

THE SPECIFICITY OF ECONOMIC CRIMINAL LAW IN RELATION TO THE GENERAL ELEMENTS OF CRIME

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Abstract:

The economic criminal law is characterized by many principles that distinguish it from the general rules of the criminal law, which show both specificity and independence. It is noteworthy that this law contains procedural rules related to any economic crime recognised by the legislator within the framework known as the legal protection of economic policy. This research aims to diagnose the specificity of economic criminal law and its distinction from traditional criminal law through the general elements of crime.

Keywords: economic criminal law, economic crime, legal element, material element, moral element.

INTRODUCTION:

Perhaps the most prominent aspect of human relations today is economic nature, which has become the focus of extensive discussion, particularly regarding its right to legal protection established by economic rules that prevent violations of those rules. Economic criminal law, or what is known as economic criminal law, is a newly emerging branch of law that has sparked considerable debate among scholars regarding its concept. The emergence of this branch of law is linked to the economic crises experienced by countries, regardless of the uniqueness of each state.

The interest in economic crimes is particularly evident in countries that have adopted an economic approach, of which Algeria is one. Necessity forced it to adopt laws to protect the economic transformation it was undergoing from chaos and disorder. Thus, in organising the economic aspect, the Algerian legislator established specific provisions and principles that deviate from or supplement the general rules of the Penal Code and the Code of Criminal Procedure. These include the legislative delegation of the executive power to define the scope of criminalisation and to determine the penalty. Furthermore, the material element of economic crime is broad enough to include attempts, and sometimes criminalisation extends to certain preparatory acts. The moral element is weakened for some offences, as the legislator does not require specific intent for intentional offences, but presumes the existence of such intent and is satisfied with the occurrence of the error¹.

The legal protection of economic interests in Algeria is established through the adoption of precise and rigorous legal and regulatory texts to regulate commercial, financial and economic activities within the State, ensuring that they do not deviate or become a means of seriously harming² or endangering the fundamental interests of society, within the framework of what is known as economic criminal law.

On the basis of the above, the following problem can be posed: What is meant by economic criminal law and how does it differ from criminal law no. 66-156 in terms of the general elements of crime? In order to answer this question, the study is divided into two main sections. The first section is devoted to examining the concept of economic criminal law, while the second section focuses on clarifying the specificity of the general elements of economic crime.

¹ Mohamed Khamikhem, *The Special Nature of Economic Crime in Algerian Legislation*, Master's Thesis in Criminal Law and Sciences, Faculty of Law, Ben Aknoun, University of Algiers, 2010-2011, p. 1.

² Ibn Khalifa Samira, *The Criminal Judge and Economic Crime*, Doctoral thesis in Legal Sciences, specialising in Public Law, Faculty of Law and Political Science, Djilali Liabes University, Sidi Bel Abbes, academic year 2015/2016, p. 29.

Section 1: The concept of economic criminal law

In order to define the concept of economic criminal law, it is necessary to attempt to summarise the definitions that have been given of it (first), to determine the origins and circumstances of its emergence (second), and finally to examine how economic criminal law has been influenced by prevailing economic ideologies (third).

First: Definition of economic criminal law

The French Court of Cassation, in a judgment of 01/03/1949, defined economic criminal law as “the law applicable to certain acts directly linked to the production, distribution, circulation and consumption of goods”.

Some legal scholars have defined economic criminal law (as it is called by some) as “that branch of criminal law which deals with the criminalisation and punishment of acts that protect the public order of the State, that is, offences that violate the economic system of the State, which is determined by the economic policy that varies according to the economic system adopted by the State”³. This includes all penal provisions established to protect the interests of the State in economic matters and the interests of individuals arising from economic relations between them.

In general, the definition of economic criminal law is directly linked to the definition of economic crime, which has not been consolidated by legal scholars or courts due to the influence of the prevailing economic ideologies in different countries and the economic systems they adopt, whether socialist or capitalist. Scholars are divided into two trends regarding the definition of economic crime: one broad and the other narrow.

