



FIGHTING ILLICIT SPECULATION IN THE ALGERIAN LAW BETWEEN WAYS OF PREVENTION AND CRIMINAL REPRESSION

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Abstract

The Algerian legislator has adopted a comprehensive strategy to fight illicit speculation through Law No. 21-15. This law focuses primarily on implementing preventive measures and engaging civil society, the media, and families alongside the State and territorial authorities to raise awareness and prevent illicit speculation. It criminalizes all forms of illicit speculation, emphasizes their suppression, and establishes special procedures for detection and prosecution, based on the belief that this phenomenon poses significant risks to economic and social security as well as the stability of the State. Thus, the importance of this study lies in examining the measures adopted by the Algerian legislator to fight illicit speculation.

Keywords: *fighting illicit speculation, ways of prevention, scarcity, criminal repression.*

INTRODUCTION

The issue of fighting illegal speculation has been a significant focus for the Algerian legislator, aimed at protecting consumer purchasing power, maintaining market stability, and safeguarding the national economy. Initially addressed through Articles 172, 173, and 174 of Ordinance No. 66-156 of 1966, which included provisions in the Penal Code, these articles classified various forms of illegal speculation as offences to be countered solely through criminal sentences.

However, with the evolution of trade practices, the role of economic actors, and the policy of economic openness, illegal speculation began to pose serious threats to social and economic security, destabilizing state institutions. This issue was exacerbated by the exceptional health and social challenges arising from the COVID-19 pandemic and the global food crisis. As a result, the legislator recognized the need for a more comprehensive legislative framework that moves beyond mere criminalization.

This new legislative strategy aims to encompass the broader economic, social, and political landscape by clearly defining illegal speculation, identifying its various forms, and developing specialized mechanisms and procedures for prevention and fight. Moreover, it emphasizes the involvement of specialized associations, civil society, and citizens, acknowledging their crucial role in detecting and reducing manifestations of illegal speculation. These efforts culminated in the enactment of Law No. 21-15, focused on fighting illicit speculation.

This study aims to identify the manifestations of the legislative policy pursued by the Algerian legislator in fighting illicit speculation and to evaluate its effectiveness by addressing the following question:

Did the legislator succeed, through Law No. 21-15 on Fighting Illicit Speculation, in adopting a comprehensive, clear, and balanced legislative policy?

To answer this question, we will utilize a descriptive analytical approach, focusing on the processing and analysis of legal texts relevant to this topic. This will enable us to discern the key features of the legislative policy adopted by the legislator and assess its efficacy in fighting illicit speculation.

To thoroughly explore the topic and provide a comprehensive response to the posed question, we have divided the study into three main sections:



1. **The Concept and Features of the Legislative Policy against Illicit Speculation:** This section will define what illicit speculation is and outline the characteristics of the relevant legislative framework.
2. **Preventive and Procedural Mechanisms to Fight Illicit Speculation:** This segment will examine the strategies and procedures established to prevent illicit speculation.
3. **Criminal Policy in the Fight against Illicit Speculation:** In this section, we will analyse the criminal aspects of the legislation, including sentences and enforcement measures.

1. The concept and features of the legislative policy to fight illicit speculation

The legislator has issued a special law to fight illicit speculation, through which he relied on drawing up a comprehensive and clear legislative policy to address the images of illicit speculation¹, relying in addition to dealing with criminal phenomena to adopt a preventive awareness policy to prevent and limit their occurrence. In order to understand this, we have divided the study of this research into two requirements, through the first requirement, we explain the concept of legislative policy, and in the second requirement, we address the features of this policy.

1.1. The concept of legislative policy in the fight against illicit speculation

Legislative policy in general means the plan adopted by the authority competent in legislation, which aims to apply higher or partial public policies in various fields, political, economic, social, cultural and others, which are changing and evolving aspects according to which legislative policy varies according to changing circumstances and objective, temporal and spatial data². The government works hard to achieve public demands to meet the needs of the citizen, and arranges them according to its priorities, and this is within the so-called government policies, which represent its strategy to achieve goals in some area, and policy-making is not limited to the government and official bodies, especially in the economic field, but policies represent the outcome of the efforts of the executive and legislative authority, parties, associations, civil society institutions, the private sector (economic operators) as well as the citizen himself (consumer), and these strategies and goals are determined through the legislative process, which must be clearly defined and not random and directly related to government policies, and reflect Therefore, it must be practically applicable, be accepted to a reasonable degree, achieve stability when applied, and have predictable consequences³ , and this is expressed in legislative policy, which includes all official policies (government policies), informal specialized associations, civil society and citizens.

