

Mechanisms for combating illegal speculation in light of Algerian legislation

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Abstract:

Illicit speculation is considered one of the unlawful and unfair commercial practices that harm the national economy and market stability on the one hand, and the consumer, their basic interests, and their purchasing power on the other. This led the Algerian legislator to intervene to confront it by making Law 21-15 focus on the state's role in preventing this crime by providing the necessary goods and commodities in the market. The allocation of essential goods to points of sale at prices that are affordable for low-income individuals, based on vigilance mechanisms through the involvement of local communities, and the encouragement of consumption through awareness campaigns conducted by civil society, consumer protection associations, and the media.

Keywords : Illegal speculation, mechanisms, Algerian legislation, administrative measures, deterrent measures.

Introduction:

Algeria has recently witnessed major and sensitive economic and political transformations, moving from a socialist system—based on state monopoly over the economic sphere and continuous intervention in all fields—to a liberal system that relies on opening the economic, and even the political, sphere to individuals and reinforcing the principle of free competition. Algeria has thus oriented itself toward what is known as economic freedom or a market economy, which is based on creating space for the private sector.

Consequently, individuals have turned to various fields of economic activity, and economic enterprises have multiplied, developed, and intensified their competition. This has made it necessary to regulate this highly important sector through legislation aimed, on the one hand, at encouraging fair competition and, on the other, at reducing the risks of unfair competition.

In reality, free competition is closely linked to a free economy, and the two cannot be separated. It is impossible to conceive of an open economy without free competition, nor free competition without a free economy. However, while the general principle is the recognition of freedom of trade and industry as well as freedom of competition, this principle cannot be applied absolutely. The aim of this principle is not the complete withdrawal of the state from the economy, but rather the transition from an interventionist state to a regulatory one.

On the other hand, opening the door to unrestricted competition may lead to abuses and violations that primarily aim to monopolize the market and thereby eliminate competition—an outcome that contradicts the objectives of competition law. For this reason, various legislations around the world, including that

of Algeria, have chosen to intervene in order to regulate competition by criminalizing practices that hinder, distort, or restrict competition in the market.

Among these unlawful practices are those that disrupt or manipulate the mechanisms of supply and demand or influence market functions in specific ways, using fraudulent methods and deceptive practices to manipulate prices in order to benefit from resulting price differentials and achieve rapid financial gains. These gains do not stem from supply and demand, but from such unlawful acts, known as unlawful speculation. Most legislations have criminalized this practice due to its danger to the national economy and the negative effects it produces in the market.

The topic of unlawful speculation is of great importance today because it relates to the detection and identification of crimes that harm the national economy, investors, and competitors. These crimes have increasingly been committed in contemporary times using advanced methods by highly skilled and specialized individuals in the market. This raises the issue of the criminal penalties imposed on perpetrators of price manipulation and the means of limiting such offenses. The challenge largely lies in the nature of these crimes, particularly the difficulty of determining which acts or behaviors are lawful and which are not.

Research Problem:

From here, the research problem can be formulated as follows:

To what extent are the measures adopted by the Algerian legislator under Law 21-15 effective in combating unlawful speculation?

The main problem branches into the following sub-questions:

- How did the Algerian legislator regulate the mechanisms for combating unlawful speculation?
- What penalties are imposed on perpetrators of unlawful speculation under Law 21-15?

To capture all aspects of the topic, we have divided it into two sections:

The first section addresses the administrative and judicial mechanisms for combating unlawful speculation under Law 21-15, and the second section deals with the deterrent measures to combat unlawful speculation under Ordinance 21-15

Chapter One: Administrative and Judicial Mechanisms for Combating the Crime of Speculation under Law 21-15

The legislator has adopted a set of measures to limit unlawful speculation in Law 21-15, which includes several bodies endowed with the legal authority to confront it. Since Articles 172, 173, and 174 of the Penal Code were no longer sufficient to curb the serious violations that undermine citizens' livelihoods and burden their finances—pushing them into hardship—it became necessary to establish a deterrent capable of addressing all causes and consequences of unlawful speculation. This practice directly threatens the state's economic security and destabilizes the market. Thus, Law 21-15 on unlawful speculation was introduced, defining the crime, explaining its nature and acts, identifying the authorities responsible for combating it, and specifying the penalties established for all offenders, considering it a serious offense.

Accordingly, we will examine the administrative mechanisms for combating unlawful speculation under Law 21-15, followed by the judicial mechanisms for combating unlawful speculation under the same law in the second section, as follows

SECTION ONE: ADMINISTRATIVE MECHANISMS FOR COMBATING THE CRIME OF SPECULATION UNDER LAW 21-15

Article 3 of Law 21-15 on combating the crime of speculation emphasizes that preserving citizens' purchasing power and preventing their exploitation by traders can only be achieved through the development of a national strategy aimed at creating balance in the market and ensuring price stability—particularly by preventing unjustified price increases on essential goods . The law also stresses the need to combat all forms of speculation, promote rational consumption of goods, avoid panic buying, and encourage civil society and the media to raise public awareness and counter false or misleading information that incites people to rush to purchase goods under the pretext of scarcity or lack of availability .

