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Preventive and Deterrent Legal Mechanisms for Combating Illegal Speculation under Algerian Legislation: A Legal and Socio-Economic Analysis in Light of Law No. 21-15

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Abstract

Illegal speculation constitutes one of the most serious contemporary economic crimes due to its direct and indirect repercussions on market stability, price equilibrium, consumer confidence, and social security. In recent years, its manifestations have expanded beyond traditional commercial manipulation to include unlawful speculation in basic consumer goods subsidized by the public treasury, thereby threatening food security and social cohesion. In response to this growing phenomenon, the Algerian legislator adopted a comprehensive legal framework through Law No. 21-15 relating to the fight against illegal speculation, which repealed the former provisions of Articles 172, 173, and 174 of the Penal Code. This study examines the legal nature of illegal speculation as defined by Algerian legislation and analyzes the preventive and deterrent mechanisms introduced by Law No. 21-15 to combat this crime. It highlights the legislator's shift from a traditional penal approach toward a comprehensive national strategy combining prevention, market regulation, institutional coordination, and strengthened criminal sanctions. The research also emphasizes the role of the state, local authorities, civil society, and the media in preventing market disruption and safeguarding citizens' purchasing power. By adopting an analytical and descriptive legal methodology, this paper seeks to clarify the behaviors constituting illegal speculation, assess the effectiveness of preventive mechanisms, and evaluate the deterrent sanctions established by the legislator. The study concludes that the Algerian approach reflects an integrated legal vision aimed not only at punishment but also at market stabilization, consumer protection, and the preservation of public order and social security.

Citation

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Introduction

Speculation is considered one of the most important objective criteria distinguishing commercial acts from civil acts. Jean Lyon-Caen even regarded it as the essential criterion of commercial activity, by which profit is sought. However, due to the greed of certain operators, traders, and others in pursuit of quick profit—even at the expense of citizens' food and sustenance—this has led to artificial market disruption through the scarcity of certain essential consumer and food products in particular, resulting in unprecedented increases in the prices of these goods. This occurred despite the fact that market-regulating laws prohibit such behaviors, especially with respect to prices of widely consumed goods. This situation created a threat to social security and, consequently, may constitute a threat to public security. All of this prompted the Algerian legislator to enact special legislation to deter such behaviors through Law No. 21-15 relating to illegal speculation, in order to provide stronger deterrence to combat this crime, even though it had previously been addressed in the Penal Code under Articles 172, 173, and 174, which were repealed pursuant to Article 4 of the aforementioned law on illegal speculation.

Based on the foregoing introduction to this study, the following research question may be posed:

- What behaviors and acts did the legislator consider, under Law No. 21-15, to constitute illegal speculation, and what are the preventive and deterrent mechanisms established to combat it?

To answer this question and the related sub-questions arising in the context of this study, the research is divided into two sections. The first section addresses the nature of illegal speculation and the preventive mechanisms to combat it, while the second section is devoted to the punitive deterrent mechanisms for illegal speculation.

Chapter One: The Nature of Illegal Speculation and the Preventive Mechanisms to Combat It

Illegal speculation is among the behaviors that have dominated the commercial market, affecting it through disruptions caused by artificially induced scarcity of goods, and consequently speculation on rising prices—especially of basic goods for citizens' consumption—thereby directly affecting consumers' food security and daily livelihoods. This led the state to intervene to curb such behaviors by enacting Law No. 21-15 on illegal speculation, through defining the concept of illegal speculation (First Requirement) and identifying the legal preventive mechanisms to combat it (Second Requirement).

Section One: The Concept of Illegal Speculation

If speculation is among the legitimate transactions required by commercial activity on the one hand, and by fair competition in the market through the principle of price freedom on the other—as stipulated by the Competition Law in its second chapter (Principles of Competition), which considers that the freedom of prices for goods and services is exercised freely in accordance with the rules of free and fair competition—then the question arises as to when speculation becomes illegal.

