

International and national mechanisms to combat economic crime

الآليات الدولية والوطنية لمكافحة الجريمة الاقتصادية

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Abstract:

Economic crimes mean every act or omission stipulated in the Penal Code, the law regulating economic crimes, and other laws related to economic field, as dictated by the rules of economic criminalization adopted by each country.

As economic crimes bring negative consequences to the state internally and internationally, this led to a positive step, which is the cooperation of subjects of international law, by legal or judicial way, in order to limit this type of crime, which harms the economy and spreads corruption of all kinds, including bribery, money laundering, drug crimes, fraud, customs crimes, cross-border crimes...etc.

International cooperation is also highlighted through the United Nations agencies and international and regional institutions that are working hardly to combat these crimes, especially in the field of extradition, seizing funds resulting from economic crimes, has also emerged the effective role of national and regional internal bodies in combating economic crime through legislation that criminalizes.

Keywords: economic crime - international cooperation - public money - economic criminalization - Interpol

ملخص:

يقصد بالجرائم الاقتصادية كل فعل أو امتناع عن فعلتم النص عليه في قانون العقوبات والقانون المنظم للجرائم الاقتصادية والقوانين الأخرى ذات الصلة بالحياة الاقتصادية حسب ما تمليه قواعد التجريم الاقتصادي التي تتبناها كل دولة.

ونظرا لكون أن الجرائم الاقتصادية تعود بالنتائج السلبية على الدولة داخليا ودوليا أدى ذلك إلى خطوة إيجابية وهي تعاون أشخاص القانون الدولي العام قانونا وقضاء من أجل الحد من هذا النوع من الجرائم، الذي يضر بالاقتصاد وينشر الفساد بكافة أنواعه من رشوة، تبييض الأموال، جرائم المخدرات، نصب، احتيال، الجرائم الجمركية، الجرائم العابرة للحدود...إلخ.

كما يبرز التعاون الدولي من خلال أجهزة الأمم المتحدة والمؤسسات الدولية والإقليمية التي تعمل جاهدة على مكافحة هذه الجريمة، لاسيما في مجال تسليم المجرمين، ضبط الأموال الناجمة عن الجريمة الاقتصادية، وبرز أيضا الدور الفعال للهيئات الداخلية الوطنية والإقليمية في محاربة الجريمة الاقتصادية من خلال التشريعات التي تجرمها.
الكلمات المفتاحية: الجريمة الاقتصادية-التعاون الدولي-المال العام-التجريم الاقتصادي-الانتربول

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Introduction:

Economic crimes represent one of the most significant threats facing both the international and national communities due to their adverse effects on national policy and economic development. These crimes undermine the integrity of international institutions and have serious repercussions for society as a whole. They encompass various forms, including assaults on public funds, money laundering, corruption, drug-related offenses, and violations of customs and tax regulations.

The prevalence of economic crime has escalated in recent years, leading to severe consequences that impact both national and international communities. This situation has necessitated coordinated efforts at both levels to curb the expansion of these crimes, as they bring about detrimental effects on political, social, and economic stability.

This raises critical questions regarding the concept and definition of economic crimes. What mechanisms are available for their reduction and combat? Given their capacity to disrupt stability, we must inquire into the strategies implemented to combat economic crime. To explore these questions thoroughly, this study adopts a descriptive and analytical approach.

The study explores both international and national frameworks for combating economic crimes, analyzing the role of institutions like INTERPOL and regional collaborations such as European police cooperation. Additionally, domestic efforts, including national legislation aimed at protecting public funds and fostering economic development, are evaluated. The conclusion offers insights and recommendations to strengthen both international and national mechanisms to better mitigate economic crimes for that the topic will be divided as follow:

1. **Definition of economic crimes**
2. **International Mechanisms to Combat Economic Crimes**
3. **National Mechanisms to Combat Economic Crime**

1. Definition of economic crimes:

Economic crime can be defined as behavior exhibited by natural or legal persons that poses a threat and inflicts harm on the social or economic policy of the state. It includes any act or omission that contravenes established regulations designed to govern or protect the state's economic policy. Specifically, economic crimes can be characterized as acts that violate laws or regulations protecting the state's economic interests and its citizens.

