, making them more or less suitable to being used in different situations.

As this paper is on price controls, the structure of this chapter revolves around the main reasons for and against price controls. We start off with explaining very briefly the textbook case against price controls on competitive markets. We then proceed to reviewing "unusual" market conditions and other reasons often cited – both internationally and in the case of Ukraine – when calling for price controls, starting with non-competitive markets, goods and services with externalities special situations on markets, socially important goods, combating inflation.

3.1 Price controls in competitive markets

Why price controls lead to inefficient outcomes in competitive markets is usually content of one of the first microeconomics lectures for undergraduates. In a competitive market, the price-quantity combination where the supply and demand curves intersect designates the market price: where consumers wish (and can afford to) purchase the exact same amount of the good that suppliers want to produce for this price. If a mandatory price is set by government to be higher or lower than this market price, the market will fail to "clear": A minimum price requirement above the market price means that consumers will want to produce more of the good than buyers wish to purchase (excess supply), whereas a maximum price below the market price will lead to a situation of excess demand – consumers wanting to purchase more of the good than producers will produce.

Hence, in a competitive market, price controls can only have negative effects and lead to a reduction of welfare (being conceived of as the sum of producer and consumer surplus)[6]. In fact, *any* government intervention that changes the market away from its competitive equilibrium will lead to a reduction of welfare – such as a consumption tax, which will not prevent the market from "clearing" but leads to a "deadweight loss".

In effect, the argument that equilibria in competitive markets maximise welfare is one of the key arguments for why a market economy, in which decentralised, individual actors own the factors of production and freely decide based on their own rationality at what prices to buy and sell goods and services, is superior to a planned economy: Markets arrive at optimal equilibria without further guidance and reveal information on preferences, efficient production levels etc. which a planning government would usually be unable to determine centrally. Hence, standard microeconomics suggests that usually, price controls are an instrument to be avoided.

[6] See e.g. D. Begg, S. Fischer, R. Dornbusch „Economics" or any other introductory microeconomics textbook for a detailed discussion of the underlying concepts of supply and demand curves, market equilibrium and welfare.

3.2 Price controls in non-competitive markets

However, not all markets are perfectly competitive in the real world. In fact, many markets are quite far from the ideal of competitive markets. The most immediate contrast to the ideal of competitive markets are *monopolistic* markets with only a small number or only one producer (an "oligopoly" or a monopoly) offering the respective good or service. In these cases, competition no longer assures that producers will undercut each other's prices until the competitive equilibrium (at which the last produced good is sold at the price corresponding to its marginal production cost) is reached but set a higher price, leading to a lower production and consumption of the good or service.

The result of an oligopoly or monopoly situation does not have the desirable properties of maximising welfare that the perfectly competitive result has but is a socially sub-optimal result. In this case, indeed, the government just "imposing" the price that corresponds to the competitive equilibrium would establish the optimal result.

However, this does still not imply that price controls are the suggested instrument against any form of monopolistic markets. In order to bring about the optimal result of the competitive equilibrium through price controls, governments would have to know, at which price/quantity combination the supply and demand curves in this market would intersect – a highly demanding information requirement, which governments are unlikely to satisfy (otherwise, planned economies could have worked well).

The best instrument suggested by economic theory for monopolistic situations is competition policy: Breaking up monopolies and preventing price collusion between suppliers will lead to the market becoming a competitive market again without tough informational requirements on governments.

But competition policy is not always applicable. There are **two cases, in which price controls are the best available instruments** for governments, as competition policy cannot work in these cases:

- **Natural monopolies**
- **"Artificial monopolies" due to Intellectual Property (IP)**

Natural monopolies exist where the provision of a good is subject to such economies of scale that larger quantity of products can be produced more cheaply (and hence efficiently) if there is only one supplier on the market (example: electricity transmission grid). The alternative is either to publicly provide the good using a state company or regulating the price to be charged by a private operator. Both alternatives are not without their difficulties but can be considered to be effectively equivalently valid options for governments. It should be noted that in the past, network industries were more comprehensively considered to be natural monopolies than now and the "unbundling" of e.g. electricity generation from the (natural monopoly of the) electricity grid has enabled many countries to create a (competitive) market for electricity.

Monopolies can also be created by the state on purpose. One example are medicines, where patents protecting new medicines from being produced by companies other than the one that undertook the (costly) research and certification process, create monopolies for these medicines. It is not in the interest of the state to abolish the IP on medicines as that would remove the incentive for companies to research new medication. But allowing the producers of patented products to charge the full monopoly prices is also generally deemed to be excessive. For this reason, price regulation by government (usually achieved through negotiation with pharma companies) somewhere between the price in a (fictional) perfect equilibrium and the price set by a monopolist is an accepted practice in the market for new medications.

3.3 Other reasons given for price controls

Both internationally and in Ukraine, more reasons than natural and "artificial" monopolies are frequently invoked in calling for price controls on goods. However, in none of these further reasons that we briefly review here, are price controls the instrument that is suggested by economic reasoning.

- **Goods with externalities**. When some costs (or benefits) of a good are not borne (enjoyed) by the buyer but by other individuals, the free market result would be one of over- (under-) provision of the respective good from the perspective of society. However, price controls are still not the optimal instrument to combat this sub-optimality. Instead, economic theory suggests that the externalities should be "internalised" e.g. through making the buyer of polluting goods responsible for the clean-up of the pollution (or compensation for affected individuals). Alternatively, a "Pigouvian tax" could be set on goods/services with negative externalities (and a subsidy on ones with positive externalities) that will serve to approximate the externality from the perspective of market participants. This would implement something at least near the optimal result with lower informational needs than price controls and without creating excess supply or demand.