The Algerian legislator defined illegal speculation in Law No. 21-15 relating to illegal speculation, in the second paragraph of Article 2, which provides that:

“Illegal speculation: any storage or concealment of goods or merchandise with the aim of creating scarcity in the market and disruption in supply, and any artificial increase or decrease in the prices of goods, merchandise, or securities, directly or indirectly, or through an intermediary, or by using electronic means or any other fraudulent methods or means.”

The same paragraph adds that the following are also considered illegal speculation:

- Deliberately promoting false or malicious news or rumors among the public with the aim of disrupting the market and raising prices suddenly and unjustifiably.
- Offering goods in the market with the aim of disrupting prices or legally determined profit margins.
- Offering goods at prices higher than those usually applied by sellers.

- Carrying out, individually or collectively, or based on agreements, operations in the market with the aim of obtaining profit not resulting from the natural application of supply and demand.
- Using maneuvers aimed at increasing or decreasing the value of securities.

From the above, it can be concluded that the Algerian legislator did not provide a philosophical or doctrinal definition of illegal speculation, but rather limited itself to enumerating its forms or the acts that constitute illegal speculation. This approach is appropriate, given the nature of the legal text (a penal law), since the acts enumerated by the legislator constitute the material element of the crime of illegal speculation, which will be detailed later. It may also be inferred from the second paragraph of Article 2 of the Law on Illegal Speculation that the Algerian legislator nearly reproduced the enumeration of forms that were contained in Article 172 of the repealed Penal Code, which were considered to constitute illegal speculation. Additionally, the legislator included in this paragraph practices considered restrictive of competition, similar to those mentioned in Article 6 of the Competition Law ("Practices, concerted actions, agreements, and arrangements are prohibited..."), which corresponds to the fifth item of the second paragraph of Article 2 of the Law on Illegal Speculation: "carrying out, individually or collectively, or based on agreements, operations in the market..."

Section Two: Preventive Mechanisms Established to Combat Illegal Speculation

Through the Law on Illegal Speculation, the Algerian legislator established numerous mechanisms within the framework of a national strategy to ensure market balance, stabilize prices, preserve citizens' purchasing power, and prevent the exploitation of circumstances to unjustifiably raise prices—especially prices of essential or widely consumed goods. These mechanisms are implemented by the state and its local authorities, with the participation of civil society and the media, each according to its nature and responsibilities.

Subsection One: By the State

The state is the primary guardian of citizens' interests and needs and the protector of their food and living security. Accordingly, it bears primary responsibility for combating illegal speculation through the competent ministerial bodies, such as the Ministries of Agriculture and Trade, by developing a comprehensive strategy to ensure market balance and price stability. In particular, the state is responsible for:

- Ensuring the supply of the national market with various necessary goods and merchandise, especially widely consumed food products.
- Adopting vigilance mechanisms to take appropriate and necessary measures to limit the effects of scarcity, as defined by the legislator in paragraph 2 of Article 2 of the Law on Illegal Speculation.
- Encouraging rational consumption by citizens and discouraging stockpiling of widely consumed goods, thereby maintaining market balance and price stability.
- Taking necessary measures to refute and deny rumors spread to create chaos and market disruption and to raise prices randomly and suddenly, such as rumors about the disappearance of certain consumer goods, which often lead to artificial scarcity accompanied by price increases, especially for widely consumed goods. Here, the role of the media—particularly audiovisual media—and civil society associations, especially consumer protection associations, is crucial.
- Preventing any unjustified storage or withdrawal of goods and merchandise aimed at creating scarcity to raise prices.

Subsection Two: By Local Authorities

Within the framework of the national strategy to prevent and combat illegal speculation, the Algerian legislator involved local authorities to contribute to this preventive strategy, whether at the level of the province (wilaya) or municipality, according to their territorial scope and assigned powers. Their role includes:

- Allocating points of sale for essential or widely consumed goods at prices suitable for low-income groups, especially during holidays, seasons, and exceptional circumstances such as the COVID-19 pandemic.
- Early monitoring of all forms of scarcity in essential and widely consumed goods at the local level, which requires continuous vigilance of local markets.