Furthermore, economic crimes encompass any violation of provisions related to economic crimes stipulated by law, subject to criminalization by national legislation or specialized laws. Through the aforementioned definitions, the distinctive characteristics of economic crime become apparent, summarized in two essential points:

- ✓ **Objective Nature of Economic Crimes:** Economic crimes are categorized as objective crimes within the legal framework. Unlike other crimes that rely on traditional elements—namely, the legal, material, and moral aspects—economic crimes prioritize the protection of the state's economy and public funds over individual freedoms. This shift emphasizes the need to safeguard national interests and economic policies.
- ✓ **Artificial Construct:** Economic crimes are deemed artificial, as they are legislated specifically to protect the state's economy.

Economic crime poses a real threat to economic and financial stability. Economic crime leads to a decline in social and economic indicators and even investment and economic growth, resulting in the migration of money and high unemployment rates.

- Money laundering is increasing as a global phenomenon

- Economic crimes represent extreme seriousness and extensive complexity, which requires the provision of very heavy and expensive investigation methods at the level of specialized poles, and this is what made them rely on them.

- The desire of the Algerian legislator to establish judicial bodies with expanded jurisdiction for economic crime and grant them regional jurisdiction.

Given the serious implications of economic crimes, their punitive measures are often stringent, and judicial authorities frequently impose severe penalties, often disregarding mitigating circumstances due to the ongoing rise in these crimes. This highlights the need for a robust international response, emphasizing the importance of enhanced cooperation through international conferences, treaties, and agreements.

2. International Mechanisms to Combat Economic Crimes

The international community has developed various legal approaches, in accordance with the principles of public international law, to combat organized crime. This includes cooperation through international and regional organizations, as well as international police and judicial collaboration, all of which play a crucial role in addressing economic crimes. The following sections will elaborate on these mechanisms:

2.1. The International Criminal Police Organization (INTERPOL)

INTERPOL, established in 1923 in Vienna and known as the International Police and Criminal Commission since 1956, has its headquarters in Lyon, France, and operates multiple branch offices in member states. Its primary role, as outlined in Article Two of its charter, involves the exchange of information and fostering international cooperation against crime. This includes promoting extensive mutual assistance among criminal police authorities, adhering to the legal frameworks of various countries¹. Furthermore, INTERPOL aims to create effective systems for preventing crimes as stated in Article Three of its Charter, particularly those of a political, military, religious, or ethnic nature. It also focuses on enhancing cooperation among law enforcement agencies across different countries and fields, particularly in areas like information sharing, investigation, legal follow-up, and unifying political will to effectively confront organized crime.

Additionally, a specialized team was established within INTERPOL's General Secretariat in 1995, dedicated to combating organized crime and money laundering and monitoring suspects, whether individuals or corporate entities². In 1999, INTERPOL adopted a resolution advocating for the fight against money laundering, urging member states to implement internal legislation that criminalizes the participation of individuals in laundering proceeds derived from serious criminal activities. The Sixteenth International Conference on Penal Law held in Budapest in 1999 identified key characteristics that must define such crimes, emphasizing their goal of power acquisition and profit generation through highly organized and secretive operations³.

2.2 International and Regional Organizations

Among the prominent international organizations combating corruption and various forms of crime, the United Nations (UN) and its affiliated agencies stand out. The Economic and Social Council, which houses the Crime Prevention and Criminal Justice Committee, formulates resolutions addressing economic crimes, discussing their causes, types, manifestations⁴, and potential solutions at international conferences.

The United Nations Development Programme (UNDP) is involved in implementing crime prevention projects and promoting criminal justice. Furthermore, the UN Regional Treaty on Combating Crime and the Treatment of Offenders provides technical training and research on criminology and criminal law development, alongside training for judges and public prosecution members. Notably, the Center for Social and Humanitarian Affairs at “FINA” contributes significantly to devising crime prevention programs and strategies⁵.

The Organization for Economic Cooperation and Development (OECD) has prioritized issues of bribery and corruption, playing a pivotal role in organizing global and regional intergovernmental efforts to establish legal mechanisms for combating corruption and its manifestations. On a regional scale, a protocol was created in 1995 under the Convention for the Protection of the Financial Interests of the European Communities, obligating member states to criminalize corruption involving European officials. Italy also ratified an agreement addressing internal corruption within the European Union, alongside an agreement among American states focused on combating corruption⁶.