- **Sudden price shocks**. Price controls are sometimes invoked as a measure to prevent sellers from sharply rising the prices of goods in situations of sudden scarcity (such as supply shocks, e.g. a bad harvest). Of course, sudden price spikes can have harmful effects, especially when no close substitutes are available for the good or service in question. However, price controls will not solve the underlying problem in such cases – usually one of actual scarcity of a good. Imposing maximum prices below the market price level in situations e.g. of a bad harvest would generally lead to empty shelves and the emergence of a black market rather than to stabilising the market. For this reason, some countries have strategic oil reserves and a smaller number have food reserves that they can use for market interventions in case of product-specific negative supply shocks.

- **Socially important goods**: Although it may sound appealing to solve social problems by lowering the prices of specific goods such as food or housing, this will usually just create the textbook problems of price controls in competitive markets – excess demand and undersupply of the socially important good or service. Hence, it is clearly advisable to treat such issues for what they are: Social problems that call for redistribution through e.g. social transfers and thus make people able to afford important goods at their market prices.

- **Combating inflation**: Price controls are an extremely sub-optimal instrument against inflation for the same reason why they are sub-optimal for solving social problems through price caps: Although they may hold prices down and suppress inflation, they would cause situations of excess demand across the board when used as an anti-inflation tool. Monetary policy tightening can achieve the same goal without these side-effects.

3.4 Conclusion: When to use price controls

Standard economic reasoning presents a pretty clear picture: Price controls can and should only be used for monopolistic markets where competition policy cannot come into play – especially in the case of natural monopolies or "artificial" monopolies created by intellectual property (IP) where allowing the IP holder to charge full monopoly rents would be socially sub-optimal.

4. Present state of price controls in Ukraine

After outlining the policy space and the economic reasoning that should underline the usage of price controls and related instruments, we now review the current state of price controls usage in Ukraine. We will first outline the legal and institutional setup of the country's main price control instrument (as some controls exist in laws but the institutions are practically defunct, legal and institutional setup are not fully equivalent) and briefly touch related instruments. In the remainder of this chapter, we focus on summarising the contents of the law "On prices" and the related resolution No. 1548.

4.1 Legal situation

Different legal frameworks giving rise to state price controls exist in Ukraine at present. To the best understanding of the authors, two legal frameworks form the legal basis of state price controls:

- The law "On prices", no. 5007-VI from June 21, 2012 as the official umbrella law for pricing policy of the state and its secondary legislation, in particular resolution no. 1548 of the Cabinet of Ministers of Ukraine from December 25, 1996
- The regulation of prices in natural monopolies through the "National Commission for State Regulation of Energy and Public Utilities" (NERC), referred to in the law "On prices", Art. 2, but de facto a separate legal framework

With regard to related instruments, competition policy is conducted by the Anti-Monopoly Committee and of course the country runs an extensive system of public finance (taxes, social insurance, some social transfers). In addition, two more legal setups exist, which relate to market interventions directly aiming at market prices[7]:

- Interventions in markets for agricultural goods by the "Agrarian fund" under the law "On state support for the agriculture of Ukraine" no. 1877-IV from June 24, 2004
- Reimbursement of the cost of selected medicines by the state under the "Affordable medicines programme" tied to the cost of the drugs, as well as procurement of a list of around 1000 medicines, the "National Register of Basic Medicines" through international organisations

The focus of this paper is firmly the law "On prices" and the related resolution No. 1548. The law and the resolution fulfil complementary functions: The law sets out the aims of pricing policy of the state

[7] We only include market intervention with the explicit aim of influencing market prices here, not the substantial body of state-owned enterprises.

as well as the general principles under which price controls can be implemented and provides a framework, in which state price controls can be implemented, if politically desired, for essentially any market. In the resolution, the specific price control mechanisms are stipulated. In the next sections, the content of the law and resolution will be summarised in turn and will then be briefly analysed.

From the existence of the other legal setups, three inferences can be drawn: Firstly, the existence of price controls in the domain of energy wholly outside the framework of the law "On prices" (and similarly the price-related instruments of the "Agrarian fund" and the "Affordable medicines programme") highlight that price controls can be implemented with fully separate legislative acts. Secondly, it is important to note that Ukraine has a competition authority, implying that competition policy should be used preferentially over price controls in monopolistic markets that are not natural monopolies or monopolies due to IP. Finally, the Agrarian fund is a key example showing that instruments foreseen in laws do not necessarily perform these functions in practice as the Agrarian fund appears to have taken over the role of a grain exporter[8], but according to market observers does no longer undertake market interventions with the aim of establishing certain price levels in individual markets.

4.2 Content of the law "On prices"

The main law fulfils mainly the task of defining objectives of the price policy of the state and providing a legal framework for price controls by defining the rights of authorities and penalties for noncompliance.

The **aims of state price policy** are described in relatively general terms. Several aims are such that seem to indicate a pre-eminence of free prices, as "development of the economy and entrepreneurship", "ensuring that markets clear", that "the free price system is expanded" and "orientating the prices on domestic markets on the world market" prices. Others can be interpreted as prompting price controls, such as the "provision of social guarantees to the population in case of rising prices" and "economic guarantees for producers", "counteracting the behaviour of monopolists"[9].