Subsection Three: By Civil Society and the Media

Combating illegal speculation is not limited to the role of the state and local authorities; it is a matter that concerns everyone. The legislator recognized this by involving civil society organizations—especially consumer protection associations—as well as all forms of media, to play their role in combating illegal speculation. This is achieved through awareness-raising, promoting consumer culture, discouraging stockpiling and waste, rationalizing consumption, and respecting the supply-and-demand rule, particularly during holidays, seasons, exceptional circumstances, health crises, epidemics, or disasters. Such situations often lead to increased consumption rates in Algerian society, resulting in market disruptions, scarcity of goods, rising prices, and potentially social unrest threatening national security and social peace.

Chapter Two: Punitive Deterrent Mechanisms for Illegal Speculation

In combating illegal speculation under Law No. 21-15, the Algerian legislator combined two approaches: a preventive approach through the national strategy and its mechanisms, and a deterrent approach through criminalization and punishment of behaviors considered illegal speculation. This section addresses, in the first requirement, the crime of illegal speculation and the penalties prescribed for it, and in the second requirement, the procedural rules for detecting and prosecuting the crime of illegal speculation.

Section One: The Crime of Illegal Speculation and the Penalties Prescribed for It

The deterrent approach is among the most important methods for combating illegal speculation, particularly under Law No. 21-15, which criminalized acts constituting illegal speculation and imposed stricter penalties compared to those previously provided under Articles 172, 173, and 174 of the Penal Code, repealed by Article 4 of Law No. 21-15. In practice, this has led to a noticeable decline in many behaviors considered illegal speculation.

Subsection One: The Elements of the Crime of Illegal Speculation

The crime of illegal speculation, like other crimes, requires for its establishment the availability of three elements: the legal element, the material element, and the moral element. This will be addressed in detail as follows.

First: The Legal Element

This element is defined as the legal text or legal provision that determines the components of the crime and the penalty resulting from committing it. It is included in the Penal Code, and its existence is mandatory alongside every crime. In the event the crime occurs, the offense or the resulting penalty is determined immediately, in accordance with the principle of legality of crimes and penalties, as affirmed by Article 1 of the Penal Code, which provides: *“There shall be no crime, no punishment, and no security measures without a law.”*

As for the legal element of the crime of illegal speculation, it is embodied in the provisions of Law No. 21-15 relating to illegal speculation, particularly Article 2 and Articles 12 to 23 thereof.

Second: The Material Element

The material element of a crime in general consists of the criminal conduct, that is, the external act or behavior that expresses criminal intent or criminal fault. The criminal conduct of the crime of illegal speculation, pursuant to Article 2 of Law No. 21-15, takes several forms, as follows:

- Any storage or concealment of goods or merchandise with the aim of creating scarcity in the market and disruption in supply.
- Any artificial increase or decrease in the prices of goods, merchandise, or securities, directly or indirectly, or through an intermediary, or by using electronic means or any other fraudulent methods or means.
- Any deliberate promotion of false or malicious news or rumors among the public with the aim of disrupting the market and raising prices suddenly and unjustifiably.

The criminal conduct of illegal speculation also includes:

- Offering goods in the market with the aim of disrupting prices or legally determined profit margins.
- Offering goods at prices higher than those usually applied by sellers.
- Carrying out, individually or collectively, or based on agreements, operations in the market with the aim of obtaining profit not resulting from the natural application of supply and demand.

- Using maneuvers aimed at increasing or decreasing the value of securities.
- It should be noted that an attempt to commit the misdemeanor of illegal speculation is punishable.

Third: The Moral Element:

For a crime to exist, it is not sufficient to commit the acts constituting its material element; rather, this material act must emanate from the will of the offender. The moral element consists of an intention harbored by the offender, and it may sometimes take the form of fault, negligence, or lack of precaution. Accordingly, the moral element of the crime takes two forms:

- Intentional fault, that is, criminal intent.
- Unintentional fault, that is, negligence and lack of precaution.

Since the crime of illegal speculation is an intentional crime, its establishment requires the availability of the moral element in the form of general criminal intent, represented by the direction of the will of the offender or offenders toward committing the crime of illegal speculation with knowledge of the facts of the crime, in addition to the requirement of special criminal intent, represented by the direction of the offender's will toward creating disturbances in the market, which results in an unjustified increase in the prices of goods and merchandise, especially essential ones, with the aim of achieving profit not resulting from the natural application of the laws of supply and demand.