Countries demonstrate their commitment to combating economic crime through various international and regional agreements aimed at organized crime. Some of the most significant agreements include:

2.3. European Police Cooperation

European countries have united their efforts in combating economic crime through international agreements, notably the Schengen Agreement and the Maastricht Agreement. The Schengen Agreement, established in 1985 among France, Belgium, Luxembourg, the Netherlands, and Germany, aimed to progressively eliminate border controls between member states, fostering freedom of movement and enhancing cooperation to maintain security and public order⁷. This agreement introduced new measures to address security challenges, including monitoring cross-border suspects and prosecuting transnational criminals.

The Maastricht Convention, concluded in 1992 and effective from 1993, established controls over transit and political immigration from developing countries, addressing residency conditions, and illegal assemblies, while facilitating judicial, police, and customs cooperation to combat terrorism and drug trafficking.

This agreement also led to the formation of EUROPOL in 1995, a body designed to facilitate information exchange among member states regarding serious crimes and organized criminal activities. The European Union proposed extending EUROPOL's jurisdiction to include cooperation with developing countries, aiming to unify efforts in combating organized crime and enhancing collaboration with international organizations like the World Trade Organization⁸.

2.4. International Police Cooperation

The primary goal of international police cooperation is to establish an international police force empowered to conduct investigations across different nations, with the authority to inspect and apprehend criminals. To facilitate this cooperation, international agreements have led to the creation of specialized offices focused on studying criminal methodologies and gathering intelligence on criminal activities. These agreements emphasize the importance of facilitating and organizing direct communication between police agencies in various countries⁹.

2.5. International Judicial Cooperation

International judicial cooperation entails the solidarity and coordination among judicial authorities of various countries to combat economic crime. This cooperation aims to unify standards, streamline follow-up, and trial procedures, ensuring that perpetrators face justice without evasion. Key forms of judicial cooperation include:

- Judicial, Technical, and Criminal Procedural Assistance
- Extradition of Fugitives
- Confiscation of Assets
- Judicial Delegations

Among these, the most significant are:

A. Extradition of Criminals

Criminals are extradited based on agreements between countries, whereby one country surrenders an individual residing on its territory to another country for sentencing or trial in accordance with its laws¹⁰, without specifying economic crimes in particular.

B. Confiscation of Funds Obtained from Crime

This involves the seizure of assets derived from criminal activities until they can be returned to their rightful owners or allocated to the state treasury for compensating affected parties¹¹.

C. Mutual Judicial Assistance

Judicial assistance encompasses all judicial measures aimed at facilitating procedures in a country concerning a crime¹². The United Nations Convention against Crime emphasizes the necessity of exchanging judicial assistance between countries for crimes outlined in the Convention, particularly those related to investigations, trials, and actions that facilitate judicial processes to suppress criminal behavior linked to economic crime.

3. National Mechanisms to Combat Economic Crime

Like many countries, the Algerian legislator has developed a national strategy to shield the economy from the threat of economic crimes. This involves establishing specialized bodies or agencies, in addition to other judicial entities referred to as specialized poles.

3.1. National-Level Mechanisms

Several bodies have been established at the national level to combat and prevent corruption in all its forms:

A. The Supreme Authority for Transparency, Prevention, and Combating Corruption

The establishment of this Authority is not coincidental but an international commitment following Algeria's ratification of the International Convention against Corruption. It embodies Algeria's national strategy to combat this phenomenon, as the Convention mandates each state party to create a body responsible for preventing corruption (Article 6)¹³. The Constitution¹⁴ of Algeria also stipulates the Authority's independence and responsibilities, including:

- Developing a national strategy for transparency and anti-corruption.
- Collecting and disseminating relevant information.
- Notifying the Accounting Council and competent judicial authorities of any observed violations.
- Strengthening civil society's capabilities in combating corruption.
- Promoting a culture of transparency and good governance.

The organization of the Supreme Authority is determined by Law 22/08¹⁵, which outlines its mission to enhance integrity and transparency in public affairs. Its powers include:

1. Collecting and publishing information to assist in detecting corruption.
2. Evaluating legal tools related to anti-corruption and proposing improvements.
3. Receiving and processing property declarations.
4. Coordinating activities related to combating corruption.
5. Engaging civil society in transparency initiatives.
6. Collaborating with international bodies on anti-corruption efforts.
7. Submitting annual activity reports to the President of the Republic.

According to Article 5/1 of the same law, the Authority also conducts financial and administrative investigations into illicit enrichment of public employees.

