

The Legal Framework of Financial and Economic Crime and Its Effects

الإطار القانوني للجريمة المالية والاقتصادية وآثارها

Taib Radia

University of Algiers 1, Faculty of Law, Saïd Hamdine

taiebradia52@gmail.com

Received: 16/09/2025

Accepted: 11/01/2026

Published:23/01/2026

Abstract:

This study examines the legal framework governing financial and economic crimes and analyzes their effects on national and international economic stability. Financial and economic crimes, including fraud, embezzlement, money laundering, and corruption, pose significant threats to economic development and public trust. The research explores the role of national legislation and international conventions in preventing, detecting, and prosecuting such crimes. It also highlights the challenges faced by law enforcement and regulatory authorities in implementing these legal measures effectively. Furthermore, the study evaluates the economic, social, and political consequences of financial and economic crimes, emphasizing the need for robust legal systems, transparency, and international cooperation. The findings indicate that strengthening legal frameworks and improving enforcement mechanisms can significantly mitigate the adverse effects of these crimes on economies and societies.

Keywords: Financial crime, Economic crime, Legal framework, Corruption, Money laundering, Economic stability.

ملخص:

تتناول هذه الدراسة الإطار القانوني للجريمة المالية والاقتصادية وتحلل آثارها على الاستقرار الاقتصادي الوطني والدولي. تمثل الجرائم المالية والاقتصادية، مثل الاحتيال، والاختلاس، وغسيل الأموال، والفساد، تهديدًا كبيرًا للتنمية الاقتصادية والثقة العامة. تستعرض الدراسة دور التشريعات الوطنية والاتفاقيات الدولية في الوقاية والكشف ومقاضاة هذه الجرائم، كما تبرز التحديات التي تواجه الجهات الرقابية والسلطات القانونية في تنفيذ هذه القوانين بفعالية. بالإضافة إلى ذلك، تقيم الدراسة العواقب الاقتصادية والاجتماعية والسياسية للجرائم المالية والاقتصادية، مؤكدةً على ضرورة وجود أنظمة قانونية قوية، والشفافية، والتعاون الدولي. وتشير النتائج إلى أن تعزيز الأطر القانونية وتحسين آليات التنفيذ يمكن أن يقلل بشكل كبير من التأثيرات السلبية لهذه الجرائم على الاقتصاد والمجتمع.

كلمات مفتاحية: الجريمة المالية، الجريمة الاقتصادية، الإطار القانوني، الفساد، غسيل الأموال، الاستقرار الاقتصادي

Corresponding author: Taib Radia

Introduction:

The economy is considered one of the fundamental pillars upon which the state is based, and this pillar may be affected by a set of crimes that may negatively influence it.

Referring back to economic crimes, we find that they are as old as human existence itself, as they were recognized by various ancient legislations such as the Code of Hammurabi, Roman, and Greek laws, as well as Islamic Sharia.

In our current era, especially after the transformations witnessed globally and the sweeping of globalization into all fields, especially the economic and financial fields, along with a major scientific leap and the significant development in information and communication technologies — all this has led to the rise of economic and financial crime.

The world still struggles to combat this phenomenon, particularly as it continues to worsen across all sectors. This is what led us in this modest research to identify the most important international and national concepts of economic and financial crime, and to shed light on the impact of this type of crime at both the national and international levels. To answer this problem, we proposed the following outline:

- First topic: The nature of economic and financial crime
- Second topic: The causes and effects of economic and financial crime

Based on this outline, the topic will be addressed using the analytical method, through the presentation and analysis of various legal texts and doctrinal definitions, given the great importance of this subject in light of the need to keep pace with ongoing global economic developments.

Chapter One: The Nature of Economic and Financial Crime

It is difficult to establish a precise concept of economic and financial crime. Despite the increasing recent interest in international economic and financial crime, reaching a consensus on the definition of this phenomenon remains unlikely, whether on the economic level or within the field of criminology.

Section One: Definition of Economic Crime

Crime is defined as an act or omission that causes harm to others and is punishable by law. With the evolution of social conditions and the worsening of problems and crises, a new term emerged: “economic crime,” as economic life affects people’s behavior and activities either positively or negatively. For this reason, it became necessary for states to impose laws to protect their economies in line with modern technological developments.

