



New Procedural Mechanisms to Combat the Crime of Unlawful Speculation Under Law 21/15

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Abstract:

Through Law 21/15, which addresses the issue of unlawful speculation, the Algerian legislator introduced new mechanisms, both preventive and procedural, as well as penal deterrents to combat unlawful speculation. The law seeks to address this phenomenon in all possible ways and emphasizes the activation of preventive measures aimed at reducing the occurrence of the crime, as outlined in its second chapter. This chapter mandates the state to adopt a national strategy in this regard. Additionally, it establishes bodies that work to ensure a balance between enabling merchants to earn a legitimate profit while maintaining price stability and the availability of consumer goods, in accordance with legislative regulations that define the actions constituting the crime of unlawful speculation.

Keywords: Unlawful speculation, Widely consumed goods, Procedural mechanisms, Supply and demand, Preventive mechanisms.

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Introduction:

The Algerian legislator has adopted a policy of shifting toward a market economy. However, it has subjected goods to price monitoring, ensuring they are governed by the principles of supply and demand in the market and the freedom of competition. Price control is one of the most important pillars of economic development and reform. The role of the state is not merely to provide goods and services to its citizens. Instead, it extends to models based on economic intervention, where the state plays a crucial role in correcting market fluctuations and supporting social welfare. It works to prevent and criminalize actions that may lead to price instability and market disruptions.

Undoubtedly, the recent conditions in Algeria, including speculation on widely consumed goods during the COVID-19 pandemic, as well as the outbreak of wars in some countries, prompted the Algerian legislator to enact Law 21/15, dated December 28, 2021, which addresses illegal speculation. This law includes procedural, preventive, and punitive mechanisms to combat illegal speculation.

Thus, the issue raised in this topic is as follows: What are the new mechanisms introduced by the Algerian legislator through Law 21/15 to combat the crime of illegal speculation? To answer this question, we will address the topic as follows:

- **Chapter 1:** Preventive mechanisms to combat illegal speculation.
- **Chapter 2:** Procedural and punitive mechanisms to combat illegal speculation.

Chapter 1: Preventive Mechanisms Against the Crime of Illegal Speculation

Through Law 21/15, the Algerian legislator introduced preventive mechanisms to combat the crime of illegal speculation. The legislator sought to address this crime by all possible means, activating preventive measures aimed at reducing the occurrence of the crime. The law obligates the state to adopt a national strategy to ensure market stability and promote rational consumption. This will be discussed in the first section. Furthermore, the law emphasizes the role of local authorities, the press, and civil society, which will be addressed in the second section.

Section 1: The National Strategy to Combat Illegal Speculation

The state adopts a national strategy as a non-judicial mechanism to confront illegal speculation, relying on preventive measures to prevent the occurrence of this crime. The state has outlined a set of mechanisms based on creating a strategic policy to ensure stability. This strategy is reflected in the following:

Subsection 1: Ensuring Stability and Balance Across Markets

The state prepares a national strategy to ensure balance in the market by working to stabilize prices and limit illegal speculation. The goal is to preserve the purchasing power of citizens and prevent the exploitation of circumstances to unjustifiably raise prices, particularly for essential goods or widely consumed items.

In this regard, the state ensures the availability of essential goods, as stipulated in Article 03 of Law 21/15 related to combating illegal speculation¹

First: The Policy of Indirect Intervention in the Market

The state can influence the equilibrium price by reducing it indirectly through affecting the conditions of both supply and demand. This can be done in two ways²:

- Increasing supply while keeping demand constant by implementing a fiscal policy strategy that stimulates production. This could involve exempting raw materials from customs duties, reducing customs fees on these materials, or lowering production taxes on certain produced goods³
- **Direct Cash Subsidies to Encourage the Production of Certain Agricultural Goods**, such as grains and fruits.

Second:

The Policy of Direct Intervention in the Market

This involves the state determining, through regulation, a fixed price. It compels all economic participants to adopt this price. Those who fail to comply are subject to penalties. The aim behind the state setting and enforcing prices is to attempt to restore market balance and stabilize the prices of goods, services, and materials in response to social needs. It is difficult for private interests to directly address these needs, as they tend to increase profits, placing an undue burden on consumers, who are the sole victims in this complex equation.

