

## The competence of the Algerian judiciary in the economic crime control



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**Abstract:** Economic legislation in the different countries of the world gave great importance to the provisions of jurisdiction in economic crimes, by reviewing the stages through which the Algerian judicial power has gone with regard to adjudicating economic crimes, we find that Algerian legislation initially adopted the method of appeal courts and later retracted that and returned it to the ordinary courts.

In order to eliminate economic crime, which has spread widely, a question has arisen about the extent of the ability of the criminal justice to contain these crimes. Therefore, within the framework of the reform program, Algeria has allocated judicial formations specialized in following up on economic and financial cases, and this is in line with the development witnessed by these economic crimes.

**Key words:** Jurisdiction, Extraordinary judicial power, ordinary judicial power, specialized penal poles, economic and financial penal pole, economic system.

### اختصاص القضاء الجزائري في مكافحة الجريمة الاقتصادية

**ملخص:** أعطت التشريعات الاقتصادية في مختلف دول العالم أهمية كبيرة لأحكام الاختصاص القضائي في الجريمة الاقتصادية، ومن خلال الاطلاع على المراحل التي مر بها القضاء الجزائري فيما يخص الفصل في الجريمة الاقتصادية، نجد أن المشرع الجزائري قد تبنى في بادئ الأمر أسلوب المحاكم الاستثنائية وتراجع عن ذلك فيما بعد وأعاد الاختصاص إلى المحاكم العادية.

ومن أجل القضاء على الجريمة الاقتصادية التي انتشرت بشكل كبير ثار تساؤل على مدى قدرة القضاء الجنائي على احتواء هذه الجرائم، لذلك في إطار برنامج الإصلاحات قامت الجزائر بتخصيص تشكيلات

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قضائية مختصة في متابعة القضايا الاقتصادية والمالية وهذا تماشيا مع التطور الذي عرفته هذه الجرائم الاقتصادية.

**الكلمات المفتاحية:** اختصاص قضائي، قضاء استثنائي، قضاء عادي، اقطاب جزائية متخصصة، قطب جزائي اقتصادي ومالي ، نظام اقتصادي.

## La compétence de la justice Algérienne dans la lutte contre les crimes économiques

**Résumé :** Les législations économiques dans les différents pays du monde ont accordé une grande importance aux dispositions de compétence en matière de crimes économiques, et ce, en examinant les étapes par lesquelles est passé le pouvoir judiciaire Algérien pour juger les crimes économiques, on constate que la législation algérienne a initialement adopté la méthode des cours d'appel, puis s'est rétracté et l'a renvoyé aux tribunaux ordinaires.

Afin d'éliminer les crimes économiques, qui s'est largement répandue, la question s'est posée de savoir dans quelle mesure la justice pénale est capable de contenir ces délits. Pour cette raison, dans le cadre du programme de réformes, l'Algérie s'est dotée de formations judiciaires spécialisées dans le suivi des dossiers économiques et financiers, ce qui s'inscrit dans le cadre de l'évolution de ces délits économiques.

**Mots clés :** Juridiction, Pouvoir judiciaire extraordinaire, Pouvoir judiciaire ordinaire, pôles pénaux spécialisés, pôle pénal économique et financier, système économique.



## Introduction:

Economic crime has become one of the biggest problems facing any economic system or country, regardless of its size. According to the negative effects and consequences that it can have on the economy and development in general. Therefore, all legislation, whether national or foreign, has sought to establish legal mechanisms and methods to limit the spread of this type of crimes.

It is known that economic crime is divided according to the economic system prevailing in a particular country into crimes of the capitalist system, as the countries that implement this system consider profit to be the main incentive for economic activities. Most of the crimes in it are crimes of monopoly, robbery of banks and shops, evasion of taxes, and procrastination in payment, Debt, child trafficking, environmental pollution and its imbalance.

As for the crimes of the socialist system in countries that implement the socialist system based on the state's monopoly on economic activity, most of the economic crimes are represented by bribery, embezzlement, and the black market. There are many other crimes spread in most countries of the capitalist and socialist systems, such as drug trade, forgery, check crimes, cheating, deception, theft, fraud, and fraud, in addition to the financial transactions<sup>1</sup>.

Similar to Algeria, which witnessed transformations in its economic and political system by moving from the socialist system to the market economy system, it worked to combat economic crime by enacting deterrent laws for criminals, as well as creating a penal judiciary specialized in this type of serious crimes affecting the nation's economy.