It is clear that the legislative policy adopted by the Algerian legislator in the field of fighting illicit speculation was in order to reduce competition and monopoly and create scarcity in basic materials and commodities, protect consumers and encourage national production, and was taken into account by dedicating what all the events that contribute to policy-making, complementarity of roles and commitment to the principles of transparency and participation in the legislative process. This is one of the elements of a good legislative policy⁴. Nevertheless, we note the apparent severity of the penal sanctions introduced by the Algerian legislator in Law No. 21-15, which may amount to a life sentence, as we will show in the third section of this study, which was highly criticized by traders in particular, and according to some of them, this severity led to traders refraining from storing goods in warehouses for fear of the severe sentences provided by the new Law on Fighting Illicit Speculation, which led to the opposite results and the scarcity of some widely consumed items in the market (such as onions, for example).

1.2. Features of the Legislative Policy Adopted by the Legislator in the Field of Illicit Speculation

The legislative process undertaken by the legislator, whether through the enactment of new laws or the amendment of existing ones, typically unfolds in two stages. The first stage involves developing a legislative policy that addresses the nature and urgency of the problem at hand. This entails forming a comprehensive vision for a solution based on studies and expert opinions, listening to the proposals and concerns of all stakeholders in the relevant field, and determining the types of legislative texts that will be necessary, as well as the legal and administrative mechanisms that can



be implemented effectively⁵. In this context, legislative policy refers to the plan and strategy that guide the legislative process in addressing critical issues through appropriate legislation, prioritizing according to societal needs.

The second stage is the drafting and formulation of the legislative text that implements this policy, following the prescribed procedures for issuance⁶. Consequently, legislative texts are considered reflective of the legislative policy adopted by the legislator; they serve as the face of the phenomenon being addressed. The clarity and precision of the wording play a vital role in conveying the legislator's objectives.

The features of the legislative policy enacted by the Algerian legislator are encapsulated in Law No. 21-15 on Fighting Illicit Speculation. This legislation is aimed at prioritizing and developing solutions to protect consumer purchasing power, addressing the severe economic challenges posed by rising prices, scarcity of essential goods, and the ineffectiveness of previous legal frameworks—particularly those outlined in the Penal Code⁷. Notably, the issue of illicit speculation has been delinked from the General Penal Code through the repeal of Articles 172, 173, and 174, thereby alleviating confusion between licit and illicit speculation⁸.

Moreover, the new law promotes a collaborative effort among various entities, including associations, civil society organizations, the media, and citizens, to fight illicit speculation. It emphasizes fostering a culture of consumer awareness and rational consumption while incorporating preventive mechanisms to counteract illicit speculation.

2. Preventive and Procedural Mechanisms to Fight Illicit Speculation

The legislator recognizes that the phenomenon of illicit speculation, as well as the stability of markets and prices, is a complex challenge. In response, Law No. 21-15 aims to establish a comprehensive strategy to fight illicit speculation by engaging all relevant stakeholders. This strategy includes a focus on awareness and prevention, as well as the development of specific procedural mechanisms to address illicit speculation effectively. To clarify this approach, we will first fine-tune the relevant concepts and then explore the preventive and procedural mechanisms in detail.

2.1. Defining and Adjusting Concepts (Illicit Speculation and Scarcity)

To ensure the optimal application of this law and to eliminate any potential confusion, the legislator has deemed it essential to define key concepts, particularly illicit speculation and scarcity.

2.1.1. The Concept of Illicit Speculation

Understanding illicit speculation as envisioned by the legislator requires first defining the broader concept of speculation and distinguishing between licit and illicit forms.

A. Definition of Speculation

Speculation encompasses both linguistic and terminological definitions.

A.1. The Linguistic Definition of Speculation

In Arabic, the verb "to speculate" conveys the notion of engaging in activities such as walking the land in search of livelihood, trade, or conquest⁹.

A.2. The Terminological Definition of Speculation

Terminologically, speculation refers to the practice of taking advantage of opportunities to buy and sell commodities at a price higher than the purchase price. This process relies on the difference between selling and purchasing prices and inherently involves risks due to price fluctuations. The outcome of speculation can lead to either profit or loss, contingent upon natural market variations driven by supply and demand, as well as competitive dynamics¹⁰.

B. Definition of Illicit Speculation

Illicit speculation carries both terminological and legal definitions.

B.1. The Terminological Definition of Illicit Speculation

Termed illicit speculation, it refers to the actions taken by a speculator to manipulate commodity prices—either by artificially inflating or deflating them—to create abnormal market



fluctuations. Such actions are aimed at generating profits and fulfilling self-interests by leveraging the new conditions that the speculator has helped to create¹¹.