The definitions of “economy” vary: “Marshall” defined it as "the activity of individuals and society to obtain resources necessary for general welfare," while "Raymond Barre" defined it as "the means by which individuals and societies meet multiple needs using limited resources."

Definitions of economic crime¹ also vary. One of the most notable is the definition by the French Court of Cassation in 1949: “Every activity or act criminalized by economic law.” Moreover, a law was issued on June 30, 1945, in France entitled “Regulation of

¹ Mohamed Khemim, *The Special Nature of Economic Crime in Algerian Legislation*, Master's thesis in Criminal Law and Criminal Sciences, University of Algiers, 2010–2011, p. 13.

Crimes Affecting Economic Legislation and Measures to Address Them,” which included a definition of economic crime. The French Institute of Advanced Studies in Internal Security also conducted a study aiming to establish a unified concept for transnational economic and financial offenses.

These include, but are not limited to: money laundering, financial fraud, tax fraud, customs fraud, swindling, corruption, cybercrime, stock market crimes, fraudulent bankruptcy, unfair competition, and breach of trust.²

In the Netherlands, a specific law on economic crimes was issued in 1950. In the United States, the well-known Sherman Act was passed in 1980, which criminalized any contract or agreement intended to create a monopoly, economic bloc, or restrict trade between states or with foreign countries.

As for Arab countries, some have addressed this type of crime in specific laws on economic crimes, including Algeria, Egypt, Iraq, Syria, Libya, and Jordan. The Arab International Organization for Social Defense defined it in its first session in Cairo, 1966, as: “Any act or omission committed in violation of economic legislation, which is criminalized either under the penal code or in special laws related to economic development plans issued by the competent authority for the benefit of the people.”

The Syrian law, in Article 03 of the Economic Penal Code, defined economic crime as: “Any act that may harm public funds and the processes of production, distribution, circulation, and consumption of goods and services, and is punishable under laws aimed at protecting public funds, the national economy, and economic policy.”

Accordingly, jurists defined economic crime as “a harmful act or omission with an external manifestation that disrupts the economic and developmental system and its economic policy objectives. This is legally prohibited and punishable by law, committed by a person who is legally responsible.” Therefore, an economic crime is any act or omission that affects the integrity of the state’s economy³.

We can conclude that the elements of economic crime are:

- Criminal activity: performing a harmful material act or refraining from doing a required material act.
- Harm: it must have an external manifestation, i.e., an indication of a breach of the economic system and state development.
- The criminal activity (material act or omission) must be legally prohibited.

² Mokhtar Chebili, *International Economic and Financial Crime and Means of Combating It*, Houma Publishing, Algeria, undated, p. 18.

³ Abdelwahab Badra, *Economic Security Crimes*, First Edition, 1998, (no publisher), p. 18

- The commission of the criminal activity must result in the imposition of a penalty as prescribed by law.⁴
- The perpetrator must have full will and legal capacity to bear criminal responsibility.

In Algeria, the legislator addressed the concept of economic crime for the first time in Ordinance 66-180 dated June 21, 1966, under the title: "Establishment of Special Judicial Councils to Suppress Economic and Financial Crime." Chapter One of this ordinance defined the crimes classified as economic crimes.

The Algerian legislator defined economic crime in Article One of Ordinance 66-180 as follows:

“This ordinance aims to suppress crimes that affect national wealth, the public treasury, and the national economy, and which are committed by employees and agents of all ranks affiliated with the state, public institutions, local communities, public bodies, national companies, or mixed-economy companies, or any private law institution managing a public service or public funds.”

At that time, the Algerian legislator defined economic crime in accordance with the socialist orientation adopted by the state. It was defined as any crime likely to harm the national wealth, the public treasury, or the national economy. However, this definition was general and did not specify the types or nature of economic crimes.

To address this shortcoming, the ordinance later clarified the types of economic crimes that may affect national wealth, the public treasury, or the national economy⁵, as stated in Articles 3, 4, and 5 of Ordinance 66-180.