The Algerian judicial system in the field of combating economic crime went through several important stages that established the idea of the specialized and exceptional judiciary and the ordinary judiciary. It witnessed the application of this idea after independence, and with the announcement of the move towards a market economy at the beginning of the nineties, the legislator adopted a new judicial approach that is in line with the development taking place in the field of business crimes.

**To highlight this idea, it is necessary to ask: To what extent has the Algerian judiciary went along with the change taking place in the economic system and the resulting development in economic crimes?**

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<sup>1</sup>- Moncef Charafi, Elias Boudiaf: Economic crime its causes and the methods of combating it in Algeria, Maarif review for Legal and Economic Sciences, Volume 2, no. 3, 2021, p. 94-95,



Therefore, to address this topic and answer the problem, we will address the historical development of Algerian judicial jurisdiction and identify the competent judicial authorities to consider combating economic crime from independence to the present day. We will address the historical descriptive approach to clarify the elements of this research, which will be dealt with in two sections, which are:

The first topic: The judicial authorities specialized in combating economic crime under the socialist system.

The second topic: The judicial authorities specialized in combating economic crime in light of the trend towards a market economy.

### **The first topic: The judicial authorities specialized in combating economic crime under the socialist system.**

After independence in 1962, Algeria adopted the socialist system that is based on the principle of ownership of the means of production and implemented central planning and monopoly of foreign trade. This policy resulted in a directed economy.

By reviewing the stages through which the provisions of jurisdiction to adjudicate economic crimes under this system have passed, we find that Algerian legislation has adopted the method of appeal courts, and then retracted and returned jurisdiction to ordinary courts to adjudicate this crime, and this is what will be clarified through the first section in two demands in:

The first requirement: the jurisdiction of the exceptional judiciary to adjudicate economic crimes.

The second requirement: the jurisdiction of the ordinary judiciary as a further stage to consider this type of economic crime.

#### **The first requirement: the jurisdiction of the exceptional judiciary.**

The judicial authorities competent to adjudicate economic crimes in Algeria immediately after independence were:

-The special councils that were established pursuant to Order No. 66-180 issued on June 21<sup>st</sup>, 1966<sup>1</sup>, are considered an exceptional judiciary established by the legislator to confront economic crimes.

-The State Security Council was also established by Order No. 75-45 of June 17<sup>th</sup>, 1975<sup>1</sup>, These authorities will be explained in the following two sections.

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<sup>1</sup> - Order no. 66-180 of June 21<sup>st</sup>, 1966, establishing special judicial councils to suppress economic crimes, Official Gazette No. 54, issued on June 24<sup>th</sup>, 1966



**Section One: Special Judicial Councils:** After independence, the Algerian legislator continued to work with French legislation under the law of 12/31/1962, but this legislation quickly showed its inability in the face of dangerous economic criminals, which necessitated the adoption of a new law on January 27<sup>th</sup>, 1964. However, it did not reach the necessary goals and purpose of criminalization, as it is weak in terms of penalties and complex in terms of procedures<sup>2</sup>.

Then, Order No. 66-180 was issued, including the establishment of special councils to suppress economic crimes. These councils are considered an exceptional judiciary established by the legislator to combat economic crime, which the latter defines in Article 01 of Order No. 66-180 as: “crimes that affect the national wealth, the public treasury, and the national economy.” Which are committed by employees or agents of all levels affiliated with the state, public institutions, local communities, public groups, a national company, a company with a mixed economy, or every institution with a private right that manages a public service or public funds.”

As for the local jurisdiction of these special councils, according to Article 14 of the aforementioned order, a special court for the suppression of economic crimes was created in the city of Algiers, Oran and Constantine, so that the jurisdiction of the Special Judicial Council for the Suppression of Economic Crimes, situated in the city of Algiers, extends to the jurisdiction of the judicial councils in the city of Algiers, Medea, Tizi Ouzou and Al-Asnam (Chlef) and Ouargla.

The jurisdiction of the Special Judicial Council, situated in Oran, extends to the jurisdiction of the judicial councils of Oran, Mostaganem, Saida, Tlemcen, Tiaret and Bechar.

The jurisdiction of the Special Judicial Council for the Suppression of Economic Crime, which is based in Constantine, extends to the jurisdiction of the judicial councils in Constantine, Annaba, Batna and Setif.

As for the specific jurisdiction of these special councils, it has been specified in Articles 3, 4 and 5 of this order, which are as follows:

- Crimes committed by employees of the Self-Administration Sector or those in their position or those working therein.
- In the described crimes, fraud, and ongoing exploitation against public wealth.