B.2. The Legal Definition of Illicit Speculation

The Algerian legislator has formulated a distinct concept of illicit speculation within the framework of Article 2 of Law No. 21-15. This article delineates specific acts that are deemed to constitute illicit speculation. Notably, it defines illicit speculation as "any storage or concealment of goods with the intention of causing scarcity in the market and disrupting the supply, as well as any artificial increase or decrease in the prices of goods, commodities, or securities—either directly or indirectly—through intermediaries, electronic means, or any other fraudulent methods."

The following actions are considered forms of illicit speculation:

- **Promotion of False Information:** Disseminating false or deliberately biased news to the public, aimed at disrupting the market and causing sudden and unjustified price increases.
- **Market Disruption Offers:** Placing offers that intentionally disrupt prices or violate legally established profit margins.
- **Excessive Pricing:** Making offers at prices significantly higher than those typically charged by sellers.
- **Manipulative Operations:** Engaging, either individually or collectively through agreements, in market operations designed to achieve profits that do not stem from the normal principles of supply and demand.
- **Manipulation of Securities:** Utilizing tactics intended to artificially raise or lower the value of securities.

The legislator has intentionally adopted an expansive definition of illicit speculation by providing these illustrative examples. This approach recognizes that the means and methods employed by traders are continually evolving, with the goal of generating profits, even through illicit means. This is reflected in the language of Article 2 of Law No. 21-15, which includes the phrase "or any other fraudulent methods or means," indicating the need for a broad application of the definition¹².

It is important to note that the issue of illicit speculation has been addressed across several legal frameworks in Algeria, particularly within competition law and commercial practices legislation. The core objective is to fight all forms of illicit speculation to safeguard consumers' purchasing power. This includes the determination of profit margins, the regulation of prices for goods and services, and the prohibition of any arbitrary practices that arise from market dominance or monopolistic conditions, which may lead to artificially inflated or deflated prices¹³. Specifically, Article 25, Paragraph Two of the Law on Trade Practices¹⁴ emphasizes that traders must refrain from stockpiling products to provoke unwarranted price increases by creating a false state of scarcity.

2.1.2. The Concept of Scarcity

To comprehend the concept of scarcity, it is essential to delineate what is meant by scarcity in economic terms and to explore its legal implications.

A. The Terminological Meaning of Scarcity

Scarcity refers to the condition in which economic resources, products, and goods are available in amounts insufficient to meet the needs and desires of society and individuals. It reflects a fundamental relationship between human needs and limited resources, which constitutes a significant economic problem. The severity of this problem increases when the needs of citizens significantly outstrip available resources, or when a consumer's limited income restricts them to acquiring a limited range of goods. Consequently, consumers prioritize specific types of goods to satisfy their needs, resulting in heightened demand for particular items and leading to supply shortages, thus creating scarcity. It is important to note that scarcity is relative rather than absolute.

The economic problem identified in this scenario hinges on two crucial components: scarcity and choice. Scarcity acts as the primary catalyst for the economic dilemma, while choice



represents the mechanism for addressing this issue through prioritization. Within this framework, goods and commodities may fall victim to illicit speculation, where profit is sought not through the standard dynamics of supply and demand but through manipulative practices. Traders may engage in unethical speculations, such as hoarding goods to contrive scarcity and disrupt market supply¹⁵.

B. The Legal Meaning of Scarcity

The legal definition of scarcity is encapsulated in Article 2, which states: "Scarcity: the lack of sufficient goods or commodities to meet the needs of the population due to increased demand for them and lack of supply." In this way, the legislator adopts a purely economic understanding of scarcity within the broader context of the economic problem.

2.2. Preventive and Procedural Mechanisms to Fight Illicit Speculation

The legislator has established a framework of preventive mechanisms aimed at curtailing illicit speculation, complemented by procedures for the early detection and inspection of such activities.

2.2.1. Preventive Mechanisms to Fight Illicit Speculation

Through Law No. 21-15, a range of preventive measures has been adopted to thwart illicit speculation and to regulate the market. These measures differ based on the authority responsible for their issuance and implementation, involving central authorities, local organizations, civil society, and the media.

A. Mechanisms to Fight Illicit Speculation at the Central Level of the State

At the national level, these mechanisms manifest through the formulation of a comprehensive strategy to maintain market equilibrium and ensure price stability. This strategy aims to safeguard the purchasing power of citizens and avert exploitation during periods of unjustified price increases, especially concerning essential goods that experience widespread consumption¹⁶. The state implements a series of measures designed to mitigate illicit speculation, which in turn ensures the availability of essential goods and counters the effects of created scarcity and inflated prices¹⁷.