This ordinance also listed the individuals who could commit economic crimes. Any act that does not affect the matters mentioned in the article is not considered an economic crime under the concept of *argumentum e contrario* from Ordinance 66-180.⁶

It is noted that Ordinance 66-180 on special councils to suppress economic crimes came as a result of the exceptional and serious phase the country went through during the 1960s and early 1990s.

These councils continued to operate until the amendment of the Code of Criminal Procedure by Ordinance 75-46 dated June 17, 1975⁷, which abolished the special councils for the suppression of economic crimes and replaced them with economic divisions in criminal courts. These were tasked with crimes listed in Articles 119, 120, 158, 161, 197,

⁴ Anwar Mohamed Sidqi Al-Musaadah, *Criminal Responsibility for Economic Crimes: A Comparative Foundational Analytical Study in Jordanian, Syrian, Lebanese, Egyptian, French and Other Legislations*, Dar Al-Thaqafa Publishing and Distribution, Amman, 2007, p. 96.

⁵ Mohamed Khemim, previous reference, p. 14.

⁶ Ordinance 66–180 dated 21/06/1966 concerning the establishment of special judicial councils for the suppression of economic and financial crimes, Official Gazette No. 54, issued on 24/06/1966

⁷ Ordinance 75–46 dated June 17, 1975, amending and supplementing the Code of Criminal Procedure, Official Gazette No. 53, issued on July 4, 1975

198, 214, 216, 382 bis, 401, 406, 411, 418, 419, 422, 423, 424, 426, and 427 of the Penal Code.

The economic divisions in criminal courts continued to operate until they were abolished under Law No. 90-24 dated August 18, 1990⁸, which amended and supplemented the Code of Criminal Procedure.

Due to the seriousness of economic and financial crimes, the Algerian legislator, in the 2004 amendment to the Code of Criminal Procedure, expanded territorial jurisdiction by establishing courts with extended territorial jurisdiction through Articles 37 and 40.

This was implemented through Executive Decree No. 06-384, concerning the extension of local jurisdiction of certain courts and public prosecutors, as amended by Executive Decree No. 16-267, which provided for the establishment of criminal hubs.

Later, Organic Law No. 05-11 on the judicial organization allowed for the creation of specialized criminal hubs with extended territorial jurisdiction in courts, explicitly organized by the amendment of the Code of Criminal Procedure under Ordinance 20-04⁹ in Chapter Four titled “Economic and Financial Criminal Hub,” a specialized judicial body for serious and complex economic and financial crimes.

The legislator established its headquarters in the Court of the Council in Algiers, with jurisdiction covering the entire national territory.

Section Two: Characteristics of Economic Crime

Economic crime is considered one of the greatest challenges facing countries today, as the economic sphere has witnessed the emergence of crimes that were not known before, and which have spread widely. Economic crimes have characteristics that distinguish them from other ordinary crimes. Therefore, most legislations, whether international or national, have taken the initiative to establish laws and regulations to combat this type of crime. This has led us to enumerate the most important characteristics related to economic crime, which are as follows:

- Economic crime differs from other crimes in that the goal of committing it is to achieve profit and quick wealth through illegal means. Economic crime relies on precise planning based on accurate calculations and economic forecasts.¹⁰
- Economic crimes are committed by both natural and legal persons. Due to the rapid changes in economic and social conditions, they must be flexible, as what is considered a crime at one time may not be at another.¹¹

⁸ Law No. 90–24 dated August 18, 1990, amending and supplementing the Code of Criminal Procedure, Official Gazette No. 36, issued on August 22, 1990.

⁹ Ordinance No. 20–04 dated August 20, 2020, amending and supplementing Ordinance No. 66–155 dated June 8, 1966, which includes the Code of Criminal Procedure, Official Gazette No. 51, issued on August 21, 2020.

¹⁰ Lamnour Ousrir, University of Boumerdes, and Boudraa Saliha, Hassiba Ben Bouali University, intervention entitled *Combating Economic Crimes in Arab Countries*, Fifth Scientific Forum on the Virtual Economy and Its Impact on International Economies, dated 02/02/2017.