The duality of a commitment to both free and regulated prices continues in the section on pricing: It is explicitly stated that free prices shall prevail where no state price controls are instituted and that state regulated prices shall be "imposed on goods that have a decisive influence on the overall price level and dynamics, have a substantial social significance as well as on goods produced by entities that have a monopoly position on the market"[10].

8 http://agrofond.gov.ua/en/about/info/

9 Law "On Prices", as published in the Bulletin of the Verhovna Rada, 2013, No. 19-20, p.190ff, Art. 4 "Main directions of state price policy"

10 Law "On Prices", Art. 12 "State regulated prices"

The law also provides a **legal framework for price controls**. This starts with empowering in particular the **Cabinet of Ministers as the central authority for deciding on and implementing price controls**. Local self-government bodies are empowered to "ensure the implementation of the state price policy within the limits of their powers specified by law"[11], which is an empowerment to execute, but not to determine price controls (the latter is the power of the Cabinet of Ministers). For **natural monopolies**, the law refers to a fully separate body of legislation centred on the Law "On Natural Monopolies", last revised in May 2019 which confers the power to regulate the prices for natural monopolies, especially in the energy, water and transport sectors to National Commissions. Furthermore, the Cabinet of Ministers is called on to take compensatory social measures, especially for low-income families, to ensure social concerns are taken care of in case of rises of regulated prices.

Several possible **instruments** of state price controls are given, ranging from fixed prices via price ranges/max and min prices to regulations on mark-ups or profitability. Also, the law stipulates that these price controls must be instituted with regard to the production costs of the respective goods or services and if prices are set below an economically justifiable level, producers must be compensated for the difference by the responsible executive authority.

The **powers of the executive bodies** (the Cabinet of Ministers or bodies authorised by it) to implement price controls are defined as rights to information such as inspections, accounting books, reports etc. Penalties for violations of price regulations by companies are defined, mainly as surcharges on the value of sold goods.

Importantly, there are two major **areas the law does not contain**: Firstly, it **does not contain a list of goods or services shall be subject to price controls**, which type of control instruments shall be used and which authority shall decide on the prices. This is delegated to the Cabinet of Ministers, which regulates this with resolution No. 1548, summarised in the next section. Importantly, this implies that price controls under the umbrella of "state price policy" set by this law can be implemented immediately by government decree and do not require parliamentary assent. Hence, the list of price controls described in the next section could be changed very rapidly.

Secondly, the **law does not contain restrictions on instituting price control through parallel legislation** (i.e. through other laws and thus outside the formal context of "state pricing policy" outlined in this law). As noted by the Green Book "Analysis of State Price Regulation" from 2017 of the Better Regulation Delivery Office, in 2017, price controls rules were regulated by 74 laws, 54 government resolutions, 5 legal acts of other central government bodies, 3 Soviet legal acts, 3 decrees of the President.

4.3 Content of Resolution No. 1548 of the Cabinet of Ministers of Ukraine

The main body of the resolution is short and contains the **empowerment of local self-government bodies** (including the city administrations of Kyiv and Sevastopol and the Council of Ministers of the Autonomous Republic of Crimea, annexed by Russia) to **set and execute price controls according to**

[11] Law "On Prices", Art. 6 "Powers of local self-government in pricing"

the list of goods and services, connected with the specification of price control instrument to be used, which is contained in the appendix of the resolution.

In the appendix, the **actual list of price controls** is contained. This list specifies price controls for 23 goods and services. For each specific price control, the responsible authority – national ministries or local self-government bodies – as well as the instrument of price controls are specified. Possible instruments are regulated exact prices, minimum or maximum prices or mark-up/profitability limits for privately provided goods or services and tariffs/fees for state provided goods or services. The specific prices or limits are to be set by the responsible authority. Table 1 lists the current list of price controls as of June 2019 (the resolution originally dates back to 1996 and has been revised and amended multiple times since).

What is clear upon first inspection of the list is that most price controls mandated through resolution 1548 concern markets in which a government agency is either the provider or buyer of the good or service in question. Out of **20 price controls** in this resolution:

- In **16 cases**, price controls exclusively concern **services provided by government institutions** or state companies. Many of these concern services of minor importance, most notable are the tariffs for railway and other public transport (suburban rail, trolleybuses, port facilities and air traffic related services).
- In **1 further case**, price controls for the "production of publicly financed printed publications" concern a **service paid for by government institutions**
- Hence, only **3 out of 20 price controls actually concern price controls in private markets**: Coal and other energy sources for households, the delivery of subscription periodicals and orthopaedic/prosthetic products (where the latter will partly affect goods covered by public health insurance).

Table 1: Price controls instituted in Resolution no. 1548 of the Cabinet of Ministers of Ukraine (version as of June 2019)