B. The Role of Territorial Authorities in the Fight Against Illicit Speculation

Territorial authorities, represented by the State and the Municipality, play a crucial role in fighting illicit speculation. The legislator has specifically highlighted the importance of the municipality due to its proximity to citizens at the grassroots level. This is evident in several initiatives, such as the allocation of sales points for essential and widely consumed items, ensuring prices remain accessible for low-income households, particularly during challenging seasons or exceptional circumstances. Additionally, municipalities are tasked with early monitoring of any scarcity of necessary goods at the local level and maintaining ongoing surveillance of market conditions and prices¹⁸.

C. The Role of Civil Society and Media in Fighting Illicit Speculation

Civil society, in all its various forms—political, social, economic, and cultural¹⁹—as well as the media, play key roles in the fight against illicit speculation. This involves raising awareness, guiding, and educating citizens about the importance of promoting a culture of rational consumption and abiding by supply and demand rules. They are also responsible for monitoring markets and prices, as well as identifying illicit practices and monopolistic behaviours. This vigilance is especially critical during peak seasons, holidays, emergencies, health crises, or disasters²⁰. It has been demonstrated that citizens can inadvertently contribute to scarcity through panic buying and irrational storage behaviours during times of crisis; thus, fostering conscious engagement is essential to mitigate potential negative impacts.

2.2.2. Procedural Mechanisms to Fight Illicit Speculation

The procedures for detecting and following up illicit speculative offences are governed by the overarching rules of the Criminal Procedure Code, with specific provisions outlined in Law No. 21-15.

A. The Detection of Illicit Speculative Offences



According to Article 7 of Law 21-15, the competent authorities responsible for detecting illicit speculation offences include:

A.1. Officers and Assistants of the Judicial Police

The judicial police, along with its officers and assistants, are authorized to examine all offences, including illicit speculation offences. Their responsibilities encompass receiving complaints, conducting investigations, and identifying perpetrators, all in accordance with the procedural rules established in the Criminal Procedure Code. Additionally, employees and assistants with legal authority to execute certain functions of judicial control share this competency. This inherent authority is underscored by the phrasing in Article 7 of Law No. 21-15, which states "as well as officers and assistants of the judicial police." The management of judicial control is under the purview of the public prosecutor, while the Attorney General supervises this process within each Judicial Council, under the oversight of the Indictment Chamber of the same council²¹.

A.2. Qualified Agents of the Specific Control Bodies under the Administration in charge of commerce

The special body within the department responsible for trade consists of two main divisions²²: the Fraud Suppression Division and the Competition and Economic Investigations Division. The Fraud Suppression Division includes observers, investigators, and inspectors²³, while the Competition and Economic Investigations Division comprises a similar set of personnel – observers, investigators, and inspectors²⁴.

A.3. Qualified Agents of the Tax Administration Services

This category encompasses various personnel within the tax administration, including tax inspectors, tax controllers, inspection assistants, tax analysts, and tax programmers²⁵.

B. Judicial Follow-Up Procedures

Illicit speculative offences are subject to the general rules governing judicial follow-up. However, they possess certain unique characteristics, particularly in terms of initiating public proceedings and the procedures for search and arrest.

B.1. Initiating a Public Prosecution

The public prosecutor is required to automatically initiate public prosecution for illicit speculative offences²⁶, following the general provisions outlined in the Criminal Procedure Law. Additionally, national associations focused on consumer protection, as well as any injured parties, have the right to file complaints with judicial authorities and can participate as civil parties in cases of illicit speculative offences²⁷. The law enables such associations and individuals to initiate public prosecution due to the nature and severity of these offences, given that numerous victims may be involved. However, a pertinent question arises regarding the designation of "national associations." Does this refer to all associations functioning at the national level, or is it restricted to those with a national reach, thereby excluding municipal and state-level associations?²⁸

B.2. Inspection Procedures

Legislative provisions regarding inspection procedures include a range of rules and safeguards designed to protect the sanctity of individual dwellings²⁹. As a general principle, residential locations can only be inspected with prior written consent from the Procurator of the Republic or an investigating judge³⁰. Such permissions must be explicit and are to be obtained before entering the residence. Inspections may occur at any hour of the day or night, particularly concerning serious offences categorized in Articles 342 to 348 of the Penal Code (such as the corruption of minors, drug-related offences, transnational organized offences, offences involving automated data processing, money laundering, terrorism, and exchange offences)³¹. The seriousness of these offences, along with the challenges associated with their investigation, necessitates this provision.