Subsection One: State Intervention and the Competition Council as a Mechanism to Combat the Crime of Speculation

The State intervenes in price regulation because fluctuations in general price levels may alter economic conditions and increase investment risks. Therefore, through its intervention in setting prices, the State applies legally established mechanisms such as exemptions or reductions in customs duties on the importation of certain products, as well as reductions in value-added tax and corporate profit tax . Article 4 of Law 21-15 outlines the measures the State adopts as tools capable of limiting unlawful speculation. The State resorts to mechanisms defined in Article 5 of Ordinance 03-03, as amended and supplemented, which include the following:

FIRST: THE ROLE OF STATE INTERVENTION IN PRICE REGULATION

Article 3 of the aforementioned law indicates that the State bears the responsibility of implementing a national strategy to ensure market balance. This is achieved by working to stabilize prices and reduce unlawful speculation in order to preserve citizens' purchasing power and prevent their exploitation—especially during exceptional circumstances, such as the global pandemic that reduced work and production, negatively affecting all countries and leading to unjustified price increases, particularly for essential goods with high consumption rates.

To counter this, the State has adopted several measures aimed at reducing unlawful speculation, including direct intervention in price determination. Price regulation means that the State sets a specific price through legislation and obliges economic operators to adopt it, penalizing anyone who fails to comply. The aim of applying this mechanism is to set the prices of certain goods and services in response to social needs . In this regard , and according to Article 5 of Law 21-15, local authorities may contribute to combating unlawful speculation by establishing points of sale for essential or widely consumed goods at prices suitable for low-income individuals, especially during holidays, seasonal periods, and exceptional circumstances that normally witness price increases .

SECOND: THE ROLE OF THE STATE COUNCIL IN PRICE STABILIZATION

The price-capping mechanism consists of setting maximum consumer prices and determining maximum profit margins for production, importation, wholesale , and retail distribution of the goods concerned.

The mechanism of certification is also used by establishing profit margins and prices for goods and services based on proposals by the relevant sectors.

THIRD: THE ROLE OF THE COMPETITION COUNCIL IN PRICE STABILIZATION

The Competition Council is an independent regulatory authority responsible for enforcing competition law and combating practices that violate it. In accordance with Articles 9, 23, 35, and 38 of Law 08-12, which amends Ordinance 03-03, an independent administrative authority known as the "Competition Council" is established .

The Competition Council issues opinions on all matters related to competition . It may intervene on its own initiative without requiring notification, and judicial bodies may consult the Council in any case related to competition .

SUBSECTION TWO: INTERVENTION OF LOCAL AUTHORITIES, CIVIL SOCIETY, AND THE MEDIA IN COMBATING THE CRIME OF SPECULATION

Local authorities, civil society, and the media can intervene to combat unlawful speculation as follows:

FIRST: THE ROLE OF LOCAL AUTHORITIES IN COMBATING UNLAWFUL SPECULATION

The Algerian legislator emphasized the adoption of an additional preventive approach to limit unlawful speculation in goods through local authorities, given their awareness of market needs and their ability to detect cases of shortages in local markets. The role of local authorities is mainly focused on the following :

1. Allocating points of sale for essential goods or widely consumed products at prices suitable for low-income individuals, especially during holidays, seasons, and exceptional circumstances that usually witness price increases.
2. Early detection of all forms of scarcity in goods and products at the local level, especially essential or widely consumed goods.
3. Studying and analyzing the situation of the local market and price trends.

SECOND: THE ROLE OF CIVIL SOCIETY IN COMBATING UNLAWFUL SPECULATION

Civil society intervenes in combating unlawful speculation through the role of the family and educational institutions, as follows:

1. The Role of the Family in Combating Unlawful Speculation

The family is one of the social groups that contribute to crime prevention. The more attention it receives, the more capable it becomes of handling its responsibilities in raising children and protecting them from deviance. Its role in combating unlawful speculation lies in promoting consumer culture, raising awareness, and adhering to the laws of supply and demand that regulate the market—especially during holidays and religious or national events such as Ramadan and Eid al-Fitr, or during exceptional crises such as health emergencies or disasters (e.g., fires, COVID-19, etc.) .

Thus, the family's entrusted mission is to promote consumer awareness and rationalize consumption so that supply and demand remain balanced, preventing market instability, price increases, and shortages of goods—especially during times of high demand or crises.

2. The Role of Educational Institutions in Combating Unlawful Speculation

Educational institutions play a highly significant role in shaping behavior and reducing criminal tendencies. When a person combines knowledge with discipline, their behavior becomes sound and positively guided. It should also be emphasized that a low or absent level of education may negatively affect individuals, even if it is not a direct cause of criminal activity .

Schools at all levels contribute to awareness-raising aimed at rationalizing consumption and avoiding breaches of supply and demand, as excessive consumption constitutes wastefulness. Religious institutions (mosques) also play an important role in educating citizens about the dangers of unlawful speculation, as it is an illicit act and a sin that deserves punishment, given that God Almighty has prohibited such behavior.

THIRD: THE ROLE OF THE MEDIA IN COMBATING UNLAWFUL SPECULATION

The media is considered the most influential tool affecting habits, traditions, and consumer culture, especially as television and media shape social narratives, and exposure to media occupies nearly a third of the day for people worldwide. Much of what the media presents promotes consumerism and encourages certain consumption patterns. Therefore, the media can contribute to rationalizing consumer behavior by verifying the accuracy of the information and news it transmits to the public .