- Economic crime has a dual nature, as the criminal offense may also constitute an administrative violation if the act is committed by a public employee and forms one of the economic crimes¹².
- Economic crimes are characterized by severity, which may reach the death penalty in some centrally planned economies for certain crimes when committed intentionally or when they cause serious harm.¹³
- Laws relating to economic crimes are subject to rapid change due to their inherent need for flexibility and adaptability to face counter-risks to economic policies. These laws do not always adhere to consistency in criminalization and punishment policy.
- Economic crimes often deviate from some general rules of criminal law, especially in terms of liability provisions, where accountability may sometimes be for the act of another person. Legal persons may also be held liable, and the moral element in the crime is weakened, with the legislator sometimes equating between attempted crimes and even unintentional attempts with completed acts.
- Legal proceedings in these crimes often fall outside the boundaries of general procedural rules.
- These laws frequently include legislative delegation, even though such delegation is usually limited in general law to violations and rarely imposes restrictions on personal freedom. However, in some economic crimes, such as customs legislation, delegation is broad due to the technical expertise required, which may not be available to authorities, in addition to the flexibility and speed needed in dealing with economic phenomena.
- These crimes are often committed by businessmen, whether by individuals, commercial enterprises, companies, or factories.
- Most economic crimes are designed to address emergency or temporary situations with non-permanent phenomena or changes in causes, such as shifts in economic policy from one system to another or gradual changes within the same system.

Chapter Two: Causes and Effects of Economic and Financial Crime

The causes of this phenomenon are numerous, which has worsened its impact. Therefore, we will address in this part the causes of economic and financial crime (First Requirement), and explain its most important effects on both the national and international levels (Second Requirement).

¹¹ Scientific Symposium 41 – *Economic Crimes and Methods of Confronting Them* – Naif Arab University for Security Sciences, Riyadh, Kingdom of Saudi Arabia, p. 06.

¹²-Adel Al-Abiwaki, *Economic Crime*, from the website of the Security Media Center, date of access July 10, 2025: www.plicemc.gov

¹³ Adel Al-Abiwaki, same reference

Section One: Causes of Economic and Financial Crime

The spread of economic crimes is due to many reasons and factors, including:

- Corruption among some of those in charge of financial matters: seeking to corrupt the consciences of some public sector officials through the establishment of corrupt projects, obtaining commissions, deliberately launching poorly studied projects, and smuggling their revenues abroad.¹⁴
- Imbalance in social and economic equity: due to the emergence of class disparity resulting from the enrichment of some at the expense of others, which led to the worsening of economic crime.
- The contribution of technological advancement and communication tools to the spread and globalization of crime, leading to the emergence of new types of economic crimes. Criminal gangs use these technologies in illegal activities such as wiretapping, bank fraud, credit card theft and misuse, and destruction of bank accounts.
- Breach of trust and misuse of position to fulfill personal ambitions and interests.
- Weakness and lack of seriousness of institutions regulating the financial and business sectors, especially the banking system.
- Misuse of the financial system can damage the reputation of financial institutions, causing a loss of investor confidence and further weakening the financial system. The economic harm is not only from the actual acts of economic and financial crimes but also from the mere perception that such acts are occurring, which affects the credibility of financial systems.
- Increased technological progress.
- External globalization and its resulting integration of global financial markets, along with weak regulations and social loyalties.

Section Two: Effects of Economic and Financial Crime

The international community bears a heavy burden from the worsening of economic and financial crimes, especially transnational ones, which is reflected in both the economy and the social sphere.

Subsection One: Economic Effects

The effects of economic and financial crimes on economic life are many and diverse, both internationally (first) and nationally (second).

First: International Economic Effects

The most important of these effects in the economic aspect are:

- Weakening the foundations of the global economy:

¹⁴ Adel Al-Abiwaki, same reference

Financial and economic crime recurs across all major sectors of economic activity and markets: weapons, civil aviation, banks and insurance, oil, transportation, public works, and chemicals. These crimes are typically committed by criminal gangs specializing in theft operations and the provision of cheap goods to local and global markets, causing severe material damage to original companies and their national wealth, and disrupting global economic activity.¹⁵

- Impacting the integrity of financial markets:

This has especially intensified after the economic crises of the 1990s, including fraud, money laundering, the bribery scandal in the Bank of Credit and Commerce, the collapse of Barings Bank in 1995, and the bankruptcy of the United European Bank, all contributing to the escalation of financial crimes.