The legislator, in Law No. 21-15, similarly authorized inspections of residential locations for illicit speculative offences, requiring written and prior consent from the Procurator of the Republic or the competent investigating judge³². While this emphasizes the gravity of such offences and the challenges in detecting them, it would have been prudent for the text of Article 10 of Law No. 21-



15 to also explicitly include both residential and non-residential locations. This addition is significant, as these offences frequently occur in shops, warehouses, and private spaces that are not intended for residential use and often evade scrutiny³³.

B.3. Police Custody

Police custody is an action carried out by the judicial police in accordance with investigative requirements, such as search and investigation. It applies when there is evidence suggesting suspicion of committing a misdemeanour or a felony (indictable only). This procedure allows for the detention of any individual implicated by evidence, which indicates that their commission or attempt to commit an offence is likely. The initial period of detention cannot exceed 48 hours, during which the procurator of the Republic must be informed through a report detailing the reasons for the arrest.

If necessary, this detention period can be extended, with the procurator's permission, for an additional 48 hours. In cases of attacks on state security, the extension may be granted twice; for drug-related offences, organized crime, money laundering, and corruption legislation violations, it may occur three times; and in the case of terrorism-related offences, it may be extended up to five times³⁴.

Under Law No. 21-15, the legislator has authorized the extension of the original detention period with the written consent of the procurator of the Republic or the investigating judge. Specifically, for offences related to illicit speculation, this extension can be granted twice, permitting a maximum detention period of six days³⁵—equivalent to that permitted for offences against state security—acknowledging the seriousness of these offences and the complexities involved in their detection and investigation.

3. Criminal Policy to Fight Illicit Speculation

The criminalization and punishment of illicit speculation serve as instrumental components of criminal legislative policy. This policy reflects the legislator's approach to confronting offences and their perpetrators through mechanisms of criminalization, punishment, precautionary measures, and procedural actions undertaken to prosecute offenders and examine offences. The criminal legislative policy articulates the legislative framework devised by the legislator to tackle specific deviant social or economic phenomena.

This policy may lean toward intensifying criminalization and punishment for particular acts while defining the objectives of punishment and granting judges various options in the realm of sentencing. Such measures aim to realize the philosophy of criminal policy, which encompasses general deterrence, specific deterrence, and rehabilitation³⁶.

The legislative policy devised to address illicit speculation emphasizes stringent measures of criminalization and punishment. It also confers on judges the authority to exercise discretion in imposing sanctions, thereby fostering public deterrence, private deterrence, market reform, and consumer protection. The provisions addressing these measures can be found in the fourth chapter of Law No. 21-15. Accordingly, we will first examine the criminalization policy implemented by the legislator, followed by an analysis of the punishment policy established to fight illicit speculation.

3.1. Criminalization Policy

An offence cannot occur without a physical act, whether positive or negative, coupled with the requisite criminal intent. Therefore, criminalization must be founded upon the precise identification of the act subject to criminalization, accompanied by the presence of the will to commit that act. This is articulated through the components of an offence, which encompass the legal element, the material element, and the moral element.

3.1.1. The Legal Element

Research into the availability of an offence, as guided by the principle of criminal legality, is intrinsically linked to criminal texts that define its components. It is the text that delineates the legal requirements necessary for its implementation³⁷. The legislator has criminalized illicit speculative acts through Articles 12, 13, 14, and 15 of Law No. 21-15, which focuses on fighting illicit speculation.



3.1.2. The Material Element

The material element of an offence is understood as its tangible and external manifestation, which is represented by the actions carried out by the perpetrator that reflect their wrongful intent. In the context of illicit speculative offences, this material element is detailed in the second Article of Law No. 21-15 and is comprised of three components: criminal behaviour, purpose, and the object upon which the behaviour is focused.

A. Criminal Behaviour

Criminal behaviour is executed either directly by the individual or indirectly through an intermediary, potentially utilizing electronic means or other fraudulent methods. The legislator has defined several behaviours that constitute illicit speculation, as indicated by the phrase "it is considered illicit speculation" in Article 2 of Law No. 21-15. These behaviours include, but are not limited to:

- Storing or concealing goods with the intent to create market scarcity and disrupt supply.
- Artificially raising or lowering of prices for goods, merchandise, or securities.
- Spreading false or misleading information (rumours) among the public with the intent to incite market turmoil and inflate prices.
- Making offers in the market aimed at disrupting legally established prices and profit margins.
- Presenting offers at prices above those set by sellers.
- Engaging in individual or collective operations in the market for the purpose of obtaining profits outside the natural application of supply and demand.
- Implementing manoeuvres designed to artificially inflate or deflate the value of securities.