Subsection Two: Penalties Prescribed for the Crime of Illegal Speculation

The purpose of punishment, or what is called the criminal sanction, is to combat crime. To achieve this purpose, two approaches are adopted: the first is threatening the public at large, known as general deterrence, whereby the criminal rule addresses all people to warn them of the consequences of crime and threatens to impose punishment on the offender; the second is the application of punishment, known as special deterrence, which consists of imposing the criminal penalty on the offender in order to deter and prevent him from reoffending.

The legislator, in the Law on Illegal Speculation, established several criminal sanctions against anyone who commits the crime of illegal speculation, whether the perpetrator is a natural person or a legal person. These penalties vary in their legal characterization between aggravated misdemeanors and felonies, and they combine principal penalties with mandatory supplementary penalties. This will be detailed as follows:

First: Penalties Prescribed for the Natural Person:

Under this heading, we will review the various penalties prescribed by the legislator against the natural person who commits the crime of illegal speculation, including principal and supplementary penalties.

1 - Principal Penalties:

Considering the penalties prescribed to deter perpetrators and those involved in the crime of illegal speculation, it is found that the legislator has tightened them compared to what they were previously. They are now characterized as aggravated misdemeanors or are transformed into felonies if they concern essential goods, if they are committed during exceptional circumstances or health crises, or if they are committed by organized criminal groups. This will be detailed as follows:

- Anyone proven to be involved in the crime of illegal speculation shall be punished by imprisonment from three (3) years to ten (10) years and a fine from 1,000,000 DZD to 2,000,000 DZD. However, the penalty becomes more severe if illegal speculation concerns essential goods of wide consumption such as cereals and their derivatives, dried legumes, milk, vegetables or fruits, oil, sugar or coffee, fuel materials, or pharmaceutical products. In ordinary circumstances, the penalty shall be imprisonment from ten (10) years to twenty (20) years and a fine from 2,000,000 DZD to 10,000,000 DZD. The offense takes the description of a felony if illegal speculation is committed during exceptional circumstances, health crises, or disasters, in which case the penalty shall be temporary imprisonment from twenty (20) years to thirty (30) years and a fine from 10,000,000 DZD to 20,000,000 DZD. If the acts mentioned in Article 13, namely speculation in essential and widely consumed goods, are committed by an organized criminal group, the penalty shall be life imprisonment.

2 - Supplementary Penalties:

In addition to the principal penalties, the judge may also impose supplementary penalties, such as sentencing the offender to a prohibition of residence from two (2) to five (5) years, as provided for in Article 16 of Law No. 21-15, as well as prohibiting the exercise of one or more of the rights mentioned in Article 9 bis 1 of the Penal Code, such as deprivation of the right to vote or to stand for election, ineligibility to serve as a sworn assistant or expert, and others. Among the supplementary penalties that the judge may impose are removal from the commercial register and prohibition from engaging in commercial activity, with immediate enforcement of this penalty. The judge may also order the closure of the premises used to commit the crime and prohibit their exploitation for a maximum period of one year.

- In addition to the supplementary penalties, the judicial authority shall order the confiscation of the subject matter of the crime (essential goods and merchandise), as well as the means used to commit it and the funds obtained therefrom, referred to as criminal proceeds.

Second: Penalties Prescribed for the Legal Person:

Pursuant to Article 19 of the Law on Illegal Speculation, "*The legal person who commits one of the crimes provided for in this law shall be punished by the penalties provided for in the Penal Code.*" From this provision, it is observed that the legislator did not provide specific penalties for the legal person as it did for the natural person, but rather referred the penalties applicable to it to those provided for in the Penal Code. By referring to the Penal Code, specifically Articles 18 bis to 18 bis 3, it is noted that the Algerian legislator established one principal penalty and several supplementary penalties for the legal person, summarized as follows:

1 - Principal Penalty:

The legislator established a single principal penalty applicable to the legal person, namely a financial fine, which was increased so as to be equal to one (1) to five (5) times the maximum fine prescribed for the natural person in misdemeanor and felony matters. This penalty is appropriate to the nature of the legal person.