The role of the media appears through three main effects:

- Negative effect: when media outlets promote the consumption of certain goods without rational guidance, using misleading or exaggerated advertising with the goal of financial profit, particularly on satellite channels.
- Indirect positive effect: when the media focuses on messages aimed at spreading awareness and improving consumer culture through interviews, discussions, or dramatic content that highlights excessive consumption or unnecessary display of luxury, indirectly influencing consumer habits and social prestige.
- Direct positive effect: when the media focuses on consumer issues by educating and guiding the public toward proper consumption practices and highlighting the risks of excessive consumerism for individuals and society. In this role, the media supports consumer protection associations and other civil society organizations, in addition to maintaining continuous coordination with government agencies responsible for consumer protection .

SECTION TWO: JUDICIAL MECHANISMS FOR COMBATING THE CRIME OF SPECULATION UNDER LAW 21-15

In cases where the crime of unlawful speculation is established, a public action is initiated by the Public Prosecution. Any harmed individual, as well as consumer protection associations, may file a complaint and constitute themselves as civil parties. If the crime is proven, the Algerian legislator has prescribed deterrent penalties that may reach life imprisonment.

Therefore, Law 21-15 on combating unlawful speculation includes procedural rules specific to such crimes, set forth in Articles 7 through 11, which contain special provisions that differ from those established under the Code of Criminal Procedure.

Accordingly, we will address the individuals authorized to record and verify the crime of speculation in Section One, and then discuss the procedures for initiating public action related to the crime of speculation in Section Two, as detailed below

SUBSECTION ONE: INDIVIDUALS AUTHORIZED TO RECORD AND VERIFY THE CRIME OF SPECULATION

Article 7 of Law No. 21-15 on combating unlawful speculation stipulates that the individuals authorized to detect such crimes are: judicial police officers and agents, qualified agents belonging to the specialized monitoring corps under the administration in charge of commerce, and qualified agents belonging to the tax administration . These crimes have particular characteristics that distinguish them from those provided for in the Code of Criminal Procedure, as these individuals are more specialized and more closely connected to the fields of trade and markets.

FIRST: JUDICIAL POLICE OFFICERS AND AGENTS

The judicial police, through their officers and agents, detect crimes in accordance with their general competences. They record all crimes of unlawful speculation and identify their perpetrators in accordance with the procedural rules set by the Algerian Code of Criminal Procedure. Authority to record such crimes is also granted to employees and agents who are legally delegated certain judicial police functions .

The Algerian legislator, like most legislations, did not provide a direct definition of the judicial police, leaving this task to legal scholars. In doctrine, the judicial police is defined as an institution whose members are granted the power to collect evidence, investigate crimes punishable by law, and arrest perpetrators, among other functions.

As for the officers and agents, they are those listed in Article 19 of Law 19-10, amending and supplementing Ordinance 66-155 on the Code of Criminal Procedure, which states:

“Judicial police agents include: employees of police services, non-commissioned officers of the National Gendarmerie, and personnel of military security services who do not have the status of judicial police officers. These agents assist judicial police officers in carrying out their duties, record crimes established in the Penal Code, comply with the orders of their superiors, remain subject to the regulations of their respective corps, and gather all information capable of identifying the perpetrators,” as provided in Article 20 of the same Code .

SECOND: AGENTS BELONGING TO THE ADMINISTRATION IN CHARGE OF COMMERCE

The tasks of this category were organized under Executive Decree 09-415 of 16 December 2009, establishing the special status applicable to employees belonging to the specialized corps of the administration in charge of commerce. According to its provisions, the qualified agents of this administration belong to two main branches :

- Anti-Fraud Branch, which includes:

- Fraud Control Inspectors (in the process of elimination),
- Fraud Investigation Officers,
- Fraud Control Inspectors.
- Competition and Economic Investigations Branch, which includes:
 - Competition and Economic Investigation Officers,
 - Competition and Economic Investigation Inspectors .

All of these individuals, as mentioned in Article 7 of Law 21-15 on combating unlawful speculation, are granted a set of powers and authorities that help them in investigation, inspection, and detection of such crimes, including :

A. Powers of Document Examination

This means examining all administrative, commercial, financial, and accounting documents, as well as any magnetic or digital medium, without the owners being able to invoke professional secrecy.

B. Seizure

This includes the seizure of equipment, tools, goods, and merchandise according to an inventory report, whether the seizure concerns the physical items or their estimated value. It also includes the right to enter commercial premises, including offices, annexes, storage locations, loading areas, or any place except private residences.

C. Drafting Reports

Every investigation ends with a written report, and violations are recorded in official reports that are submitted to the relevant administrative and judicial authorities.

THIRD: QUALIFIED AGENTS OF THE TAX ADMINISTRATION

The Algerian legislator has granted tax administration agents similar powers, including access to commercial, administrative, financial documents, and the ability to seize equipment, goods, and merchandise involved in speculation. They also have the authority to enter commercial premises and storage areas and to prepare reports that are submitted to the competent authorities .