B. The Central Office for the Suppression of Corruption¹⁶

Article 2 of Presidential Decree 23/69¹⁷ defines this Office as a central operational service within the judicial police, tasked with investigating crimes related to corruption. It comprises:

- Judicial police officers from the Ministry of National Defence and the Ministry of the Interior.
- Public agents with expertise in anti-corruption efforts.

The Office's powers, as stated in Article 5, include:

- Collecting and centralizing information on corruption.
- Conducting investigations and referring cases to the competent judicial authority.
- Promoting cooperation and information exchange with national and international bodies.
- Proposing measures to enhance the national anti-corruption system.

C. Financial Inquiry Processing Cell

According to Article 2 of Executive Decree No. 22/36¹⁸, this independent authority, under the Finance Minister's jurisdiction, is responsible for combating money laundering and terrorist financing. It consists of a council appointed by presidential decree, featuring experts in judicial, financial, and security fields¹⁹. The Cell's tasks include²⁰:

- Receiving and addressing reports of suspicious money laundering activities.
- Collaborating with security and judicial authorities on identified cases²¹.
- Proposing legislative measures related to anti-money laundering and financing of terrorism²².

3.2. Regional Judicial Mechanisms

Recognizing the seriousness of economic crimes, the Algerian legislator has established specialized judicial bodies for these specific crimes²³, referred to as “specialized jurisdictions” as per Executive Decree No. 06/348²⁴. The following courts have been designated:

A. Sidi M’hamed Court: Located in Algiers, its jurisdiction extends over several judicial councils, including Algiers, Chlef, Laghouat, Blida, Bouira, Tizi Ouzou, Djelfa, Medea, M’Sila, Boumerdes, Tipaza, and Ain Defla.

B. Court of Constantine: Situated in Constantine, it covers the judicial councils of Constantine, Oum El Bouaghi, Batna, Bejaia, Biskra, Tebessa, Jijel, Setif, Skikda, Annaba, Guelma, Bordj Bou Arreridj, El Tarf, El Oued, Khenchela, Souk Ahras, and Mila.

C. Ouargla Court: Based in Ouargla, its jurisdiction includes Ouargla, Illizi, Adrar, Tamanrasset, Tindouf, and Ghardaia.

D. Oran Court: Located in Oran, it covers Oran and several surrounding judicial councils, including Basharr, Tlemcen, Tiaret, Saida, Sidi Bel Abbes, Mostaganem, Relizane, Mascara, El Bayadh, Tissemsilt, Naama, and Ain Temouchent.

Conclusion:

Political and social security have become fundamental requirements for every country, achievable only through economic security. Recent developments have given rise to a new form of crime that threatens both the integrity of the state and society—economic crimes. These crimes are among the most serious threats facing the international community, undermining state sovereignty over its resources and economy. Furthermore, economic crime destabilizes social and economic structures, adversely affecting investment levels, eroding confidence in financial systems, and exacerbating poverty and inequality. The consequences of such crimes result in significant economic costs that deplete public resources and hinder economic growth.

In response to these challenges, countries must establish robust legal frameworks and develop effective mechanisms and strategies to combat economic crimes. Algeria, like many other nations, has taken steps to tackle economic crime by enacting relevant legislation and establishing sovereign bodies to oversee institutions impacted by corruption. The country has also engaged with various global and regional agreements aimed at combating these offenses.

Results of the Study:

- Economic crime poses a significant threat to financial and economic stability, leading to declines in social and economic indicators, decreased investment, and increased unemployment rates.
- The phenomenon of money laundering is on the rise globally.
- Economic crimes exhibit extreme seriousness and complexity, necessitating the use of extensive and costly investigation methods at specialized levels.
- There is a clear intention among Algerian legislators to establish judicial bodies with expanded and regional jurisdictions to address economic crimes effectively.

Recommendations:

- Governments, institutions, and communities must prepare to collaborate and take decisive action against economic crimes to ensure economic and social justice for all. Combating economic crime represents a major challenge for governments and regulatory bodies, which must enhance laws and regulations pertaining to these offenses.
- Strengthening oversight mechanisms is crucial; government and banking institutions must implement stringent measures against fraud and money laundering while enforcing strict penalties on offenders.
- It is essential to intensify reporting of suspicious activities at both the international and national levels and to cooperate with relevant authorities to detect and address these crimes.
- There should be a concerted effort towards effective treatment of economic crimes by establishing a committee of specialized experts to assess the causes—economic, social, financial, and political—of the escalation and complexity of these offenses, thereby identifying the most successful strategies for mitigating their impact.
- Finally, tightening enforcement procedures and imposing stringent penalties on perpetrators of economic crimes is necessary to garner public and private support for combating these threats.