Broad definition: Advocated by Vrij, who defined economic crime as crime against the management of the economy as reflected in economic law and economic policy relating to the public economic order.

Narrow definition: Any act or omission that violates the rules of competition and pricing. This view is taken by the academic Jean Pradel, who defines economic crime as those offences linked to the market and commercial exchanges, whether these exchanges are between producers and distributors or between distributors and consumers, and whether they relate to a product or a service. Thus, this definition limits the scope of economic crime to the exchange processes within the market framework⁴.

Between the narrow and broad doctrinal concepts, other definitions have emerged, including

- Those crimes that constitute an attack on the economic system established by the State in the implementation of its economic policy⁵.
- Those offences that affect public and cooperative property, production, the organisation of industrial and agricultural production, the rules governing the distribution of services and goods, and the abuse or violation of the powers granted, resulting in damage to the national economy and the acquisition of unlawful personal gain⁶.

In general, economic crime is diverse, and its criminalisation and the penalties established for it are spread across numerous laws relating to violations of criminal and economic legislation that regulate various aspects of economic activity and threaten economic interests with danger and damage⁷. Currency crimes, for example, are considered economic crimes by virtue of their inherent characteristics, which make them economic crimes, whether in terms of the nature of the interests they threaten, which are represented in the economic policy of the State, relying on and referring

³- Wahrani Iman, *Legal Mechanisms for Protecting the Public Economic Interest**, Doctoral Thesis in Law, Faculty of Law and Political Science, Abou Bakr Belkaid University, Tlemcen, Academic Year 2016/2017, p. 4.

⁴- However, this definition was linked to that adopted by the French legislator in 1945 with regard to the law on the regulation of competition and prices, which was later abolished in 1986. See: Ihab Al-Roussan, *Previous Reference*, p. 75.

⁵- Ghassan Rabah, *Economic Criminal Law: Economic Crimes and Financial Justice in Arab Legislations*, Bahsoun Cultural Publications, Beirut, 1990, p. 38.

⁶- Habash Imran, *previous reference*, p. 17.

⁷- Ghassan Rabah, *cited above*, p. 47.

to their core, which does not fall outside the realm of currency, stones and precious metals, elements that are vital to the economy of any State⁸.

II. The emergence of economic criminal law

As a result of wars and economic crises, states were forced to intervene in economic life and impose restrictions. It can be said that economic criminalisation began to manifest itself clearly during the First World War (1914-1918) with the introduction of a price system for essential goods. One of the most significant crises that had a profound impact on the development of economic legislation at that time was the 1929 economic crisis in the United States and European countries. This led to the emergence of necessary legislation to protect the currency, regulate production, manage foreign trade and combat unemployment⁹.

Furthermore, economic criminal law in its present form is a relatively recent law, which began to be highlighted at the Fifth International Comparative Law Conference held in Brussels in 1958, organised by the Comparative Studies Department of the University of Paris. This conference focused for the first time on the question of penalties in economic criminal law¹⁰.

In Algeria, an exceptional law on the repression of economic crimes was enacted in 1966 by Order No. 66-180 of 21 June 1966, which created special councils to combat economic crimes¹¹ (abolished by Order No. 75-46 of 17 June 1975)¹². The first article of this decree states “The purpose of this order is to repress crimes affecting the national wealth, the public treasury and the national economy, committed by employees or agents of any rank belonging to the State, public institutions, local authorities, public groups, national companies, mixed companies or any private entity managing public interests or public funds.”

Articles four and five contain a list of certain economic offences under the following headings

- Crimes committed by workers in the self-managed sector or by their representatives or employees.
- Described crimes, fraud and commercial exploitation of public assets.

This was followed by the enactment of many laws directly related to economic criminalisation in various fields such as taxation, customs, banking, etc. These include, in particular, the establishment of corporate liability.

As is well known, the Algerian Penal Code of 1966 did not contain any provision on the criminal liability of legal persons until the enactment of Law No. 04-15 amending and supplementing the Penal Code¹³, which expressly provided for this in Article 51 bis, which states that “With the exception of the State, local authorities and legal persons governed by public law, a legal person shall be criminally liable for offences committed in its name by its organs or legal representatives, if the law so provides...”.