To achieve the desired stability of prices, the state, within its national strategy, may resort to price capping. This means establishing an upper limit for consumption prices, as well as maximum profit margins for production, importation, and distribution. Under such regulation, the established price ceiling cannot be exceeded in any circumstances, benefiting consumers by lowering prices⁴.

Subsection 2: Encouraging Rational Consumption

The government takes measures aimed at reducing illegal speculation, particularly by ensuring the availability of essential goods in the markets. It also works to encourage rational consumption and establish vigilance mechanisms to implement appropriate measures to mitigate the effects of scarcity. In this regard, the government takes necessary actions to prevent the spread of rumors that may cause market disruptions and lead to arbitrary price increases. This is outlined in Article 4 of Law 21/15 concerning the fight against illegal speculation. Furthermore, the government works to prevent illegal hoarding or withdrawal of goods to create artificial scarcity and imposes production or sales taxes, or both, to rationalize the production and consumption of certain goods.

Section 2: The Role of Local Authorities and Civil Society in Combating Illegal Speculation

Subsection 1: The Role of Local Authorities in Combating Illegal Speculation

Law 21/15, concerning the fight against illegal speculation, under Articles 5 and 6, specifies the contribution of local authorities in combating this crime. These authorities contribute to addressing and countering this crime through various methods, including:

First: Allocating points of sale for essential goods to low-income individuals, particularly during special events such as religious or national holidays, in anticipation of potential price hikes.

As the basic unit of state organization and local administrative bodies, municipalities are closest to the citizens and have the capacity to control the situation. Article 5 of Law 21/15 mandates that local authorities conduct early monitoring of potential shortages of certain essential and widely consumed goods. This allows the state to avoid the occurrence of shortages and the disruptions they may cause in the market. Local authorities can manage this by dedicating points of sale for essential and widely consumed goods to various segments of society, especially middle-income groups.

Second: Early Monitoring of Potential Scarcity.

Third: Analyzing the local market situation and monitoring prices. Local authorities are obligated to continuously monitor the market and price fluctuations, investigate their causes, and offer recommendations to the relevant authorities. This enables the government to intervene continuously, either directly or indirectly, as previously mentioned, to ensure the availability of goods, eliminate shortages, and maintain market stability and citizens' purchasing power.

Subsection 2: The Contribution of Civil Society and the Media

The role of civil society and the media in combating illegal speculation is crucial. We will address this role as follows:

First: The Contribution of Civil Society in Combating Illegal Speculation

Civil society organizations play an essential role in fostering and raising awareness among citizens about the negative consequences of illegal speculation. These organizations also encourage citizen participation in community development and the fight against crime in all its forms. Some examples of the roles played by civil society institutions include:

1. The Role of the Family:

The family is the fundamental building block of society and serves as the first environment for individual development. The family is responsible for instilling a sense of responsibility, guiding children, and preparing them to face challenges. In this context, it is the family's duty to educate children on responsible consumption practices and raise awareness of the importance of balancing supply and demand, especially during special occasions, holidays, emergency health crises, pandemics, or disasters. This is highlighted in Article 6 of Law 21/15.

2. The Role of Educational Institutions:

Educational institutions play a critical role in shaping behavior and reducing criminal activities. A person who combines knowledge with religious commitment will act properly and develop positive behaviors. It is important to emphasize that a lack of education or the absence of proper schooling negatively impacts individuals, leading to wrongful behavior and providing a motive for criminal acts. In this regard, educational institutions at all levels play an important role in promoting awareness to rationalize consumption and maintain the balance of supply and demand.

3. The Role of Religious Institutions:

Religious institutions play an important role in educating citizens about the dangers of illegal speculation. They emphasize that such practices are unlawful and contrary to the principles of Sharia and Islamic teachings, as they are prohibited by God Almighty.⁵

Second:

The Contribution of the Media in Combating Illegal Speculation

The role of the media is fundamental in combating illegal speculation, which often results from the spread of a culture of irrational consumption. The media plays a key role in raising awareness among citizens

about the importance of rationalizing consumption, which benefits the individual in particular and society at large⁶.