Article 10 of the same law further provides that searches of premises and residences may take place at any time, day or night. This reflects the seriousness of unlawful speculation, which requires intervention at any moment. This constitutes an exception to the general rule in the Code of Criminal Procedure regarding home searches .

Article 11 also allows for extending the original period of police custody twice , with written authorization from the Public Prosecutor—an exception compared to the provisions of the Code of Criminal Procedure .

SUBSECTION TWO: PROCEDURES FOR INITIATING PUBLIC PROSECUTION RELATED TO THE CRIME OF ILLEGAL SPECULATION

Society holds the right to criminalize and punish individuals and others as a means of preserving public safety and order. The state exercises this right on behalf of society, and its authority to impose punishment is established by proving the occurrence of a crime through a request filed by the Public Prosecution before the courts, known as a public prosecution.

We will address the Public Prosecution's authority to initiate public proceedings concerning the crime of illegal speculation in Part I, then discuss the stages of initiating public prosecution related to this crime in Part II.

FIRST: THE PUBLIC PROSECUTION'S AUTHORITY TO INITIATE PUBLIC PROCEEDINGS RELATED TO THE CRIME OF ILLEGAL SPECULATION

According to Article 8 of Law 21-15 on combating illegal speculation, the Public Prosecution initiates proceedings automatically for crimes stipulated in this law.

A lawsuit refers to claiming a right through the judiciary, where the citizen resorts to judicial authority to obtain protection. Public prosecution for the application of penalties is initiated and pursued by judicial officers or other officials authorized by law to do so.

The injured party also has the right to initiate it in accordance with legally established conditions. Given the seriousness of illegal speculation, the legislator granted the Public Prosecution the right to initiate public proceedings regarding crimes related to it .

Thus, if the crime of illegal speculation is established, the Public Prosecution initiates public proceedings, and any harmed person as well as consumer-protection associations may submit a complaint and join as a civil party. If the crime is proven, Algerian law provides for deterrent penalties that may reach life imprisonment.

SECOND: STAGES OF INITIATING PUBLIC PROSECUTION RELATED TO THE CRIME OF ILLEGAL SPECULATION

The Public Prosecution automatically initiates public proceedings in cases of illegal speculation and conducts them before the competent criminal courts according to the general rules of the Code of Criminal Procedure .

It should be noted that national associations active in consumer protection, as well as any harmed individual, may file a complaint before judicial authorities and join as a civil party in cases of illegal speculation .

Public prosecution proceedings related to this crime go through several stages, as follows:

1. SEARCH AND SEIZURE

Search is a means of collecting material evidence, and may involve searching a person, place, or object to gather proof of the crime. Search is among the most intrusive powers granted to authorized officials and poses a threat to liberties typically protected by constitutions. For this reason, the legislator has placed several restrictions on those authorized to conduct it, requiring that a search of a suspect's home be conducted only in the presence of a relative or two witnesses .

Under Law 21-15 on combating illegal speculation, the legislator allows searches of residential premises based on prior written authorization from the Public Prosecutor or the competent investigating judge, at any hour of the day or night, for the purpose of investigating crimes related to illegal speculation.

Here, the legislator deviated from the timing restriction stipulated in Article 47 of the Code of Criminal Procedure .

The legislator links the term “premises” with dwellings. Article 355 of the Algerian Penal Code defines a dwelling broadly as any building, house, room, or tent prepared for habitation, even if not currently occupied, along with its dependencies .

Recent data from the Ministry of Trade and Export Promotion shows that, during the first seven months of 2023, oversight authorities carried out more than 120,000 interventions to combat illegal speculation, resulting in the seizure of over 870 tons of goods. The Ministry reported 120,221 interventions, 73 recorded misdemeanors, and 73 judicial reports .

Additionally, 24,873 tons of goods were confiscated, valued at 825.499 million DZD. Seized goods included subsidized table oil (130,359 liters), subsidized milk (9,132 liters), semolina (80.162 tons), flour (94.213 tons) , sugar (61.37 tons), and various other items.

These interventions were carried out mainly among retailers (76%), wholesalers (18%), production units (6%), and importers (1%) .

2. CUSTODY (TAWQĪF LIL-NAẒAR) IN THE CRIME OF ILLEGAL SPECULATION

Custody is a coercive measure taken by the judicial police against a suspect accused of a felony or misdemeanor in flagrante delicto, involving the temporary restriction of his freedom.

The standard custody duration for adults is 48 hours under Article 51 of the Code of Criminal Procedure . The legislator allows extension in special cases pursuant to Articles 51 bis 5 and 65.

For crimes of illegal speculation, Law 21-15 permits the extension of custody twice, based on written authorization from the Public Prosecutor.

3. TRIAL PROCEDURES

Once the public prosecution has been filed, the competent criminal court adjudicates the case according to the procedures set forth in the Code of Criminal Procedure .

Regarding civil claims, the legislator grants the injured party the right to seek compensation by bringing a civil action before the criminal court alongside the public prosecution.

4. SUBJECT-MATTER JURISDICTION OF SPECIALIZED CRIMINAL POLES IN CRIMES OF ILLEGAL SPECULATION

Subject-matter jurisdiction refers to the judicial authority empowered by law to hear specific types of cases. Algerian law defines the jurisdiction of specialized criminal poles in Articles 37, 40, and 329 of the Code of Criminal Procedure .