B. The Purpose of the Criminal Behaviour

The legislator has specified that the aforementioned behaviours must be aimed at creating market scarcity or disrupting the supply of goods, or lead to sudden artificial fluctuations in prices.

C. The Object of the Offence

According to the second Article of Law No. 21-15, the objects of these offences are restricted to goods, merchandise, and securities. Notably, the nature of this offence allows for reciprocal behaviour; thus, the occurrence of any one or more of the aforementioned acts is sufficient for criminal liability. The legislator did not restrict the definition of criminal acts strictly but instead used general terminology such as "manoeuvres." This broad language acknowledges the evolving methods and means employed in these types of offences, thereby enhancing the responsibility of the criminal judge in interpreting these behaviours. Yet, this may also raise concerns regarding the principle of legality in criminalization and punishment, as the legislator does not delineate specific means or acts in accordance with the continuous development and variety of such offences.

It is noteworthy that services are not explicitly mentioned in the context of the offence, despite their economic significance. This omission may stem from the legislator's focus on the circumstances surrounding the emergence of these types of offences, particularly given the pressing social issues linked to consumer goods subject to illicit speculation³⁸.

3.1.2. The Moral Element

The moral element encompasses the culpable will that links the criminal act to the perpetrator. The offence is not merely a material phenomenon solely based on the act itself; it also possesses a psychological dimension. This moral element manifests in two forms: criminal intent when the offence is intentional, and criminal error when it is unintentional³⁹. Therefore, the default assumption in law is that unless otherwise specified by the legislator, the presence of criminal intent is required to establish an offence. In cases where the law expressly states otherwise, unintentional conduct may suffice⁴⁰.

Criminal intent exists when the offender's will is directed toward achieving a criminal outcome, fully aware that their actions contravene the law, irrespective of the intended result. This is known as "general criminal intent." Conversely, "special intent" refers to instances where the



law specifically recognizes a particular outcome as necessary to complete the moral element, characterized by a unique end the offender seeks to achieve⁴¹.

In the context of illicit speculative offences, as delineated in Article 2 of Law No. 21-15, the moral element demands both public and private criminal intent for an offence to be fully constituted. It is insufficient for the offender merely to possess the intent to produce the criminal outcome while being aware that their actions violate the law; they must also be involved with the securities market.

3.2. The Punitive Policy

The imposition of sentences is inherently linked to the concept of criminalization; there can be no offence without a corresponding sentence. According to Chapter IV of Law No. 21-15, the legislator distinguishes between sentences imposed on natural persons and those imposed on legal entities for committing illicit speculation offences.

3.2.1. Sentences for Natural Persons

The legislator has established a range of sentences for natural persons, as follows:

A. Principal Sentences

Under Article 12 of Law No. 21-15, a sentence is set for illicit speculation offences when not accompanied by any aggravating circumstances outlined in Articles 13-14-15. The sentences consist of imprisonment for a term ranging from 3 to 10 years, along with a fine between 1,000,000 DZD and 20,000,000 DZD. This offence is classified as an aggravated misdemeanour.

If the offence involves the commodities specified in Article 13—such as cereals, legumes, milk, vegetables, fruits, oil, sugar, coffee, fuel, or pharmaceutical substances that are state-subsidized or commonly consumed—the sentences increase significantly: imprisonment for a term of 10 to 20 years and a fine ranging from 2,000,000 DZD to 10,000,000 DZD.

Should these acts occur amid exceptional circumstances⁴²—such as a health crisis, epidemic outbreak, or disaster—the sentences escalate to temporary imprisonment for a duration of 20 to 30 years, with fines ranging from 10,000,000 DZD to 20,000,000 DZD, as stipulated in Article 14 of Law No. 21-15. In this situation, the offence is categorized as a felony.

Furthermore, if the acts specified in Article 13 are committed by an organized criminal group, the sentence is life imprisonment, as expressed in Article 15 of Law No. 21-15.

Clearly, the legislator's tightening of sanctions for illicit speculative offences—especially in connection with subsidized and widely consumed commodities—reflects a heightened awareness of the threats posed by such offences. The potential harm they inflict on the political and economic system, as well as the detrimental impact on social welfare, public health, citizen purchasing power, and market stability, necessitates a robust legislative response.

B. Legal Consequences of Attempted Offences

Under the general provisions of the Penal Code, an attempt to commit a felony incurs the same sentences as those prescribed for the completed offence. In contrast, attempts to commit misdemeanours are punishable only if explicitly stated in the law⁴³. Consequently, the general provisions of the Penal Code apply to offences involving illicit speculation classified as felonies. However, for misdemeanours associated with illicit speculation, the legislator has determined that attempts are punishable by the same sentences as those prescribed for the completed offence⁴⁴.