2 - Supplementary Penalties:

Unlike the principal penalties prescribed for the legal person, the Algerian legislator diversified the supplementary penalties applicable to the legal person, including dissolution of the legal person; closure of the establishment or one of its branches for a period not exceeding five (5) years; confiscation of the object used to commit the crime; publication and posting of the conviction judgment; placement under judicial supervision for a period not exceeding five (5) years, with supervision focusing on the activity that led to the crime; and others. The penalty may also extend to managers and supervisors of the legal person by imprisonment from one (1) year to five (5) years and a fine ranging from 100,000 DZD to 500,000 DZD, as in the case where the legal person breaches the obligations resulting from the supplementary penalties.

- It should be noted that, pursuant to Article 20 of the Law on Illegal Speculation, attempts to commit all misdemeanors related to illegal speculation are punishable. Naturally, attempts to commit felonies are punishable as a general rule.
- As for mitigating circumstances in misdemeanors related to illegal speculation, they are limited to one third (1/3) of the penalty prescribed by law, in accordance with the Law on Illegal Speculation.

Section Two: Procedural Rules for Detecting and Prosecuting the Crime of Illegal Speculation

Under this requirement, the procedural rules for detecting the crime of illegal speculation will be clarified in the first subsection, while the second subsection will address the prosecution of the crime of illegal speculation, also referred to as the initiation of public action.

First Subsection: Procedural Rules for Detecting the Crime of Illegal Speculation
The procedural rules governing investigation, inquiry, and detection of the crime of illegal speculation are subject to the general rules provided for in the Code of Criminal Procedure. As is known, public action is the sole means of enforcing the state's right to punishment. Its procedures begin with the stage of investigation and inquiry into crimes and the identification of their perpetrators. These procedures precede the judicial procedures undertaken by judicial authorities, such as public prosecutors and investigating judges.

The procedures followed at the stage of investigation, inquiry, and detection of crimes and their perpetrators, that is, the preliminary investigation stage, are carried out by the judicial police, also known as law enforcement officers. However, Law No. 21-15 involved qualified agents affiliated with the Directorate of Commerce and the special

inspection corps, as well as qualified agents affiliated with the tax administration. This was affirmed by Article 7 of the Law on Illegal Speculation. In addition to judicial police officers and agents provided for in the Code of Criminal Procedure, the law designated the qualified officials authorized to carry out investigation, inquiry, inspection, and detection of crimes of illegal speculation, namely:

- Qualified agents belonging to the special inspection corps affiliated with the administration in charge of trade.
- Qualified agents affiliated with the tax administration.

Within the framework of (control) of crimes of illegal speculation, the persons authorized to record them exercise a number of powers guaranteed to them by procedures derived from the general rules of the Code of Criminal Procedure and Law No. 21-15. These powers include:

- Going to the places where crimes are committed.
- Inspecting the scene or scenes of their commission (inside shops, warehouses, spaces, and others) by describing them, inventorying the objects constituting the subject matter of the crime, and seizing them.
- Arresting the persons involved as principal offenders, accomplices, or instigators, and seizing their commercial records.

Among the special procedures introduced by the Law on Illegal Speculation in the area of police custody, Article 11 provided for a new period to extend the original duration of police custody, making it extendable twice (2) instead of once (1), as provided for in Articles 51 and 65 of the Code of Criminal Procedure. Likewise, with regard to searching residential premises, it has been observed that many crimes of illegal speculation do not occur only in commercial premises but, in some cases, extend to residences and their annexes. Accordingly, Article 10 of Law No. 21-15 authorized searches inside them at any time, day or night, as an exception to paragraph 1 of Article 47 of the Code of Criminal Procedure concerning the times for conducting searches.

Second Subsection: Prosecution of the Crime of Illegal Speculation

Prosecution of the crime begins with the stage of bringing the case before the judicial authorities through the initiation of public action. The Public Prosecution has original jurisdiction to initiate public action, as its role is fundamental in criminal prosecution for crimes of illegal speculation. The Public Prosecutor undertakes all procedures from the occurrence of the crime until its adjudication, in accordance with the general rules provided for in the Code of Criminal Procedure. Article 8 of the Law on Illegal Speculation reinforced this role assigned to the Public Prosecution by providing for the automatic initiation of public action by the Public Prosecution in the crime of illegal speculation.