In addition, this law detailed the sanctions applicable to legal persons in the first bis section of the Criminal Code in articles 18 bis to 18 bis 03.

Recognising the seriousness of economic crimes, the first texts establishing the criminal liability of legal persons as an exception appeared before the enactment of Law No. 04-15. It started in 1969

⁸- Sheikh Najia, *The Specificities of Currency Crimes in Algerian Law*, Doctoral Thesis in Sciences, specialising in Law, Faculty of Law and Political Science, Mouloud Mammeri University, Tizi Ouzou, defence date: 8 July 2012, p. 138.

⁹- Bouchi Youssef, *The Development of Economic Criminalisation in Algerian Legislation*, Journal of Research and Political Sciences, Faculty of Law and Political Sciences, Ibn Khaldun University, Tiaret, Volume 03, Issue 02, Publication Date: 04/06/2018, p. 16.

¹⁰- Wahrani Iman, previous reference.footnote p. 4.

¹¹- Decree No. 66-180 of 2 Rabi' al-Awwal 1386 (21 June 1966), establishing special judicial councils for the suppression of economic crimes, Official Gazette No. 54, year 1966.

¹²- Decree No. 75-46 of 17 June 1975, as amended and supplemented by the Code of Criminal Procedure, establishing the economic sections of the criminal courts, applicable from 1 December 1975, and abolishing the special economic councils (Official Journal No. 53, 1975).

¹³- Law No. 04-15 of 27 Ramadan 1425 (10 November 2004) amending and supplementing Decree No. 66-156 on the Penal Code (Official Journal No. 71, year 2004).

with Article 55 of Decree No. 69-107, which included the 1970 Finance Act on the repression of monetary offences¹⁴. This was followed by other texts in some special laws which established the criminal liability of legal persons for certain economic crimes, including:¹⁵

- Decree 75-37 on prices and the repression of offences relating to price regulation by Article 61¹⁶.
- The Law on Direct Taxes and Represented Duties, enacted pursuant to Article 38 of the Finance Law of 1991, which recognised the liability of commercial companies in Article 303, paragraph 09.
- The Law on Value Added Tax, enacted pursuant to Article 65 of the 1991 Finance Law, which recognises the liability of commercial companies in Article 138.
- Decree No. 96-22 on the repression of violations of laws and regulations relating to currency and the movement of capital to and from foreign countries, in Article 05.

Third: The influence of economic ideologies on economic criminal law

A state's legislative policy is linked to its economic system, whether socialist or capitalist. Accordingly, the state can adopt either a directive economic policy or a protective economic policy. Today, however, it is difficult to maintain the existence of an economic policy based solely on one of these approaches without the other; it has become necessary to combine them in a mixed economic policy. In all three cases, the policy of the legislator is involved in determining the legal protection of interests worthy of protection¹⁷.

In a capitalist system, the principle is based on the freedom of the individual to choose his own methods of production and consumption, individual initiative, private enterprise, consumer sovereignty, the profit motive and private property, with a limited role for the state. Thus, criminal policy focuses on any act or omission that violates an economic policy based on free enterprise, consumer sovereignty and individual initiative. In socialist countries, on the other hand, the approach is based on state ownership of all means of production, while individual ownership is restricted to the narrowest limits. In addition, criminalisation is linked to national security and the defence of the existence of the state. Economic crime is defined here as any act or omission that violates the economic policy based on the idea of collective ownership of the means of production and that threatens the existence of the state and its economic system¹⁸.

The Algerian legislator has therefore attached importance to the protection of public economic interests by criminalising harmful acts that have a negative impact on the national economy. This has led to a departure from the basic principles of economic crime in terms of its elements for protecting and safeguarding public economic interests, as the Penal Code has not been able to cope with the evolution of economic and other crimes. As a result, the legislator had to make changes in the criminal policy landscape and enact several special laws within the framework of economic crime in order to keep pace with the fluctuations of economic phenomena. Thus, the nature of the interest criminally protected within the framework of economic¹⁹ criminalisation is the public economic interest derived from economic and financial values²⁰.