Category	Affected goods and services	Instrument	Chief responsible authority
Accommodation	Accommodation in student dormitories	Max or min prices	Ministries of Education and Science, Health
Accommodation	Accommodation in ministry dormitories	Max prices	Ministry of Internal Affairs
Agri-food	Catering at education institutions	Mark-up limits	Oblast authorities *
Energy	Coal, gas fuels, firewood, other energy for households	Mark-up limits	Oblast authorities *
Health	Services provided by ministry health institutions	Tariffs/fees	Ministry of Internal Affairs
Health	Prosthetic and orthopaedic products	Regulation of prices	Ministry of Social Policy
Health	Services provided by ministry veterinary institutions	Tariffs/fees	Ministry of Agrarian Policy
Health	Services by the National Academy of Medical Science in the project on financial provision of medical care	Tariffs/fees	Ministry of Health
Health	Services by health institutions in the project on changing the mechanism of financial provision of medical care	Tariffs/fees	Oblast authorities *
Pensions	Services related to payments from Pension Fund	Tariffs/fees	Ministry of Infrastructure
Post, telecom, media	Production of publicly financed printed publications	Mark-up limits	Ministry of Education and Science and others placing orders for printed materials
Post, telecom, media	Confidential communication	Max or min prices	Ministry of Infrastructure
Post, telecom, media	Delivery of subscription newspapers/magazines	Tariffs/fees	Ministry of Infrastructure
Transport	Railway cargo tariffs	Tariffs/fees	Ministry of Infrastructure
Transport	Railway passenger tariffs	Tariffs/fees	Ministry of Infrastructure
Transport	Use of port facilities, port dues etc.	Tariffs/fees	Ministry of Infrastructure
Transport	Cost of Air Traffic Control	Tariffs/fees	Ministry of Infrastructure
Transport	Cost of airport services	Tariffs/fees	Ministry of Infrastructure
Transport	Trolley bus tariffs	Tariffs/fees	Council of Ministers of Aut. Rep. of Crimea
Transport	Suburban rail tariffs	Tariffs/fees	Council of Ministers of Aut. Rep. of Crimea, Kyiv and Sevastopol City State Administrations

Source: Resolution no. 1548 of the Cabinet of Ministers of Ukraine. *and the Council of Ministers of the Aut. Rep. of Crimea, Kyiv and Sevastopol City State Administrations

5. Analysis and recommendations

5.1 Legal framework of price controls in Ukraine

The **largest potential problem in Ukraine's legislative environment regarding price controls lies in the possibility that the Cabinet of Ministers can institute price controls through resolutions** (in particular, amendment of resolution No. 1548). The possibility to introduce new price controls through resolutions means that no parliamentary or other assent from outside the Cabinet is required and that price controls could potentially be introduced too rashly.

Furthermore, there **are no restrictions that price controls may only exist in the context/framework of the law "On prices"**. One external legal framework for price controls (the regulation of natural monopolies) is explicitly referred to in the law, other frameworks of which there are still plenty, are not.[12] This invites the question, whether a unique framework of price controls under the law "On prices" should exist or whether it is rather counterproductive to have such an umbrella law, especially if this gives the power to institute new price controls to executive bodies without requiring parliamentary assent or other checks and balances.

To address both questions, **international experience** can help. As detailed in Annex 1, **Germany has a very similar basic setup of its legal framework** regarding price controls – a "Price law" that permits price controls to be set by Cabinet resolutions but is practically of almost no more significance (as almost all price controls that have existed by decree in the past have been revoked) as well as parallel legislations instituting far more significant and contentious price controls (e.g. on natural monopolies, specific services and real estate rents) through separate laws.

Two key differences exist between Germany and Ukraine with regard to the legal situation of price controls: On the one hand, Germany now has a **longer stable track record** as a market economy, making abuses of the "easy path" to price controls through executive resolutions rather less likely. On the other hand, **price controls in Germany may face scrutiny through the EU**. Even though the powers of the EU regarding price controls are rather indirect and unclear, having to be justified by either competition legislation or the free movement of goods, services, labour or capital in the internal market (see Annex 1 for more detail), the risk of EU intervention imposes a potential constraint on the introduction of economically misguided price controls in Germany.

Germany's case shows that the **basic construction of the legal environment around price controls** (basically equivalent in Germany and Ukraine) **does not necessarily pose a problem**: In Germany, the "easy" path to price controls through executive resolutions is not abused and controversial price controls, where they exist, have been introduced through laws, entailing a process of parliamentary checks and balances through debate and possible amendments.

On the other hand, **Germany has a longer track record** as a market economy and **price controls in Germany could be challenged by the EU before the European Court of Justice** on the grounds of infringing EU rules. This suggests that **it may be prudent for Ukraine to install some additional**

[12] Green Book "Analysis of State Price Regulation", Better Regulation Delivery Office, 2017

safeguards against rash introduction of price controls into its legal environment. We could envisage two possibilities for additional safeguards:

- The introduction of new price controls by the Cabinet of Ministers under the empowerment through the law “On prices” might be made subject to a **mandatory review process** by a non-political commission, checking whether the price control is likely to achieve its declared aims and is in consonance with general economic policy aims.
- It might be contemplated, whether a **similar safeguard/review process could be made mandatory for new laws** introducing de-facto price controls in addition to the safeguard already presented by the parliamentary ratification process. This could take the form of requiring an independent economic impact assessment for laws that institute price controls or equivalent measures. It would need to be checked whether such a requirement on other new laws can technically be established in the form of a new law at all or whether this would require constitutional change[13].

Although in theory, with the legal framework of the law “On prices” not regulating many active price controls, it could be considered to abolish the entire law, this does not appear to be necessary at this time. There is no indication of disproportionate risks caused by existence of the law, whereas striking the law would require that new legal solutions are found for the existing active price controls that shall and should be maintained. As this would require substantial legal, institutional work and parliamentary discussion for little practical gain, striking the law “On prices” is not a recommended course of action in the view of the authors.

5.2 The law “On prices”

Turning to the analysis of the specific content of the law, it is clearly positive that it contains a general and appropriate commitment to free prices as the “standard case”, affirming Ukraine’s economy being a market economy.