These specialized courts handle crimes such as drug trafficking, transnational organized crime, cybercrimes, money laundering, terrorism financing, and violations of foreign exchange regulations .

Another category—corruption crimes—was added after the amendment of Law 06-01 on the prevention and fight against corruption.

The legislator did not include illegal speculation crimes among those assigned to specialized criminal poles under the Code of Criminal Procedure, meaning these courts cannot hear such cases unless the acts also constitute organized crime.

The Palermo Convention, ratified by Algeria, considers certain corruption-related acts as organized crime. Before Order 10-05, corruption crimes committed across multiple provinces were outside the jurisdiction of these specialized courts .

Because of the difficulty of pursuing such crimes across regions, the legislator expanded the subject-matter jurisdiction of courts with broader territorial authority, as stated in Article 24 bis 1 of Law 10-05

CHAPTER TWO: DETERRENT MEASURES TO COMBAT THE CRIME OF ILLEGAL SPECULATION UNDER LAW 21-15

One of the main reasons for issuing Law 21-15 in 2021 was the outbreak of the COVID-19 pandemic and the widespread illegal speculation in goods and services that occurred during this health crisis. A state of chaos and disorder spread within society due to the scarcity and rising prices of widely consumed products such as oil, pata, and milk. Despite the difficult health conditions and the absence of necessary deterrent laws, a group of traders violated citizens' rights to access these goods. This prompted the legislative authorities to enact strong punitive laws against anyone who attempts to undermine the food security of Algerian citizens.

Criminal punishment is linked to the nature of the crime; each crime has its own specific penalty. Punishment can be defined as “a sanction prescribed by the legislator and imposed by the judge on anyone whose responsibility for the crime is established; no punishment can be imposed unless a proven crime has been committed pursuant to a conviction judgment against the accused.” Since punishment is a criminal sanction established for the benefit of society, Law 21-15 on combating illegal speculation sets out numerous criminal penalties against anyone who commits the crime of illegal speculation, whether a natural person or a legal entity. This will be explained in detail: the penalties imposed on natural persons committing speculation are addressed in the first section, while the penalties imposed on legal persons committing speculation are addressed in the second section .

SECTION ONE: PENALTIES IMPOSED ON THE NATURAL PERSON COMMITTING THE CRIME OF SPECULATION

The penalties range from fines to custodial sentences, and they have been made more severe compared to what was previously stipulated in the Penal Code before the repeal of Articles 172, 173, and 174 of Ordinance No. 66-156, which formed the amended and supplemented Penal Code. These articles addressed illegal speculation, especially when committed under exceptional circumstances such as the COVID-19 pandemic or natural disasters, or when the scarcity concerned essential goods such as oil, milk, semolina, and other food, pharmaceutical, and energy products as defined in the provisions of the law on illegal speculation. In such cases, the penalty may reach life imprisonment, as these acts are classified as felonies .

The penalties prescribed for a natural person committing the act of illegal speculation include both principal and supplementary penalties. The principal penalties imposed on the natural person committing

the crime will be discussed in the first section, while the supplementary penalties will be addressed in the second section, as follows

SUBSECTION ONE: INCIPAL PENALTIES IMPOSED ON THE NATURAL PERSON COMMITTING THE CRIME OF SPECULATION

The Algerian legislator has sounded the alarm and developed a national strategy to combat and contain this dangerous phenomenon. Among the most important mechanisms adopted in confronting this crime is the development of a preventive plan aimed at reducing, as much as possible, the spread of this practice by ensuring the availability of products in the market. Accordingly, this section will address the principal penalties imposed on the natural person committing the crime of speculation, as follows:

FIRST: CUSTODIAL PENALTIES IMPOSED ON THE NATURAL PERSON COMMITTING THE CRIME OF SPECULATION

The Algerian legislator has stipulated imprisonment for those who commit illegal speculation. Article 12 of Law 21-15 states:

“Illegal speculation is punishable by imprisonment from three (3) to ten (10) years.”

Articles 13, 14, and 15 of the same law provide for aggravating circumstances, under which the imprisonment period may increase to up to 20 years if any of the following aggravating conditions exist:

- If the crime of illegal speculation concerns grains and their derivatives, dry legumes, milk, vegetables or fruits, oil, sugar, coffee, fuel products, or pharmaceutical products. In this case, the imprisonment penalty ranges from ten (10) to twenty (20) years.
- If the crime of illegal speculation concerning the previously mentioned products occurs during exceptional circumstances, a sudden health crisis, the outbreak of a pandemic, or a disaster, the imprisonment penalty is further increased to range from twenty (20) to thirty (30) years .

In this context, two Algerian courts issued, on Wednesday, two judicial rulings sentencing two individuals to 10 and 12 years of imprisonment in separate cases related to “speculation in oil and milk.”

A statement from the Chéraga Court, west of the capital Algiers, reported the prosecution of an individual for “illegal speculation in widely consumed essential food products,” sentencing him to 12 years of imprisonment and a fine of one million dinars (approximately USD 72,000), with an order for his immediate detention .