Second Axis: The Specificity of the General Elements of Economic Crime

Economic criminal law is characterised by a number of general features, including:

¹⁴- It stipulates that: "When violations related to the monetary system are committed by the managers or directors of a legal entity, or by one of its employees acting on behalf of or for the benefit of that entity, the entity itself shall be prosecuted and subject to the fines specified in this decree, in addition to any ongoing prosecution of those individuals".

¹⁵- For more details, see: Rachid Ben Friha, Previous Reference, pp. 269-270.

¹⁶- Decree No. 75-37 of 29 April 1975 on prices and the repression of offences relating to price regulation, Official Journal No. 38, 1975 (repealed).

¹⁷- Rachid Ben Friha, The specificity of criminalisation and punishment in economic criminal law: A Case Study of Commercial Crimes, Doctoral Thesis in Sciences, specialising in Private Law, Faculty of Law and Political Science, Abou Bakr Belkaid University, Tlemcen, Academic Year 2016/2017, p. 1.

¹⁸- Ibn Khalifa Samira, Previous Reference, p. 30

¹⁹- Wahrani Iman, previous reference, p. 24.

²⁰- Wahrani Iman, Previous Reference, p. 4.

1. Artificial law: The focus of punishment in economic matters has shifted from actions contrary to social ethics to disobedience to the state and the realisation of its interests. Economic crimes are different from the so-called “eternal vices”, which are acts rejected by nations and universally recognised as immoral throughout human civilisation. They are artificial crimes, dependent on the State system²¹.

2. Flexible law: This law is closely linked to the economic policy of the state, making it unstable, temporary and circumstantial, depending on the economic, social and political conditions the state experiences.

3. Dispersed law: It is spread over many laws related to the economy, such as tax laws, customs laws, and others.

4. Severe penalties: Most economic crimes are punishable by severe penalties, ranging from misdemeanours to felonies, due to their impact on the economic interests of the state. Typically, these penalties range from serious misdemeanours to felonies²².

However, the specificity of economic criminal law, which distinguishes it from traditional criminal law, can be seen in the following elements of the offence:

Third: Characteristics of economic criminal law as regards the legal element of the offence

²¹- Ihab Al-Roussan, Characteristics of Economic Crime: A Study of the Concept and Elements, Journal of Political and Legal Notebooks, Issue 7, June 2012, p. 76.

²²- Example of smuggling offences

Smuggling offences can be divided into misdemeanours and felonies on the basis of their penal description, as can be seen by examining the provisions of articles 10 to 29 of Law No. 05-06 on the fight against smuggling. The Algerian legislator has adopted the criterion of the seriousness of smuggling offences in order to distinguish between misdemeanours and felonies, as follows

1. Regarding misdemeanours:

Misdemeanours can be divided into three degrees as follows:

1.1 Misdemeanours of the first degree: These relate to simple smuggling as stated in the first paragraph of Article 10 of the Anti-Smuggling Law. Penalties for smuggling hydrocarbons, fuels, grains or soil, or any of the goods defined in Article 2 of this Law, include imprisonment for one to five years, confiscation of the smuggled goods, a fine equal to five times the value of the confiscated goods, and at least one additional penalty from among those specified in Article 19 of the Anti-Smuggling Law.

1.2 Misdemeanours of the second degree: These offences concern the following cases of smuggling:

- Smuggling committed by three or more persons (Article 10(2)).
- Discovery of goods in hidden places or cavities specially prepared for the purpose of smuggling (Article 10, paragraph 3).
- Possession within the customs zone of a warehouse intended for smuggling (Article 11).
- Possession within the customs zone of a means of transport specially prepared for smuggling (Article 11).