Among the **justifications** for price controls given in the law, some, such as the subordination of natural monopolies to National Commissions for regulation, are in tune with the suggestions of economic analysis. However, other aims of state price policy that may justify price controls are problematic: Especially those relating price controls as an instrument for social policy aims and to “necessary guarantees for producers”.

As stated in the chapter 3, **social concerns should be achieved through social policy means**. Including the “social importance” of goods as a possible aim of price regulation invites non-market oriented price controls that are unlikely to succeed but rather will lead to situations of excess demand for and inadequate production of such goods and may spur black market sales. It would be preferable if the law clearly stated that targeted social transfers should be undertaken if price rises of considerable magnitudes occur for basic needs goods such as food, medicine or apartments.

[13] As an example, Georgia introduced constitutional safeguards against some economic policy measures by governments. However, there is no clear precedent in Ukrainian recent history on why such a major legal intervention would be necessary to prevent abusive laws in the domain of price controls.

“**Guarantees to producers**” are also a rather vague term that may lead to lobbying for unhelpful price controls. Cases in which the government should legitimately intervene to protect prices from dropping too far are hard to imagine. Possibly cases such as price dumping in imported goods should at least be defined precisely and the responsibility to remedy these should be assigned to specific authorities, but the general term **should probably be removed from the law**.

These stated “aims of state price policy” are probably of limited practical significance as they do not carry immediate practical consequences with regard to policy. However, they carry the danger of being to justify introduction of price controls with social objectives, which often appears politically attractive as a social measure without a price tag, or to benefit individual companies or sectors in distress due to fallen market prices. It has been argued in the last chapter that price controls are not an appropriate instrument in such cases, hence:

We recommend **striking the “provision of social guarantees to the population in case of rising prices” and “economic guarantees for producers” as aims of state pricing policy** from Art. 4 of the law “On prices”.

5.3 Current price controls mandated by resolution no. 1548

As stated above, the resolution mandates a relatively **short list of price controls on 20 types of goods and services**. This is largely due to the **reform process in past years**, in which many price controls, especially on “socially important goods” such as food items were eliminated after it had been successfully shown that the price controls were ineffectual and counterproductive. Of the remaining price controls, **16** concern **cases where the government is effectively the monopoly provider** the respective services.

The **most economically important relevant price controls are those in the transport sector**. It is a relevant question, whether some or all of these services, currently provided by state-owned enterprises could be privatised, as Ukraine is obliged to with regard to railway traffic under the EU Association agreement. However, even privatisation of the respective SOEs may not alleviate the need for price controls as, depending on the mode of privatisation, natural monopolies may remain that would require price regulation. In the example of railway transport, while railway operations could be privatised into a competitive market, the railway grid will always remain a natural monopoly (as it is in all EU countries). Successful privatisation and the creation of competitive markets in these transport services is a significant challenge and will require substantial analysis and preparation.

We recommend evaluating whether and how railway, urban/suburban transport systems and port and airport services should be privatised separately**. Only once the details of privatisation are finalised does it make sense to consider whether the price controls on these services can and should be lifted** and/or control of natural monopolies should be transferred to NERC or a similar authority**.**

Although whether some of these services should be provided by the state or privatised (e.g. railway transport, operation of state ports, operation of public transport or Air Traffic Control) may be debatable, if these services are provided by state institutions or through licensed monopolists, some form of government price control is inevitable.

Hence, the **list of potentially problematic price controls is very limited** and mainly concerns “niche” services of probably limited relevance (confidential communication, subscription prices, printing of publications). The regulated prices for coal and other fuels for households also are rather unimportant, as only a tiny fraction of households still use peat fuel, firewood or kerosene for heating. Nevertheless, in all of these cases the markets affected do not appear to be natural monopolies or cases, where intellectual property renders a market an artificial monopoly. Although the harm created by them is likely limited due to the markets being small:

We **recommend eliminating the remaining price controls on non-government provided or procured goods and services**, in particular on:

- Coal, gas fuels, firewood, other energy for households
- Delivery of subscription newspapers/magazines

A **case requiring further investigation are the price controls for orthopaedic/prosthetic products**, as this is a market that partially links up with procurement through public health insurance and may contain several natural or artificial (IP related) monopolies for highly specialised products. Whether this market can function competitively should be investigated in detail before taking a final decision.

A **careful inspection of market structures** of the specific (and presumably highly diversified) products under the heading of "**prosthetic and orthopaedic products**" should be undertaken in order to determine whether the price controls on prosthetic and orthopaedic products should be lifted.

6. Conclusions

Our analysis has yielded that in general, the legal structure of price controls in Ukraine is neither unusual in an international context nor completely unreasonable. Nevertheless, the legal framework does contain the potential for rash introduction of misguided price controls without significant checks and balances. We hence suggest installing safeguards into the legal framework to make a rash and misguided introduction of price controls less likely.

Furthermore, with regard to the specific provisions of the law "On prices" we suggest that some of the aims of state price policy could be reformulated to make the law less inviting for price controls for social purposes (which should prompt social policy measures, not price controls) and protection of individual enterprises or sectors from market conditions.

Finally, concerning the content of resolution no. 1548 of the Cabinet of Ministers of Ukraine, we recommend cancelling the few remaining price controls on goods and services provided on competitive private markets.

All in all, the authors find that improvements to the Ukrainian legislation on price controls should be considered, but that the legislation in its present shape (the law "On prices" and the current state of resolution no. 1548) is not grossly inadequate.