This is achieved through various media techniques aimed at educating the public and reaching a broad audience. These methods include road signage and awareness exhibitions. It has been demonstrated that the media plays a crucial role through its diverse channels by shaping the principles of consumption culture. This includes promoting rational consumption or distinguishing it from excessive or misleading advertising, which is often aimed at achieving material gains, especially through satellite channels..⁷

However, the media has two main effects on society:

1. The Negative Effect of the Media: This is achieved through promoting the purchase of goods without considering rational consumption.

2. The Positive Effect of the Media: This is reflected in focusing on consumer issues, raising awareness, and criticizing the prevailing consumption culture. The media highlights the dangers of this culture on both individuals and society. It also promotes a culture of resisting waste and encouraging rational consumption. This is done through supporting consumer protection associations, civil society organizations, and ensuring continuous coordination between relevant government agencies to protect consumers.⁸

Chapter Two: Procedural and Deterrent Mechanisms for Combating Illegal Speculation

Given the absence of an official definition for the crime of illegal speculation in Algerian Law No. 21-15, we must rely on the general principles outlined in this law to understand the nature of this crime. In light of this, illegal speculation can be considered any activity based on speculation and bets in financial markets without possessing the corresponding financial assets.

The fight against this crime relies on multiple mechanisms, including monitoring suspicious activities, tightening oversight of the financial market, and raising awareness about the dangers of such activities. The main goal of the relevant legislation is to maintain the stability of the financial market and protect investors from the risks arising from illegal speculation.

Although the Algerian legislator has not provided a clear definition of the crime of illegal speculation in the texts, it has elaborated on its types and methods of combating it in the early articles.

Section One: Procedural Rules for Combating the Crime of Illegal Speculation

Algerian legislation prioritizes prevention, as it specifies various preventive measures to combat illegal speculation. These mechanisms and procedures vary between national and local approaches, contributing to a reduction in the spread of this crime.

Subsection One: Mechanisms for Combating the Crime of Illegal Speculation at the Central Level

Law No. 21/15, related to combating illegal speculation, particularly in Article 4, outlines several mechanisms to limit illegal speculation.

In this regard, the state, through competent authorities such as the Ministries of Agriculture and Commerce, is tasked with developing a national strategy to ensure market balance, stabilize prices, and reduce illegal speculation in all its forms. This aims to achieve multiple goals, such as maintaining the national economy and protecting citizens' purchasing power, especially under circumstances that traders could exploit for excessive profits, such as the COVID-19 pandemic. Many traders exploited this situation to engage in illegal speculation over widely consumed essential goods.

To achieve these goals, the state takes necessary measures to curb illegal speculation, including:

1. Ensuring the supply of essential consumer goods in the national market to maintain price stability.
2. Implementing vigilance mechanisms to intervene promptly and take necessary measures to

mitigate the negative effects of scarcity.

3. Encouraging rational consumption of goods, as many citizens recently rushed to buy essential goods, fearing shortages in the national market, which ultimately caused scarcity. This indicates a lack of rational consumption awareness among many citizens.
4. Taking necessary actions to prevent the spread of rumors designed to disrupt the market and raise prices randomly and suddenly.
5. Preventing any unjustified hoarding or withdrawal of goods to create artificial scarcity for the purpose of raising prices. This responsibility specifically falls on qualified inspectors within the trade monitoring departments.

Subsection Two: Mechanisms for Combating the Crime of Illegal Speculation at the Local Level

The task of combating illegal speculation is not only the responsibility of the state at the central level. Local authorities, particularly municipalities, also play a role in this effort by contributing to the fight against illegal speculation. In this regard, local authorities should take several measures, the most important of which are as follows:

1. Designating points of sale for essential or widely consumed goods such as semolina, oil, milk, and vegetables at prices aligned with the purchasing power of low-income individuals, especially during religious holidays and exceptional circumstances when prices tend to spike.
2. Implementing vigilance mechanisms to monitor early signs of scarcity in goods at the local level, particularly with respect to essential and widely consumed goods.
3. Consulting experts to study the local market situation and analyze its data in order to intervene appropriately to maintain market balance and price stability.

Finally, it should be noted that the task of combating illegal speculation is not solely the responsibility of the state at the central level or local authorities. It is a shared responsibility, involving civil society in all its forms, including associations and citizens, as well as the media—whether written, audio, or visual. This collaboration aims to promote consumer culture and encourage rational consumption awareness, ensuring that the principles of supply and demand are upheld, especially during holidays, religious occasions, or in exceptional circumstances such as public health crises, the spread of epidemics, or disasters⁹.