The penalties for these offences include imprisonment for a term ranging from two to ten years, confiscation of the smuggled goods and the means of transport, if any, a fine equal to ten times the value of the confiscated goods or a fine equal to ten times the total value of the confiscated goods and the means of transport, and at least one additional penalty from among those specified in Article 19 of the Law on Combating Smuggling.

1.3 Misdemeanours of the third degree: These include the following cases of smuggling:

- Smuggling with a means of transport (Article 12).
- Smuggling while carrying a firearm (Article 13).

The penalties for these offences are imprisonment for a term ranging from ten to twenty years, confiscation of the smuggled goods and the means of transport, if any, and a fine equal to ten times the value of the confiscated goods in the second case, or a fine equal to ten times the total value of the confiscated goods and the means of transport in the first case, plus at least one additional penalty from among those specified in Article 19 of the Anti-Smuggling Law.

2 Felonies: The felony classification has been applied to cases of weapons smuggling and smuggling that poses a serious threat to national security, the national economy or public health, for which life imprisonment is imposed, as specified in Articles 14 and 15 of the Anti-Smuggling Law.

See: Decree No. 05-06 of 23 August 2005 on the fight against smuggling (Official Gazette No. 59, 2005), as amended and supplemented.

The legal element of crime is manifested in the embodiment of what is stated in Article 1 of the Criminal Code: “There is no crime, punishment or security measure without a law”. This means that the legislator monopolises the powers of criminalisation and punishment under precise legal texts. However, taking into account the specificity of economic crimes, the following observations can be made:

5. Departure from the principle of legislative exclusivity in economic criminal law: This is evident in the so-called legislative delegation, where the role of the legislator is limited to the adoption of general criminal texts. This implies a separation between the penal aspect and the obligations defined on the basis of non-penal rules. In the penal text, the legislator determines the appropriate penalty for the offence and allows the executive authority to determine the elements constituting the offence in accordance with the requirements of economic policy.

Various articles of the Customs Code are examples of this. Article 30, for example, leaves the matter of customs duties to a decision by the Minister of Finance, while Article 60 requires the legal and direct route to be determined by the relevant provincial governor. Article 220 empowers the Minister of Finance to issue a decision establishing the list of goods subject to transit licences, and Article 223 refers the determination of the format of the transit licence and the conditions for its issue and use to a decision by the Director General of Customs. In addition, Article 226 makes the determination of sensitive goods susceptible to smuggling subject to a joint ministerial decision by the Minister of Finance and the Minister of Trade²³.

6. Flexible and broad wording of criminal provisions in economic criminal law: The principle of legality requires that the penal text comprehensively covers all prohibited acts, without ambiguity or vagueness in its wording, in order to avoid the need for interpretation or reinterpretation by the judge. This would otherwise lead the judge to stray from his function, which is limited to the practical implementation of legal texts, into the realm of legislation. However, given that economic life is characterised by dynamism and instability, the fight against crime in this field has prevented the legislator from drafting penal texts according to a fixed template of crimes, thus adopting an open (flexible) approach to criminalisation²⁴.

An example of this can be found in Article 325, paragraphs “c”, “d” and “e” of the Customs Code, which states: “by means of falsification of official seals or false declarations, or by any other deceptive method... or other falsified documents... or other privileges related to import and export”.

Similarly, Article 1 of Decree No. 96-22, as amended, uses the following wording: “Any violation or attempt to violate the laws and regulations relating to currency and the movement of capital to and from abroad, by any means whatsoever...”.

In addition, Article 68 of the Consumer Protection and Anti-Fraud Law uses similar language: “Anyone who deceives or attempts to deceive a consumer by any means or method...”. This is also reflected in some penal texts, which use vague expressions that do not imply exclusivity, such as “others” and “in particular”.

7-Characteristics of economic criminal law with regard to the moral element of economic crimes

The Algerian legislator establishes criminal liability for certain economic crimes based solely on the proven material element against the perpetrator, known in legal terms as “material crimes”. An example of this is Article 281, paragraph 1, of the Customs Code, which states: “The judge may not acquit offenders on the basis of their intent, nor reduce fines...”. Furthermore, in the case of monetary offences, as stated in the last part of paragraph 1 of Decree No. 96-22, it is stated that “...the offender shall not be excused for good intentions”.