Annex 1: International experience – The cases of Germany and the EU

This annex provides more detail on the experience from Germany and the EU with regard to price controls. It underpins the argument in chapter 5 on whether the basic construction of the price controls system in Ukraine – the ability to institute price controls under the law "On prices" through Cabinet decision as well as the possibility to institute price controls outside the framework of the law "On prices" with separate laws – is one that should be retained or fundamentally changed.

Turning to German and EU experience is no coincidence: In fact, price controls legislation in Germany bears some resemblance to that of Ukraine in its basic construction, whereas EU regulations serve as a superordinate set of controls on German law.

Price controls in modern Germany

Like most modern market economies, price controls in Germany mainly exist for natural monopolies such as energy and railway grid and, due to the mainly publicly funded healthcare system, medical services and pharmaceuticals. Some further, more contentious, price controls or similar measures also exist for other groups of services. But it is perhaps most interesting from the perspective of Ukraine that a law highly similar to the Ukrainian law "On prices" also exists in Germany the "price law" – in German the "Preisgesetz" or, short, "PreisG", dating back to 1st April 1948 and last modified 1st May 1986.[14]

The PreisG was introduced in 1948 in the Allied sectors of occupation in Western Germany, the territory that become the Federal Republic of Germany in 1949. It formally authorises the Federal Minister of Economic Affairs (then the Director of Economic Affairs of the United Economic Area) and the Ministries of the German Lander to set or remove controls on the prices of goods or services by decree. Hence, the construction clearly resembles the law "On prices" of Ukraine.

Indeed, before the currency reform introducing the D-Mark in June 1948, price controls on over 500 goods and services were in place in Germany, with an important share of those controls operating under the PreisG. Indeed, it was the lifting of these price controls under the PreisG, decided by the then Director of Economic Affairs (later Federal Minister of Economic Affairs and yet later Chancellor) Ludgwig Erhard in conjunction with introduction of the D-Mark that arguably started Germany's "economic miracle": With a new, stable currency and without price controls, goods came back to previously empty shelves and the economy rapidly rebounded.[15]

As of today, the PreisG is largely an empty shell. Only one type of price controls still exists under its umbrella: Price controls for public procurement in areas where no market prices exist. These controls essentially stipulate a maximum effective interest rate of 6.5% on the capital required for producing the required good or service.[16] All other price controls have been lifted, although the power of the Federal Minister of Economic Affairs and the ministers of economic affairs of the German Lander to

[14] https://www.gesetze-im-internet.de/preisg/index.html

[15] https://www.ludwig-erhard.de/erhard-aktuell/forum/ludwig-erhards-kampf-fuer-die-soziale-marktwirtschaft/

[16] ZEW – Leibniz Centre for European Economic Research: "Problematik der kalkulatorischen Zinsen im Rahmen öffentlicher Aufträge", Dienstleistungsauftrag des BMF (Projektnummer 7/05), 2005

institute new price controls by decree theoretically remains and has been affirmed as compatible with the German constitution by the constitutional court in 1958.

Hence, the relatively unnoticed continued existence of this law shows that such a law does not pose a problem in principle – at least as long as governments are committed to market-oriented economic policy, which has been the basic consensus in Germany since the 1950s.

Price controls outside this law are also possible in Germany. They are described in more detail in the next annex chapter. Germany has, in tune with general EU efforts, liberalised its energy market but regulates energy grids as a natural monopoly, along with the railway grid, through a dedicated agency, the “Bundesnetzagentur”, transformed from a regulator of postal and telecommunication services through legal acts unrelated to the PreisG. This practice of price controls on monopolies is essentially generally accepted practice, with the only challenges stemming from calls for public provision of public utilities, but not for an abolition of price controls on private provision. Also relatively uncontentious in principle is the existence of price controls on medical services and pharmaceuticals.

On the other hand, other politically and economically contentious price controls also exist, established through separate legislations such as controls on rent prices and tariffs for services (e.g. taxis). The debate on whether these are useful or not is not entirely conclusive, but the important lesson is that in Germany, despite the existence of the PreisG, new price controls have been generally introduced as new laws rather than in the form of decrees under the PreisG.

In sum, German experience shows that a national law similar to the law “On prices” in Ukraine, empowering authorities to institute price controls by decree, does not necessarily pose a problem. In fact, where price controls have been newly introduced in Germany, this has been done in the form of entirely new laws. No constitutional safeguards limiting such laws exist in Germany, but an additional layer of screening exists through Germany’s membership in the European Union.

Treatment of price controls in the EU

The relationship between the EU law (and the competence EU institutions) and the laws and institutions of its member states is mainly defined by the principle of subsidiarity: Only where there is a clear case and necessity for issues to be decided on Union level should the Union level become relevant and its law and institutions’ competences superior to that of the member states.

In the economic sphere, this has essentially implied that EU competence comes into play, where the functioning of its internal market is concerned. This means that EU institutions oversee that the four freedoms of movement (of goods, services, labour and capital) are ensured, carry out an EU-wide competition policy, ensure the observance of state aid rules, set product standards where applicable and carry out external trade policy.

With regard to price controls, no explicit EU competence exists, but in practice, two types of EU rules come into play: Internal market and competition rules[17]. In general, the EU interprets the rules prohibiting coordinated price setting by market actors as those underlying its competition policy, not grounds for EU price controls[18]. But, according to Dunne (2017), the EU takes a role in price controls in three ways:

- Through a “**prohibitive approach**”, based on the interpretation of the **internal market rules** on the freedom of movement of goods and services as being potentially in conflict with price controls where these obstruct e.g. cheaper imported goods from gaining market share. Hence, in such cases, the EU institutions or the European Court of Justice (ECJ) may seek to eliminate price controls introduced by member states. However, member states may justify price controls through “overriding requirements relating to public interest”, effectively leading to complex and nuanced legal questions of the applicability or inapplicability of EU rules in each case. A blanket exemption is given for “Services of General Interest” such as public utilities, transport etc. where member states are free to regulate these services as they politically see fit.