According to the Algerian News Agency (APS), the ruling also included the confiscation of the seized goods and truck, the cancellation of the defendant’s commercial register, the publication of an extract of the judgment in any national daily newspaper at the defendant’s expense, and its posting at the entrance of the milk factory in Bir Khadem for one month.

In a similar case, the misdemeanor chamber of the Koléa Court, west of the capital, convicted another individual for “illegal speculation in widely consumed essential goods,” sentencing him to 10 years of imprisonment, a fine of 2 million dinars, and the confiscation of the seized goods, with an order for his immediate detention.

Both rulings were based on the facts outlined in Articles 12 and 1 of the Law on Combating Illegal Speculation in essential and widely consumed food products, according to APS .

Algerian markets have recently witnessed a significant shortage of several essential food items, including milk, vegetable oils, and flour. The Algerian government attributes this shortage to speculation and smuggling, announcing that speculation-related cases will be classified among crimes handled by the Anti-Terrorism and Organized Crime Division .

In this regard, the Algerian Public Prosecutor’s Office issued instructions last week to local public prosecutors to impose harsher penalties on those involved in cases of price inflation and speculation in the national market. The directive urged prosecutors to process these cases within the Anti-Terrorism and Organized Crime Division, considering them “an attack on the national economy and a deliberate organized crime that must be confronted with the full force and firmness of the law.”

SECOND: FINANCIAL PENALTIES IMPOSED ON THE NATURAL PERSON COMMITTING THE CRIME OF SPECULATION

The financial fine is considered a principal penalty, meaning it may be imposed independently without being combined with another penalty. It requires the convicted person to pay a specific amount, determined in the judicial ruling, to the State Treasury. This penalty is classified among the most important sanctions applied to the crime of illegal speculation, given that it is an economic crime aimed at achieving unlawful profit. The amount of the financial fine varies depending on the legal classification of the crime.

A. FINANCIAL PENALTIES FOR THE MISDEMEANOR OF ILLEGAL SPECULATION

The financial fine imposed on a person convicted of the misdemeanor of illegal speculation is as follows:

- Fine: from 1,000,000 DZD to 2,000,000 DZD .

However, if the illegal speculation involves grains, fruits, oil, sugar, coffee, fuel products, or pharmaceutical products, the penalty becomes :

- Fine: from 2,000,000 DZD to 10,000,000 DZD .

B. FINANCIAL PENALTIES FOR THE FELONY OF ILLEGAL SPECULATION

If illegal speculation concerns the aforementioned essential products and occurs under exceptional circumstances, the perpetrator is punished with a financial fine ranging from:

- 10,000,000 DZD to 20,000,000 DZD

Subsection Two: Supplementary Penalties Imposed on the Natural Person Committing the Crime of Illegal Speculation

In addition to the principal penalties, the Algerian legislator has imposed other penalties on a natural person committing the crime of illegal speculation. These penalties are divided into mandatory supplementary penalties and optional supplementary penalties, which are explained as follows:

FIRST: MANDATORY SUPPLEMENTARY PENALTIES IMPOSED ON THE NATURAL PERSON

Mandatory supplementary penalties include:

1. Residence Ban in Case of Felony

According to the second paragraph of Article 09 bis 01 of the Penal Code, in the event of a conviction for the felony of illegal speculation, and pursuant to Articles 2, 14, and 15 of Law No. 21-15, the court must prohibit the offender from exercising one or more of the rights specified in Article 9 bis 1 of the Penal Code .

This ban aims to restrict the presence of the convicted person in certain locations to protect public order.

2. Confiscation

Confiscation refers to: “the permanent transfer of certain property or its equivalent value to the State .”

In the case of illegal speculation, confiscation is mandatory and applies to:

- The tangible assets involved in the crime,
- The means used to commit the crime,
- The proceeds obtained from the crime .

If the items cannot be seized or presented to the judiciary, their monetary value may be confiscated as determined by law.

It is noteworthy that Law 21-15 does not explicitly mention procedures for physical or symbolic seizure, unlike Commercial Law No. 02-04, which explicitly addresses this in Article 99. This is logical, as confiscation generally requires prior seizure of the items in question .

SECOND: OPTIONAL SUPPLEMENTARY PENALTIES IMPOSED ON THE NATURAL PERSON

The Algerian legislator allows the court discretion to impose the following optional supplementary penalties:

1. Deletion of Commercial Registration and Ban from Conducting Business :

Article 17 of Law 21-15 allows the court to:

- Delete the offender’s commercial registration,
- Temporarily ban them from conducting business,

in cases of conviction for illegal speculation, in accordance with the Penal Code.

This measure is an important deterrent to prevent the recurrence of illegal business activities .

2. Residence Ban :

Defined by Article 12 of the Penal Code, a residence ban prohibits the convicted person from being present in certain locations .

- Maximum duration : 5 years for misdemeanors,
- 10 years for felonies.

The residence ban is applied in conjunction with a custodial sentence and starts after the expiration of the principal penalty or the release of the convicted person.

Article 16, paragraph 1, of Law 21-15 allows the competent court to impose a residence ban for a period ranging from two to five years following a conviction.

The final judgment is forwarded to the Ministry of Interior through the Public Prosecutor, which issues a decision specifying the prohibited locations, monitoring system, security measures , and any assistance the offender must undergo .