8-Characteristics of economic criminal law with regard to the material element of economic crimes

²³- Rachid Ben Friha, previous reference, p. 64.

²⁴- Habash Imran, Criminal Liability of Legal Entities for Currency Violations, Doctoral Thesis for the Third Cycle in Law, specialising in Economic Criminal Law, Faculty of Law and Political Science, Department of Law, Mohammed Boudiaf University, M'sila, defence date: 27 May 2018, p. 43.

The material element of a crime consists of three elements: the criminal act, the criminal result and the causal relationship between them.

1. The Criminal Code:

A - Criminalisation of negative behaviour: This mainly concerns situations where the offender fails to fulfil a series of obligations or to follow the procedures established by the legislator. For example, this is outlined in Article 533/04 of the Indirect Tax Law, which deals with “...deliberate failure to declare...”. Similarly, Ordinance No. 96-22, as amended and supplemented (by Ordinance No. 03-01), refers in its first article to certain negative conduct criminalised in relation to monetary offences, in particular when the object of the offence involves money or valuables. These include: failure to comply with reporting obligations, failure to repatriate funds, failure to comply with prescribed procedures or required formalities, and failure to obtain the necessary authorisations or to comply with the conditions attached thereto.

B. Criminalisation of attempts, preparatory acts and participation in offences in addition to completed offences

An example of this can be found in the last paragraph of Article 2 of Law No. 05-01 of 6 February 2005 on the Prevention and Combating of Money Laundering and the Financing of Terrorism²⁵, which defines the offence of money laundering as follows²⁶: “...participation in the commission of any of the offences established in this article, or conspiracy or collusion to commit or attempt to commit them, as well as aiding, abetting, facilitating or counselling them”.

In addition, most tax-related texts²⁷ emphasise that attempts²⁸ to commit tax fraud are punishable by the same penalty as the completed offence, with the exception of Article 532(2) of the Indirect Tax Code, which excludes the application of penalties in the case of either completed offences or attempts in the case of concealment, unless the latter exceeds one-tenth (1/10) of the taxable amount or DZD 10,000. The same provision is found in Article 119 of the Registration Act for cases of concealment, unless the concealment exceeds one-tenth (1/10) of the taxable amount or a tax amount equal to or greater than DZD 1,000.

Second: The Criminal Result

In the material sense, the criminal result is defined as the consequences of the criminal act that cause a change in the external world. The legislator takes account of this change by attaching legal consequences to it. In the legal sense, this means that a legally protected interest is affected, either by damaging this interest (reduction or total or partial obstruction) or by merely endangering it (fear of its realisation)²⁹.

²⁵- Law No. 05-01 of 27 Dhu al-Hijjah 1425 (6 February 2005) on the prevention of money laundering and the financing of terrorism and the fight against them (Official Gazette No. 11, 2005).

²⁶- Law No. 05-01, as amended and supplemented by

- Decree No. 12-02 of 20 Rabi' al-Awwal 1433 (13 February 2012), Official Gazette No. 08, year 2012.

- Law No. 15-06 of 25 Rabi' al-Thani 1436 (15 February 2015), Official Gazette No. 08, Year 2015.

²⁷- Article 532 of the Indirect Tax Law (punishing anyone who uses fraudulent means to evade or attempt to evade...), Article 34 of the Stamp Law (anyone who reduces or attempts to reduce the tax base, in whole or in part...), Article 303/1 of the Direct Taxes and Similar Fees Law (...concealment or attempt to conceal by any person...).

28.

²⁸- Article 30 of the Algerian Penal Code provides: “All attempts to commit a crime, beginning with the initiation of its execution or with clear acts leading directly to its commission, shall be considered as the crime itself if they are not stopped or do not cease to have their effects except as a result of circumstances independent of the will of the perpetrator, even if the intended objective cannot be achieved due to a material circumstance unknown to the perpetrator”. Article 31 of the same Act states: “The attempt to commit an offence shall be punishable only on the basis of a clear provision of the law...”.