C. Security Period

The provisions concerning the security period outlined in Article 60 bis of the Penal Code apply to offences of illicit speculation⁴⁵.

D. Mitigating Circumstances

Individuals convicted of misdemeanours related to illicit speculation, as defined in Law No. 21-15, may only receive mitigating circumstances that reduce their sentence by up to one-third (1/3) of the sentence prescribed by law. This is without prejudice to the provisions stipulated in Article 53 of the Penal Code⁴⁶.



E. Supplementary Sentences

- **Ban from Residence:** According to Article 16 of Law No. 21-15, a perpetrator may face a ban from residing in a specified area for duration of two to five years.
- **Prohibition from Exercising Rights:** Following a conviction for a misdemeanour of illicit speculation, the court may prohibit the perpetrator from exercising one or more rights as outlined in Article 9 BIS.1 of the Penal Code, per the discretionary authority granted by the second paragraph of Article 16 of Law No. 21-15.
- **Publication of Judgment:** The judge is required to order the publication and suspension of the judgment in accordance with the provisions of Article 18 of the Penal Code, as stated in the third paragraph of Article 16 of Law No. 21-15.
- **Delisting from the Commercial Register and Closure of Commercial Establishments:** Under Article 17 of Law No. 21-15, the judicial authority may order the delisting of the convicted individual from the Commercial Register and prohibit them from engaging in commercial activities, as provided in the Penal Code. Additionally, the court may mandate the closure of the establishment used to commit the offence for up to one year, without infringing upon the rights of third parties acting in good faith.

F. Confiscation

In the event of a conviction for illicit speculative offences, the judicial authority is mandated to order the confiscation of the location where the offence occurred, the means employed in its commission, and any funds obtained through the offence⁴⁷.

3.2.2. Sentences Imposed on Legal Entities

Pursuant to Article 19 of Law No. 21-15, which governs the application of sentences to legal entities in the case of a conviction for any offences delineated in Law No. 21-15, the legislator has referred to the provisions of the Penal Code. Specifically, by referencing Article 18 bis of the Penal Code, two categories of sentences are applicable to a legal entity convicted of a felony or misdemeanour:

A. Principal Sentences

A fine is imposed on the legal entity based on the articles pertaining to felonies and misdemeanours. The fine is calculated to be equal to one to five times the maximum fine prescribed for individuals under the law that punishes the offence. Accordingly, the sentences for a legal entity convicted of illicit speculation offences are as follows:

1. For a misdemeanour under Article 12 of Law No. 21-15, the sentence shall be a fine ranging from 2,000,000 DZD to 10,000,000 DZD.
2. If convicted under Article 13 of Law No. 21-15, the sentence shall be a fine ranging from 10,000,000 DZD to 50,000,000 DZD.
3. In the case of a felony convicted under Article 14 of Law No. 21-15, the sentence shall be a fine ranging from 20,000,000 DZD to 100,000,000 DZD.

B. Supplementary Sentences

In addition to the principal fines, one or more supplementary sentences, as outlined in Article 18 BIS of the Penal Code, may also be imposed on a legal entity found guilty of one of the illicit speculation offences, including:

- Dissolution of the legal entity;
- Closure of the business or any of its branches for up to five years;
- Exclusion from public contracts for a period not exceeding five years;
- Prohibition from engaging in one or more professional or social activities, either permanently or for a duration of up to five years;
- Confiscation of any item used in the commission of the offence or resulting from it;
- Publication of the guilty verdict and its suspension;
- Judicial oversight for a period not exceeding five years, focusing on the activity that led to the offence or is related to it.



The legislator has crafted the principal sentence as a singular fine, while allowing the judge discretion in selecting one or more supplementary sentences as enumerated in Article 18 BIS of the Penal Code. This approach considers the array of economic and social interests represented by the legal entity in question.

CONCLUSION:

Through Law No. 21-15, the legislator has established a legislative policy aimed at fighting illicit speculation. This approach demonstrates a comprehensive perspective, aligning with the government's commitment to address all forms of illicit speculation rigorously, and expanding market inspection and control. The legislator underscored the importance of involving all relevant stakeholders—such as local communities, civil society, the media, and state authorities—in the proactive monitoring of crises, addressing commodity price imbalances, and promoting rational consumption.