- With regard to some sectors, where structural factors such as significant economies of scale, network effects, natural or legal monopoly components make a completely normal application of internal market rules difficult, a “**permissive approach**” comes into play. Based on **specific directives**, the EU seeks to guide or standardise the ways in which price controls are handled by member states in areas where they are hardly avoidable.

- Finally, Dunne also characterises a “**prescriptive approach**” where the EU itself engages in price controls: In **areas where the tools of competition policy have failed**, the EU has itself engaged in price controls. Two examples are the abolition of roaming charges for mobile phone and internet access in different EU states and the capping of the maximum fees that credit or debit card operators charge to merchants for accepting payment. In these cases, the EU has intervened with price control instruments to reduce prices to a competitive level.

Hence, the EU level presents to some extent a system of checks and balances against the rash or unreasonable introduction of price controls by member states. The power of the EU to ban price controls is however limited due to rather vaguely defined justification possibilities of member states' control measures. The exemption of areas such as natural or legal monopolies and services of general interest as a whole both reflects economic arguments that in cases of natural and legal monopolies, some forms of price controls are justifiable as well as the incomplete political consensus between member states on how services of general should be provided (by the market or by the state).

The presence of the EU level presents a certain resistance and checking instance against rash introduction of price controls by member states that does not exist for Ukraine (which is not bound by

[17] C. Istvan Nagy, „The framework of national price regulation in the European Union, with special emphasis on liberalized markets” in Institute of Economics, Centre for Economic and Regional Studies, Hungarian Academy of Sciences, Competition and Regulation, 2015

[18] N. Dunne, „Price Regulation in the Social Market Economy”, LSE Law, Society and Economy Working Papers 3/2018

the EU's internal market or competition rules through the Association Agreement). It should hence be contemplated whether some more safeguards against rash decisions could be implemented in Ukrainian law.

Annex 2: Price controls and related regulations in Germany

Energy grids

Regulation: Although Germany has liberalised its energy market, electricity and gas grids remain natural monopolies. The German state regulates the prices of energy grids to reduce monopoly rents and incentivise improvements in efficiency in absence of the price mechanism.

The BundesNetzAgentur, the federal institution responsible, determines a cap on revenue for each network operator valid for 5 years. For the duration of the regulatory period the network operator's actual costs and its revenue are decoupled. By setting a fixed amount of revenue, the network operator has an incentive to increase productivity and lower costs to increase the margin. The height of the cap is calculated in the beginning of each regulation period and is based on market indicators and the individual cost structures of the providers.

Assessment: It was unclear whether this regulatory mechanism incentivizes or discourages investments. Opponents argue, that regulation increases uncertainty for net providers and hence lowers the profit-risk ratio of an investment. Besides, regulation may provoke rent-seeking activities, since the revenue cap seems to be negotiable.

An empirical study has shown that investment activity has risen since the introduction of the regulation. Moreover, it is economically reasonable to regulate a market of natural monopolies, if there is no possibility to introduce competition.

Price controls on medical services

Regulation: Medical services are remunerated according to a price table, agreed upon by a Joint Federal Committee consisting of representatives from public and private health insurances and overseen by the Federal Ministry of Health. Private insurers generally pay more for the same services by applying higher factors to the same price table.

Assessment: For publicly insured patients, every doctor receives a budget per quarter. The doctor knows then how many patients he or she can accept in the period. Each service has a certain value that is determined by a binding uniform standard. Services that exceed the doctor's budget are not compensated for afterwards. This leads to long waiting lists at the end of each quarter.

In contrast, services provided for privately insured are evaluated according to a different framework. There is no budget, hence doctors can provide as many services as needed without risking not to be compensated for them. Furthermore, services are generally higher remunerated for by private insurance then by public insurances. Caring for private insured patients is more profitable. The absence of quantitative restriction in the private insurances lead to an oversupply of medical service for private patience. This contributed to rising costs for the insurer. Doctors use this deficiency to compensate for the low renumeration for services provided for publicly insured persons.

Overall the accounting system is non-transparent and complicated. Doctors and hospitals spend a lot of resources on bureaucracy. In face of the demographic change of the German population, which hits the expense side of the system heavily, the pressure for a reform of the system grows. So far, all attempts to reform the billing frameworks substantially, or even to unify both, public and private insurances, have not been successful.

Price controls for pharmaceuticals

Regulation: In the last years, expenditures for medicine have risen sharply, threatening the functionality of the public health care system. The rise in prices is caused by a) research into new, but expensive medicaments and b) the market power of big pharmaceutical companies. Prices for pharmaceuticals are not directly regulated, as in many other EU-countries. But the Joint Federal Committee influences the price for medicine via two indirect channels:

First, it sets a fixed ceiling price for drugs covered by the insurances. The difference between the price of a medicine and the ceiling must be paid by the patient. As patients are reluctant to pay additional money, there is downward pressure on prices. More than 70 % of all pharmaceuticals prescribed are covered by this fixed price ceiling. For pharmaceuticals not covered by a fixed price ceiling, prices have been frozen at their 2010 level.