Section Two: Penal Deterrence Mechanisms

The penal deterrence mechanisms for the crime of illegal speculation form an essential part of a country's legal system. These mechanisms aim to reduce such illegal activities and punish those involved in them. They rely on a set of legal policies and procedures, which include increasing penalties for financial crimes and monitoring suspicious financial activities. Consequently, these mechanisms seek to achieve justice and maintain stability in financial markets.

Subsection One: Penal Provisions and Aggravating Circumstances for the Crime of Illegal Speculation

Due to the seriousness of illegal speculation, the legislator has granted the public prosecution the right to initiate criminal proceedings regarding crimes related to it.

It is noteworthy that the legislator has raised the penalty ceiling for the crime of illegal speculation, which was previously punishable under the Penal Code by imprisonment ranging from one month to five years and a fine from 20,000 DZD to 200,000 DZD, as outlined in Article 172. Under the new law No. 21-15 concerning the fight against illegal speculation, the punishment has been increased to imprisonment from three (3) years to ten (10) years and a fine ranging from 1,000,000 DZD to 2,000,000 DZD, as stipulated in Article 12 of this law.

Moreover, Articles 13 to 15 of Law No. 21-15 on combating illegal speculation address the aggravating circumstances for the crime of illegal speculation, which can be summarized as follows:

- The acts are committed with respect to the following goods: cereals and their derivatives, dry legumes, milk, vegetables and fruits, oil, sugar, coffee, fuel, and pharmaceutical products. In this case, the imprisonment is increased from ten (10) years to twenty (20) years, and the fine is raised from 2,000,000 DZD to 5,000,000 DZD.
- The acts are committed during exceptional circumstances, such as the emergence of a health crisis, the outbreak of an epidemic, or a disaster, like the global and Algerian COVID-19 pandemic. During this period, the national market witnessed the hoarding of essential goods and efforts by some irresponsible and unprofessional traders to create economic crises. In such circumstances, the penalty is increased to imprisonment from twenty (20) years to thirty (30) years and a fine ranging from 5,000,000 DZD to 20,000,000 DZD.
- The acts are committed by an organized criminal group, in which case the punishment is life imprisonment.

In our view, the legislator has effectively escalated the penalties based on the nature of the material involved in the crime of illegal speculation and the surrounding circumstances. Whether it was committed during exceptional conditions or by criminal organizations, this approach is, in our opinion, a positive step.

Subsection Two: Administrative Penalties and Preventive Measures to Deter Illegal Speculation

In the context of monitoring the crime of illegal speculation, in addition to the aforementioned criminal penalties, it is sometimes necessary to impose administrative penalties as preventive measures. These are legal means created by the legislator to prevent the occurrence of the crime. The penalty for combating illegal speculation aligns between legal texts and field applications. One of the practical implementations of this within the legal framework for monitoring commercial practices, activities, consumer protection, and combating fraud is found in the ministerial instructions. These instructions were issued before Law No. 21/15 of December 28, 2021, regarding the fight against illegal speculation, or were issued as a prelude to it due to the circumstances the country faced. Among these are:

- Ministerial Instruction No. 274 dated April 5, 2020, which includes the measures taken to ensure market supply and combat the aforementioned speculation.
- Ministerial Instruction dated March 19, 2020, concerning the measures to be taken to counteract speculators.

We will highlight the most significant of these administrative penalties as follows:

First: Temporary Closure of the Premises by the Ministry of Commerce: The temporary closure of a premises refers to the prohibition of continuing its operation when it is used for activities that pose a risk to public order. The legislator grants the relevant administrative authority the right to close premises that violate the law administratively, without awaiting criminal prosecution, by issuing an administrative closure order.

Although the closure of a business or premises affects the violator financially, its main impact is on preventing the individual from utilizing the premises they own or rent to achieve their goals. Administrative closure is considered one of the harshest administrative penalties, as it prevents the business or premises from operating during the closure period, resulting in significant losses. This serves as a deterrent to future violations. The Algerian legislator has classified this as a preventive measure, particularly in the field of commercial activities. It is issued by a provincial decision based on an inspection report from monitoring agents.