3. Deprivation of National, Civil, and Family Rights

According to paragraph 2 of Article 16 of Law 21-15, the court may prohibit the convicted person from exercising one or more of their national, civil, or family rights in the case of a misdemeanor.

Article 16 refers to Article 9 bis 1 of the Penal Code, which includes:

- Dismissal or exclusion from public positions related to the crime,
- Deprivation of voting or candidacy rights and the right to receive any honor or medal,
- Ineligibility to serve as a juror, expert, or witness in legal contracts, except for informational purposes,
- Deprivation of the right to carry arms, teach, or manage/serve in an educational institution,
- Ineligibility to act as a guardian or trustee,
- Partial or total loss of parental authority rights.

4. Closure of the Commercial Establishment and Ban from Business Activity

Administrative closure is a preventive security measure and the only means to prevent the offender from continuing their illegal activity and to prevent recurrence.

Practical experience has shown that closure effectively removes disturbances caused by the crime and prevents future violations, while ensuring justice and maintaining balance among competing economic entities .

Article 17 of Law 21-15 stipulates that the court may impose temporary closure and ban the offender from conducting business for a period not exceeding one year in the case of committing any crime stipulated in the law .

Section Two: Penalties Imposed on the Legal Entity Committing the Crime of Illegal Speculation

Among the penalties established under Law No. 21-15 are both the principal penalties imposed on a legal entity committing the crime of illegal speculation and the supplementary penalties applicable to such entities. These penalties can be detailed as follows:

Subsection One: Principal Penalties Imposed on the Legal Entity Committing the Crime of Illegal Speculation

Article 19 of Law No. 21-15, relating to the fight against illegal speculation, stipulates that:

"A legal entity that commits any of the crimes stipulated in this law shall be punished with the penalties provided for in the Penal Code ."

Accordingly, the Algerian legislator did not introduce any new penalties specifically for legal entities committing illegal speculation. Instead, the law refers to the general provisions of the Penal Code regarding penalties for legal entities.

Referring to the Penal Code, and in particular Article 18 bis 1, which governs penalties for legal entities, the provisions are as follows:

- Fines: A legal entity may be fined an amount ranging from one (1) to five (5) times the maximum fine applicable to a natural person.
- The fine constitutes the sole principal penalty applicable to legal entities and is considered the most important and prominent penalty imposed on them .

1. FINE IMPOSED ON LEGAL ENTITIES FOR MISDEMEANORS UNDER LAW 21-15

As previously mentioned in the section on penalties for natural persons, Article 18 bis 1 of the Algerian Penal Code provides that:

"The penalties applied to a legal entity for offenses consist of a fine equal to one (1) to five (5) times the maximum fine prescribed for a natural person under the law that punishes the offense ."

2. FINE IMPOSED ON LEGAL ENTITIES FOR FELONIES UNDER LAW 21-15

Article 18 bis 2 further specifies the maximum fines for legal entities in relation to felonies as follows :

- A fine of 20,000,000 DZD when the felony is punishable by death or life imprisonment.
 - A fine of 1,000,000 DZD when the felony is punishable by a fixed-term prison sentence.
 - A fine of 500,000 DZD for misdemeanors
- Subsection Two: Supplementary Penalties Imposed on the Legal Entity Committing the Crime of Illegal Speculation

The supplementary penalties applicable to a legal entity can be categorized as follows:

1. DISSOLUTION OF THE LEGAL ENTITY AND CLOSURE OF ITS ESTABLISHMENT OR BRANCH

Among the supplementary penalties imposed on a legal entity committing illegal speculation are the dissolution of the legal entity and the closure of its establishment or one of its branches, detailed as follows:

a. Dissolution of the Legal Entity

The penalty of dissolution is considered equivalent to the death penalty for a natural person, meaning that the entity is prohibited from continuing its activities, even under a different name or with different managers. Due to the severity of this penalty , the legislator did not mandate the judge to impose it but left it to judicial discretion. Its application is also limited: it can only be applied if the entity was established for the purpose of committing criminal acts, or if the entity deviates from its intended lawful purpose .

b. Closure of the Establishment or a Branch

Closure means preventing the entity from engaging in the activity in which the crime was committed. This is an in rem penalty applied directly to the establishment itself, and it cannot be sold during the temporary closure period, which is limited by law to a maximum of five (5) years . Temporary closure results in the suspension of the license to conduct the activity for the period specified in the conviction and differs from permanent closure, which involves permanent revocation of the license.

2. PROHIBITION FROM PRACTICING PROFESSIONAL OR SOCIAL ACTIVITIES

The Algerian legislator allows the prohibition of a legal entity from engaging in professional or social activities when it commits a crime classified as a felony or misdemeanor. The duration of the prohibition is determined by the court, which may impose a permanent ban or a temporary ban not exceeding five (5) years. This prohibition may apply either to the activity in which the crime was committed or to any other professional or social activity associated with the crime .