In this regard, Law No. 21-15 also allowed national associations active in the field of consumer protection, or any person harmed by this crime, to initiate public action by filing a complaint before the judicial authorities and to constitute themselves as a civil party in this type of crime. It is noted that the complaint may be submitted either to the Public Prosecution represented by the Public Prosecutor or to the investigating judge through a complaint accompanied by a civil claim.

Conclusion

This study, which revolves around the preventive and deterrent mechanisms established by the Algerian legislator to combat illegal speculation, has led us to a set of results and recommendations summarized as follows:

Results:

The results reached in light of this study can be summarized as follows:

- The Algerian legislator did not provide a definition of illegal speculation, but rather limited itself to identifying its forms through paragraph 1 of Article 2 of Law No. 21-15.
- From our study of the law relating to illegal speculation, it was noted that the legislator adopted two approaches to combat illegal speculation:
 - The first is the preventive approach, through the national strategy established to combat this crime, which included several mechanisms adopted by the state to ensure the availability of goods and merchandise in the market and to adopt vigilance mechanisms to limit scarcity, while involving local authorities in allocating places for selling essential goods at prices suitable for low-income groups. It also made the contribution of civil society and the media very important in playing their role in

combating illegal speculation through awareness-raising to rationalize consumption and refute all rumors circulated about shortages of goods and the like that cause market disruption.

- The second approach adopted and strengthened by the Algerian legislator to combat illegal speculation is the deterrent approach, through policies of criminalization and punishment, as well as procedural rules for detecting and prosecuting the crime of illegal speculation. The legislator tightened the legal characterization of crimes related to illegal speculation, classifying them as aggravated misdemeanors, some of which take the description of felonies, and consequently intensified the prescribed penalties, reaching temporary imprisonment from 20 to 30 years and even life imprisonment. The Algerian legislator also established special procedural rules alongside the general rules regarding investigation, inquiry, and detection of this type of crime, such as the possibility of extending the original duration of police custody twice (2), the possibility of searching residential premises at any time, day or night, and granting the Public Prosecution the power to initiate public action automatically. Law No. 21-15 also enabled national associations active in consumer protection or any injured person to file a complaint and constitute themselves as a civil party before the judicial authorities.

We, in turn, believe that the Algerian legislator acted wisely by combining the preventive approach with the deterrent approach to combat illegal speculation.

Recommendations:

The proposals or recommendations that can be made regarding the issue of illegal speculation are as follows:

- The necessity of activating all the provisions contained in Law No. 21-15 relating to illegal speculation, whether on the preventive or deterrent side, and not allowing it to remain mere ink on paper or to be applied only in temporary campaigns. The purpose of the law is its application in practice so that society in general, and the citizen in particular, may feel security, safety, and protection from all behaviors considered illegal speculation, especially since they directly affect the citizen's sustenance and health.
- The law relating to illegal speculation did not refer to involving the concerned professional organizations, such as the Farmers' Organization, the Union of Traders and Artisans, the Pharmacists' Union, and others, in combating illegal speculation, since the term "civil society" does not convey the true meaning of the role of these organizations, especially as legal texts in general, and criminal texts in particular, require precise terminology.
- The necessity of instilling behavioral cultures among citizens, whether in rationalizing consumption or reporting speculators, where the role of civil society, the media, and religious institutions—especially mosques—comes into play in raising awareness.

Ethical Considerations

This study adheres to recognized academic and ethical research standards. It is based exclusively on the analysis of legal texts, legislative provisions, and publicly available sources. No human participants, personal data, or confidential information were involved in the preparation of this research. The authors confirm that the study respects principles of academic integrity, objectivity, and proper citation, and that no form of plagiarism or unethical conduct has occurred.

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Conflict of Interest

The authors declare that there is no conflict of interest regarding the publication of this paper. The views and analyses expressed herein are solely those of the authors and do not reflect the official positions of their affiliated institutions.

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