Although previous provisions regarding the closure of businesses under commercial practices and activities, as well as the Tax Procedures Law, tied the closure to a specific duration of 30 days to 6 months, what is notable in the Law on Combating Illegal Speculation is Article

17/3. This article stipulates that, in the event of a conviction, the judicial authority may order the closure of the premises used to commit the crime and prohibit its use for one (1) year, without prejudice to the rights of bona fide third parties. This reflects the severity of the crime, its significant impact on individuals and society, and its negative effects on the national economy.

Second: Authorization for Immediate Sale by the Sales Officer of Seized Food Products

By virtue of a provincial decision, the sales officer is authorized to immediately sell seized food products. This is in accordance with Ministerial Instruction No. 724, dated April 5, 2020, particularly in its third paragraph, which states that seized products are to be placed under the authority of the governors for direction and management. Article 43 of Law No. 04-02, dated June 23, 2004, which sets the rules for commercial practices, specifies that when the goods seized are perishable, or when the market situation or specific circumstances require it, the relevant governor may decide, based on a proposal from the local director of commerce, to proceed with immediate sale by auction without prior administrative procedures. An example of this is Provincial Decision No. 2021/1290, dated November 17, 2021, issued by the Governor of Adrar, which authorized the immediate sale of seized food products with controlled prices and defined profit margins, as part of the efforts to combat fraudulent trade. Another example is Provincial Decision No. 1330, dated December 1, 2021, which followed a proposal from the local director of commerce and was based on the inventory report prepared by the staff responsible for drafting the report. This decision authorized the sales officer in Adrar to immediately sell the seized food products.

Third: Authorization for Free Transfer of Seized Perishable Goods to Social and Humanitarian Organizations

This authorization is granted by a provincial decision based on a proposal from the local director of commerce, allowing for the free transfer of perishable seized goods to social and humanitarian organizations. These include the Algerian Red Crescent, the Directorate of Social Activities, childhood homes, and institutions for people with disabilities. This is as stated in Article 43 of the aforementioned Law No. 04-02. For example, Provincial Decision dated April 23, 2020, authorized the free transfer (for special circumstances) of seized food products to the delegated directorate of social activities in Bordj Badji Mokhtar, to be distributed to needy families.

The objective of these precautionary measures is as follows:

- A. To address illegal speculation crimes, thus protecting individuals, society, and the national economy.
- B. To combat the creation of artificial scarcity, particularly in essential goods with high consumption rates, which necessarily leads to the spread of illegal speculation crimes
- C. To safeguard the purchasing power of citizens, especially those with limited incomes and the impoverished¹⁰.

Conclusion:

Through our study of the issue related to combating illegal speculation, it is evident that Algerian lawmakers are keen on ensuring legal protection for both the national economy and consumers. This protection is manifested in safeguarding consumers from various forms of illegal speculation.

This crime has seen a significant increase with the worsening of the COVID-19 pandemic. Reflecting this concern, Law No. 21-15 was issued, focusing on the fight against illegal speculation. Through this law, Algerian lawmakers aim to strengthen legal protection for commercial transactions that rely on respecting the rules of supply and demand, with the goal of serving society, protecting the purchasing power of citizens, stabilizing the market, and safeguarding the national economy.

Based on the study conducted, we propose the following recommendations:

- Activating administrative oversight to ensure the effective implementation of mechanisms to

combat illegal speculation at both the central and local levels.

- Establishing storage facilities and refrigeration centers for consumer goods to maintain market balance.
- Creating a national digital agency to track warehouses and products in the national market, monitoring prices daily to stabilize market conditions.
- Calling on the Ministries of Agriculture and Commerce for continuous coordination and mutual cooperation to ensure the continued supply of essential goods to the national market.
- Strengthening the culture of reporting speculators to assist relevant authorities in their efforts to combat illegal speculation.

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¹ Law No. 21-15, signed on December 28, 2021, published in the Official Gazette No. 99, dated December 29, 2021, concerning the fight against illegal speculation.

² Tumi Abdel Razzaq, *Mechanisms for Combating Illegal Speculation in Light of Law No. 21-15*, Journal of Legal and Social Sciences, Zian Ashour University, Djelfa, 2022, p. 107

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