²⁹- Majid Khadr Ahmad Al-Sabawi, *The Theory of Causality in Criminal Law: An Analytical and Comparative Study with Egyptian Law and Other Arab and Foreign Laws from a Criminal Philosophical Perspective*.

National Centre for Legal Publications, Cairo, first edition, 2014, pp. 81-83.

With regard to economic crimes, some legislators do not require the occurrence of the criminal result to be established within the framework of what are known as dangerous crimes or formal crimes. This is done as a precautionary measure to prevent significant damage to the economy. An example of this is consumption-related crime. For example, in Article 389 bis 03 of the Criminal Code on money laundering, the legislator has stated that the same penalties that apply to completed crimes also apply to attempts, so that the existence of a criminal result or a causal link is not necessary. Consequently, the two essential elements of this aspect revolve around its subject and the criminalised behaviours.

In addition, economic crimes often require the presence of certain additional elements, be it the object (as in the case of currency offences), the means or the place of commission (as in the case of customs offences or smuggling), or the time, the characteristics of the perpetrator or the characteristics of the victim.

9- Characteristics of economic criminal law with regard to the extension of criminal liability for economic crimes

5.1. Criminal liability of legal persons

As indicated above.

5.2. Criminal liability of others for economic crimes³⁰.

Responsibility for the acts of others has found a basis in civil law, in particular in Article 134. In criminal law, however, it has been hampered by the principle of personal criminal responsibility, which logically dictates that responsibility for a crime should not extend to others who have not contributed to it as principal or accomplice. However, this principle has not prevented the emergence of various theories justifying the possibility of attributing criminal responsibility to others from two perspectives: an objective one, based on the nature of economic activities, and a personal one, based on the presumed fault of the responsible party within the economic entity³¹. In general, responsibility for the acts of others can be applied in practice to the responsibility of employers and managers of companies and economic institutions.

Returning to Algerian legislation, it is noteworthy that there is no reference to this issue, despite the adoption of the idea of solidarity in financial penalties, as stated in article 362, paragraph 2, of the Tax Code and article 83 of the VAT Code, which stipulate that, in the case of offences committed by a company or legal person under private law, penalties involving imprisonment and accessory penalties shall be imposed on the administrative managers or representatives of the company. Financial penalties, on the other hand, are borne jointly with the legal entity. The legislator has been more explicit in article 36, paragraph 2, of law no. 88-07 on health and safety at work and occupational medicine, where the manager is considered the perpetrator of offences committed by employees as a result of negligence in complying with health and safety at work and occupational medicine regulations.

CONCLUSION:

Through the previous study, we have arrived at a number of findings and recommendations, which we summarise as follows:

FIRST: FINDINGS

1. Economic criminal law is influenced by the economic orientation of the state, whether it is socialist, capitalist or mixed.
2. The economic criminal law deviates from the known rules in criminal law, especially those related to the general principles of the elements of crime (legality, materiality and morality), especially in:
 - The adoption of a legislative delegation in the formulation of the texts of economic criminal law, where the legislator determines the appropriate penalty for the offence, while allowing the executive

³⁰- Rachid Ben Friha, Previous Reference, pp. 236-237.

³¹- Ibn Khalifa Samira, previous reference, p. 80.



authority to determine the elements constituting the offence in accordance with the requirements of economic policy.

- The use by the Algerian legislator of an open formulation or flexible criminalisation approach when drafting the texts of economic criminal law.

3. Most economic crimes are punishable for attempts and preparatory acts.

4. Most economic crimes are dangerous crimes or formal crimes that do not require the occurrence of a criminal result.

5. The criminalisation of negative behaviour has a wide scope within the rules of economic criminal law.

RECOMMENDATIONS

1. Grant economic criminal law significant importance in light of the current economic situation and establish it as an academic measure taught in universities.

2. The specificity of economic criminal law in relation to the general elements of crime requires the involvement of representatives and specialists from the three authorities, as well as economic experts in this field.