The study presents several key findings:

- The legislator has implemented a legislative framework that prioritizes prevention by raising awareness and promoting rational consumption while also enforcing sentences for illicit speculation, which can include severe punishment of up to life imprisonment.
- A comprehensive definition of illicit speculation has been established, encompassing its various forms and adapting to the evolution of this phenomenon and its methodologies.
- The legislator integrates the economic concept of scarcity with broader economic issues, establishing these offences as significant economic offences.
- In addressing illicit speculation, particularly regarding widely consumed and subsidized goods, the legislator classifies such acts as aggravated misdemeanours. When these acts occur during exceptional circumstances—such as health crises, epidemics, or disasters—they may be treated as felonies, especially if linked to organized criminal activities, resulting in life sentences.
- The law empowers national consumer protection associations and victims to initiate public lawsuits for illicit speculation, in addition to actions taken by public prosecutors.
- Inspection powers are limited to residential shops, with comprehensive authority granted for inspections at any hour of the day. Notably, the duration of suspensions for consideration can be extended for up to six consecutive days.
- The definition of the offence is confined to goods, merchandise, and securities, neglecting the significant economic value of services.

Despite the robust provisions of this law, which reflect a serious commitment to fighting illicit speculation, several observations and recommendations emerge:

- The legislative process must be holistic and account for the complexity of the phenomenon it seeks to address. It is vital to engage all stakeholders through public forums, actively considering their suggestions, and continuously reassessing the legislation to make necessary adjustments.
- Critics, particularly traders, have pointed out that the stringent sanctions outlined in Law No. 21-15 may discourage essential storage of goods during periods of surplus production, inadvertently creating scarcity for widely consumed items.
- The importance of promoting a culture of consumption rationalization cannot be overstated. Mechanisms should be developed to deter extravagance and waste, as consumer behaviour often contributes to artificial scarcity through violations of supply-and-demand principles.
- Clarity in legal terminology is crucial; ambiguous terms such as "manoeuvres" and "operations in the market" should be refined to ensure that judges can apply the law effectively, while also enabling law enforcers to understand it clearly.
- A review of the law is necessary to address certain oversights, such as the inclusion of services in the offence definition and extending inspection capabilities to both residential and non-residential shops.



In conclusion, while Law No. 21-15 signifies a robust effort to fight illicit speculation, there remains a need for ongoing dialogue, refinement, and a focus on both consumer behaviour and the practical application of the law.

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¹⁶ Article 3 of Law No. 21.15, op. cit.

¹⁷ Article 4 of Law No. 21.15, Ibid.

¹⁸ Article 5 of Law No. 21.15, Ibid.

¹⁹ Article 10 of the amendment of the Algerian constitution of 2020 : "The State shall ensure the activation of the role of civil society to participate in the conduct of Public Affairs". The term civil society means: The group of autonomous voluntary organizations that work in the public sphere to fill the void between the family and the state, and their voluntary non-profit work, seeks to achieve the benefits and interests of the whole society or some of its vulnerable groups to achieve the interests of its members, and this is in an atmosphere of respect, consent, tolerance and acceptance of the other, and works within the framework of free or voluntary work, and these organizations that make up civil society are defined by the availability of these features, so they are either political, such as parties and elected councils, or Social, such as professional associations and unions, and Economic, such as enterprises, companies and banks, and Cultural, such as schools, universities, communication media, and social networking sites.

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²⁶ Article 8 of Law No. 21-15, op. cit.

²⁷ Article 9, Ibid.



²⁸ Ben Hilal Nadir, *op. cit.*, p. 235.

²⁹ Article 48 of the Constitution of 2020.

³⁰ Article 355 of the Penal Code defines residential shops as: "Every building, house, room, tent, kiosk, even a mobile one, is considered a haunted house when it is intended for habitation and if it is not inhabited at that time, and all its accessories such as forests, poultry sheds, granaries, stables and the buildings inside them, whatever their use, even if they are surrounded by a private fence inside the public fence or fence".

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³⁴ Consideration of Articles 51-65 of the amended and supplemented code of Criminal Procedure.

³⁵ Article 11 of Law No. 21.15, *op. cit.*

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³⁷ Traditional jurisprudence has considered the legal text to be an element in the offence (the Shari'a element), but modern opinions say that as long as the criminal texts precede the offence, they are the ones that identify and establish the offence and determine when the acts are considered an offence under the law, and therefore it does not make sense for the texts of the law to be an element in the offence or part of it, the whole cannot be part of the same. We are inclined with this opinion and prefer to lay the legal basis instead of the legal element, see: Ahmed Fathi Sorour, *Ibid*, p. 322.

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⁴² The exceptional situation is linked to the state of siege, the state of emergency and every threat that puts the country in imminent danger of hitting its constitutional institutions or jeopardizing its independence or the integrity of its territory. See Articles 97-98 of the constitutional amendment of 2020.

⁴³ Articles 30-31 of the Amended and Supplemented Penal Code.

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