3. PROHIBITION FROM PARTICIPATING IN PUBLIC PROCUREMENT CONTRACTS

The prohibition from public procurement contracts prevents the legal entity from participating, either directly or indirectly, in any contract involving public law entities. Article 16 bis 2 of the Algerian Penal Code stipulates:

"The penalty of exclusion from public procurement prevents the convicted entity from participating, directly or indirectly, in any public contract, either permanently or for a period not exceeding ten (10) years for felonies, and five (5) years for misdemeanors. Immediate enforcement of this measure may be ordered ."

The contracts may involve movable or immovable property, work, services, or the supply of specific goods. Exclusion results in the entity being barred from participating or contributing in any way, directly or indirectly, in public contracts .

4. PUBLICATION AND POSTING OF THE CONVICTION AND JUDICIAL SUPERVISION

The court may also impose the penalties of publication and posting of the conviction and placing the entity under judicial supervision, detailed as follows:

a. Publication and Posting of the Conviction

According to Article 16, paragraph 3 of Law 21-15, the conviction may be published and posted in locations specified by the court, with publication costs borne by the convicted entity, in line with Article 18 of the Penal Code . This public declaration affects the entity's future professional and social activities. The legislator did not specify the duration of posting, leaving it to judicial discretion .

b. Judicial Supervision

Article 18 bis of the Algerian Penal Code stipulates:

"Judicial supervision for a period not exceeding five years, focused on the activities in which the crime was committed or related thereto ."

The judge must appoint a judicial agent to oversee the entity's activities and submit a report every six months to the implementing judge. The judge may then decide to modify or lift the supervision .

This system under Law 21-15 is distinct from general rules in the Penal Code and aims to limit mitigating circumstances for misdemeanors of illegal speculation and enforce a security period.

5. CONFISCATION OF OBJECTS USED IN COMMITTING THE CRIME

Confiscation, as provided in Law 21-15 and defined in Article 15 of the Penal Code, is a principal penalty for natural persons. However, the legislator designated it as a supplementary penalty for legal entities under Article 18 bis 2, which is considered a deviation from the general legislative trend.

Consultations:

Through our study of the subject of illegal speculation and efforts to combat it, it has become evident that illegal speculation constitutes a serious crime that threatens the security and stability of the national economy. This crime directly affects the food security of Algerian citizens, causes unjustified increases in the prices of essential goods, creates scarcity of certain products, and generates market and supply disruptions—especially during epidemic crises such as the COVID-19 pandemic—with the aim of achieving substantial financial profits.

In response, the Algerian legislator proactively adopted an effective criminal strategy to combat and contain this crime by enacting Law No. 21-15, which introduced a set of severe penalties that can reach 30 years of imprisonment, and in some cases, even life imprisonment, serving as a deterrent against anyone attempting to undermine the purchasing power of Algerian citizens.

It also became clear that the Algerian legislator is particularly committed to protecting consumers' fundamental interests, as evidenced by the strictness and deterrence reflected in the provisions of Law No. 21-15 on combating illegal speculation, as well as by establishing rules for commercial transactions based on supply and demand principles.

It is noteworthy that the legislator sounded the alarm and formulated a national strategy to counter and contain this dangerous phenomenon. Among the key mechanisms adopted is the preparation of a preventive plan to limit the spread of this practice by ensuring product availability in the market, encouraging rational consumption, discouraging panic buying, and involving civil society and the media to educate the public and combat misleading or false information that incites hoarding under the pretext of scarcity.

From this study, several key conclusions were drawn :

- Market manipulation and artificial scarcity prompted the Algerian legislator to enact Law No. 21-15 on combating illegal speculation.
- The legislator seeks to ensure legal protection for consumers and preserve their purchasing power, adopting a criminal policy aimed at protecting Algerian consumers from illegal practices, including illegal speculation, which became widespread in Algeria, especially during the COVID-19 pandemic, severely impacting citizens' purchasing power.
- Illegal speculation is considered an economic crime, posing significant threats to the national economy, investors' confidence, and financial trust in the state. It is characterized by activities of a special technical nature, often requiring expert evaluation to distinguish lawful from unlawful behavior.
- Law No. 21-15 provides for special procedures consistent with the nature of this crime.

- Article 2, Paragraph 2, of the law closely mirrors the forms of illegal speculation previously defined in the Penal Code, albeit with the phrase “or by any other fraudulent means,” which leaves interpretive discretion to judges. While this allows flexibility, it may also weaken the principle of legality regarding crimes and penalties.
- The law prescribes severe penalties, including life imprisonment, capable of deterring this crime.
- The law has already yielded positive results in its first year, leading to a reduction in illegal speculation, better availability of essential goods, and price stabilization in markets.

Recommendations:

We have deemed it appropriate to present the following recommendations:

- The need to formulate and adopt a strict criminal policy based on plans and strategies that begin with the prevention of the crime of unlawful speculation and extend to confronting and combating it.
- Ensuring the application of the provisions of Law No. 21-15 through the judiciary, with zero tolerance toward perpetrators of this offense, as well as activating the necessary administrative oversight, both at the central and local levels.
- Requiring judicial police officers to deal strictly with those who commit unlawful speculation crimes and not to show leniency toward them, applying the law to them just as it is applied to perpetrators of other crimes, considering that many of them are released without record and without official reports being filed against them.
- Promoting a culture of rational consumption among citizens, and avoiding greed and reckless behavior in acquiring essential consumer goods .

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