- Loss of control over financial policies:

It is estimated that money laundering operations account for between 2% and 5% of the global GDP, amounting to approximately \$600 billion, as stated by a former IMF director. In emerging markets, the revenues from illegal activities may far exceed government budgets, causing those governments to lose control over their economic policies.

Second: National Economic Effects

These include:

- Loss of tax and customs revenue:

Economic and financial crime reduces the amount of tax revenue and customs duties collected by governments, thereby causing indirect harm to taxpayers and making tax collection more difficult.

- Depreciation of the national currency:

The decline in national currency value is due to the transfer of funds abroad after converting them to foreign currency, resulting in exchange rate instability and increased speculation in foreign currencies.

- Risks to privatization efforts:

Criminal organizations, with their financial power, can outbid legitimate companies in privatization auctions for state-owned enterprises. Although privatization initiatives are usually economically beneficial, they can be used as a means of laundering money, allowing criminals to purchase resorts and banks to conceal the sources of their illicit gains.

- Harm to the national economy:

This occurs through the outflow of foreign currencies from developing countries, depriving them of essential resources to support the national currency and finance import-export operations and foreign trade.

¹⁵ Qassem Shalhoun, Hassan Said, *Economy and Organized Crime*, scientific research presented at the scientific symposium entitled *Organized Crime and Methods of Confronting It in the Arab World*, Alexandria, Egypt, May 18–20, 1998

Subsection Two: Social Effects

Criminal acts in the economic and financial fields generate significant social risks, such as money laundering operations that make crime a profitable and rewarding endeavor, enabling drug dealers and smugglers to expand their operations. This increases government spending on law enforcement and crime prevention.

Moreover, providing healthcare for drug addicts represents a substantial financial burden for many countries. In the United States, the cost of drug-related health issues and reduced workplace productivity is estimated at around \$110 billion.

A 1990 report estimated that total financial activity from drug sales in Europe and the United States exceeded \$122 billion.

The economic power acquired by criminals from their illicit activities also has a corrupting effect on all elements of society and may lead to the actual control of existing systems and legitimate governments.¹⁶

Conclusion:

We conclude that globalization has benefited economic and financial crime more than it has helped those fighting this phenomenon. Many countries have not realized the seriousness of this phenomenon; on the contrary, many of them—especially those with weak economies—tolerate such forms of crime in order to attract the funds they need for investment and local development. However, the Algerian legislator, in order to preserve national economic stability, has designated mechanisms to confront this type of crime. Nevertheless, efforts must continue and the various segments of society and state institutions must work together to confront such dangerous crimes, through the following:

- The creation of regional hubs to replace courts with expanded local jurisdiction, in order to reduce the pressure on the economic and financial criminal hub.
- Benefiting from the experiences of other countries in this field, particularly those with expertise in combating and judicial work.

¹⁶ Mokhtar Chebili, previous reference, pp. 21–27.

Footnotes:

1. Mohamed Khemim, *The Special Nature of Economic Crime in Algerian Legislation*, Master's thesis in Criminal Law and Criminal Sciences, University of Algiers, 2010–2011, p. 13.
2. Mokhtar Chebili, *International Economic and Financial Crime and Means of Combating It*, Houma Publishing, Algeria, undated, p. 18.
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5. Mohamed Khemim, previous reference, p. 14.
6. Ordinance 66–180 dated 21/06/1966 concerning the establishment of special judicial councils for the suppression of economic and financial crimes, Official Gazette No. 54, issued on 24/06/1966.
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8. Law No. 90–24 dated August 18, 1990, amending and supplementing the Code of Criminal Procedure, Official Gazette No. 36, issued on August 22, 1990.
9. Ordinance No. 20–04 dated August 20, 2020, amending and supplementing Ordinance No. 66–155 dated June 8, 1966, which includes the Code of Criminal Procedure, Official Gazette No. 51, issued on August 21, 2020.
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16. Mokhtar Chebili, previous reference, pp. 21–27.