Second, the committee introduced so called “Rabattverträge” (discount contracts). These are contracts between insurances and the producers of pharmaceuticals that guarantee discounts and create a lock-in effect: The people insured by the contracting insurer are basically obliged to take the drugs produced by the contracted pharmaceutical company.

Assessment: Discounts amounted to 4.0 billion euro in 2018, helping to keep cost increases at bay. Overall, although criticism of the system exists, government or central negotiation of insurers (who ultimately pay) with producers are probably a useful and necessary tool to keep costs of medication limited. The bargaining power of the state varies with the intensity of producer competition in medication with the same or similar effects.

Oil reserves

Regulation: Germany possesses 25 Million barrels oil stored, which is enough for 90 days of supply. The primary goal of strategic reserves is not to influence prices, but to provide security in supply of systematically important goods in times of crises. They are no intended measure for price regulation. Nevertheless, history shows that strategic reserves actually can have a strong influence on market prices:

Assessment: According to the spirit of the petroleum stock preservation law, oil reserves can be set free if there is a *"disturbance of the physical supply of crude oil / petroleum products".* This formulation reveals that actual supply disruption must also be evaluated with regard to its economic consequences. The reserves are under governmental control and were used three times in history. The events were the Gulf War in 1990/91, the damage caused by the hurricanes "Katrina" and "Rita" in the USA in 2005 and the failure of Libyan oil exports in 2011. In 2011, the oil price rose above USD 100 per barrel, due to the civil unrest in Libya. The International Energy Agency (IEA) then announced a release of 60 m barrel of strategic reserves of its member countries. Germany contributed with 4.2 m barrels. This announcement elicited a mixed reaction from the public and from the market, since the IEA has never decided upon such an intervention before. After the announcement of the IEA to release the reserves, the oil price decreased by 5% - displaying the large impact on prices. Nevertheless, such interventions will remain the exception rather than the norm.

Taxi tariffs

Regulation: Taxi traffic has always been subject to strict regulation in Germany. Market access is severely limited by a concession system and price competition is prevented by the obligation to adhere to tariffs: Prices for transportation must not exceed or fall short of the set tariffs in a region. The institutions in charge of determining the height of the tariffs are local communities and cities.

Discussion: Fixed tariffs imply that price-quality differentiation among providers is not possible. Even more critically, providers willing to offer taxi or similar services cheaper than the tariffs (such as Uber) are not allowed to do so. Hence, the setting of a price level above the competitive equilibrium and barriers to entry create an artificially monopolistic market, with higher prices and lower usage of taxi services than would occur without price regulation and entry restrictions. Hence, there are many calls for dropping mandatory tariffs and easing barriers to entry to allow prices to fall.

Advocates of the tariff obligation use arguments of consumer protection. According to them, the tariff obligation prevents the abuse of emergency situations by taxi drivers. Possible deregulation could negatively affect non-residents such as tourists and business travellers, who do not know the common price for taxi driving in the area. They fear a race to the bottom would occur in quality standards if the market were deregulated.

Regulation of apartment rents

Regulation: On 1st June 2015, a law, the so called "rental brake" came into force allowing regional parliaments to set a price ceiling for new rental contracts in certain regions with tense housing markets. Today, about 310 out of 11,000 cities and communities in Germany have applied the law covering about 1/4th of the German population. In these cities, new rental contracts cannot exceed additional 10% of the mean rents in the area. The regulation was considered to be necessary due to sharply rising apartment rents especially in the major cities of Germany.

Assessment: The rental brake has been under critique for several reasons: Opponents fear that owners would no longer rent out their apartments but could convert them to property for sale. This would decrease the number of apartments even further. Or they would find other ways to bypass the regulation by increasing additional costs, such as demanding high payments for furnishing an apartment etc. Apparently, many property owners simply ignore the regulation.

One important feature of the regulation is that new buildings, as well as comprehensively renovated apartments, are exempted. This was designed in order not to disincentivise investments in new buildings or renovations. Indeed, construction activities are proceeding at a high pace in Germany.

In its outcome, the rental brake has been moderate in effectiveness. In several, but not all regions, price increases have slowed down. The debate on whether to increase regulations of rents and/or to redouble efforts to speed up construction of new apartments.

Annex 3: Agricultural market interventions of the EU until 1992

During first phase of the Joined Agricultural Policy of the European Union price regulation was a cornerstone to reach secure farmer's income, prevent flight from the land, ensure independence from food imports and ensure overall food security in Europe.

There were three different forms of price interventions during this period:

1) The EU set minimum market prices for agricultural products. If prices decreased below the threshold, governments could buy the good and store it. This lowered supply in the short run

and stabilized the prices. As soon as the market allowed, the stored products where brought back. This instrument is still used today in some markets, for example the market for milk in 2015-2018.

2) Import levy: If agricultural products inflow into the European Union were sold too cheap, the difference in price between imports and the set minimum price was paid to the farmers by the states.
3) Export subsidies: To be internationally competitive, farmers got the difference between EU prices and cheaper world prices. They would hence sell their products outside of the EU.

These measurements led to good quality and high food security in the EU. Farmers benefitted from the protectionist measures and from high market prices. In times of overproduction, the negative sides of this policy became visible: The storage costs were extremely high and easily perishable products were wasted in large quantities. The public began to doubt the policies on normative grounds. High prices led to high productivity at the expense of the environment. Moreover, the export subsidies had negative effects on local markets in developing countries. To comply with WTO rules, both import levy and export subsidies had to be abolished.

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