¹ علاء الدين شحاتة، التعاون الدولي لمكافحة الجريمة، إيتراك النشر والتوزيع، مصر، ط 1، س ط 2000، ص 103.
² محمد سامي الشوى، الجريمة المنظمة ومداها على الأنظمة العقابية، دار النهضة العربية، مصر، س ط 2004، ص 209.

³ علاء الدين شحاتة، المرجع السابق، ص 115.

⁴ محمد جهاد البريزات، الجريمة المنظمة، دار الثقافة للنشر والتوزيع، ط 1، س ط 2004، ص 170.

⁵ يوسف داود كوركيس، الجريمة المنظمة، دار الثقافة، الأردن، ط 2001، ص 114.

⁶ سيد شوري، مواجهة الجرائم الاقتصادية، ص 135.

⁷ محمد سامي الشوى، المرجع السابق، ص 212.

⁸ عبد المنعم سليمان، الجوانب الإشكالية في النظام القانوني لتسليم المجرمين، دراسة مقارنة، دار الجامعة الجديدة، مصر، ط 2007، ص 95.

⁹ نبيل بنخدير، الجريمة الاقتصادية وجهود مكافحتها، مجلة معالم للدراسات القانونية والسياسية، المركز الجامعي علي كافي، تندوف، الجزائر، المجلد 05، العدد 1، سنة 2021، ص 21.

¹⁰ راضية مزيان، الآليات الدولية لمكافحة الجريمة الاقتصادية، الملتقى الوطني الافتراضي حول: الجرائم الاقتصادية وتأثيرها على الاقتصاد الوطني يوم: 2021/12/09، ص 190. الموقع:

<http://depot.umc.edu.dz/handle/123456789/14180>

¹¹ نبيل بنخدير، المرجع السابق، ص 22.

¹² منتصر سعيد حمودة، الإرهاب الدولي، جوانبه القانونية، وسائل مكافحته في القانون الدولي العام والفقه الإسلامي، دار الجامعة الجديدة، الإسكندرية، مصر، س ط 2006، ص 359.

¹³ United Nations Convention against Corruption, ratified by New York General Assembly No. 25_10 of October 20, 2012.

¹⁴ The constitutional amendment issued by Presidential Decree No. 20/442 issued in the Official Gazette on 30/12/2020 No. 82

¹⁵ Law No. 22/08 of 05/05/2022 defining the organization, composition and competence of the High Authority for Transparency, Prevention and Combating Corruption, published in the Official Gazette No. 32 of 14/05/2022.

¹⁶ The Central Office for the Suppression of Corruption came as a complement to the Law on the Prevention and Combating of Corruption issued in accordance with Law 06/01 of 20/02/2006 in the Official Gazette No. 14 issued on 08/03/2006 and amended and supplemented by Order No. 10/05 issued on 26/08/2010 published in the Official Gazette No. 50 issued on 01/09/2010 and amended and supplemented by Law No. 11/15 issued on 02/08/2011 issued in the Official Gazette No. 44 issued on 10/08/2011

¹⁷ Presidential Decree No. 23/69 issued on 7/2/2023 published in the Official Gazette on 12/2/2023 Issue 09 amending and supplementing Presidential Decree No. 14/209 of 23/07/2014 issued in the

Official Gazette No. 46 issued on 31/07/2014 and amending and supplementing Presidential Decree No. 11/426 issued on 08/12/2011 issued in the Official Gazette No. 68 issued on 14/12/2011.

¹⁸Executive Decree No. 22/36 of 04/01/2022 issued in the Official Gazette No. 03 on 09/01/2022.

¹⁹Article 11/1 Executive Decree No. 22/36.

²⁰The head of the cell is the same as the president of the Council according to article 12 of Executive Decree No. 22/36.

²¹The head of the cell is the same as the president of the Council according to article 12 of Executive Decree No. 22/36.

²²Article 11/2 of Executive Decree No. 22/36.

²³These are drug crimes, transnational organized crime, crimes against automated data processing systems, money laundering crimes, terrorism, exchange crimes, and corruption crimes.

²⁴Executive Decree No. 06/348 extending the local jurisdiction of certain courts, prosecutors and investigating judges issued on 05/10/2006 in the Official Gazette dated 08/10/2006 No. 63.

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