<sup>1</sup> - Order no. 75-45 of June 7<sup>th</sup>, 1975, 1966, establishing the state security council, Official Gazette No. 53, issued on 24<sup>th</sup> Jumada El Thani 1395H.

<sup>2</sup> - Laila Ben Turki: The specificity of criminal prosecution procedures for economic crimes in Algerian legislation, Gazette of Law for Legal Studies and Research, no. Twenty-Second 2021, p. 407.



- In counterfeiting operations that would harm the health of the consumer.

Article 20 of this order added that crimes referred to the Special Judicial Council for the Suppression of Economic Crimes shall be prosecuted, studied, and tried in accordance with the controls of the Code of Criminal Procedure, and that the Judicial Council for the Suppression of Economic Crimes shall hold sessions at the headquarters of each judicial council affiliated with it, and in terms of the composition of these councils, a decree has been issued. In a letter dated June 21<sup>th</sup>, 1966, including the appointment of members of special judicial councils to suppress economic crimes<sup>1</sup>.

These councils are have two characteristics:

- The special councils have a special composition, a public prosecutor, and investigative judges who are independent from the regular judicial councils.
- Judgments issued by special judicial councils do not accept any form of appeal, except for a request for pardon, which must be submitted within 24 hours of the issuance of the ruling, contrary to general rules<sup>2</sup>.

**Second Section: The Security Council:** This Council was established pursuant to Order No. 75-45 of June 17<sup>th</sup>, 1975<sup>3</sup>. It replaced the Revolutionary Judicial Council, which had been established by Order No. 68-609 of November 4<sup>th</sup>, 1968 to consider crimes against the security of the state or With the security of the Algerian revolution and the military regime<sup>4</sup>.

The State Security Council, which had comprehensive jurisdiction over the entire national territory, took the city of Medea as its headquarters for the meeting<sup>5</sup>.

The State Security Council is charged with suppressing the crimes and misdemeanors mentioned in Article 327-18, which by their nature constitute a major

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<sup>1</sup> - Decrees dated June 21, 1966, including the nomination of members of special judicial councils to suppress economic crimes, Official Gazette No. 54, of June 24<sup>th</sup>, 1966.

<sup>2</sup> - Hachemi Rafika: Judicial jurisdiction over economic crimes and the specificity of their elements in Algerian legislation, Virtual National Forum on Economic Crimes and their Impact on the National Economy, Mentouri Brothers University Constantine, December 9<sup>th</sup>, 2021, p. 306.

<sup>3</sup> - Order no. 75-45 of June 7<sup>th</sup>, 1975, 1966, establishing the state security council, Official Gazette No. 53, issued on 24<sup>th</sup> Jumada El Thani 1395H.

<sup>4</sup> - Ben Kalla Laila: Economic Crime in Legislation and Criminal Justice, Master's Thesis in Business Law, Faculty of Law, Abu Bakr Belkaid University, Tlemcen, 1997, p. 135.

<sup>5</sup> - Ben Kalla Leila: same reference, p135.



threat to the orderly functioning of legal systems or the preservation of public security, unity, independence of the nation or the integrity of its territory.

These crimes that the Security Council is responsible for examining are stipulated in the provisions of Article 327-18 of Order No. 75-46 of June 17<sup>th</sup>, 1975 modifying the Code of Criminal Procedure<sup>1</sup>, which states that the Security Council is competent to consider crimes and misdemeanors that are related to harming the national defense and economy. stipulated in Articles 65 to 72, 74 and 75 of the Penal Code.

This council remained in existence until the issuance of Law No. 89-06 of April 25<sup>th</sup>, 1989<sup>2</sup>, which canceled its existence without replacing it with another judicial authority.

### **The second requirement: the jurisdiction of the ordinary judiciary**

In addition to the exceptional judiciary, the legislator allocated an ordinary judiciary to economic crimes by creating economic departments in the criminal courts, according to the Order No. 75-46 of June 17<sup>th</sup>, 1975 modifying the Code of Criminal Procedure<sup>12</sup>, Article 248 of the above-mentioned order stipulates that the criminal court is divided into Two sections, a regular section and an economic section.

These sections are subject in their operating procedures to the general rules of the Code of Criminal Procedure related to the public lawsuit, investigation, and trial. Here we find that the legislator devoted the idea of creating judicial authorities concerned with economic matters by allocating it to the second section under the title of the provisions regarding the economic section of the criminal court from Articles 327-2 to 327-15 of Order 75-46 containing the Code of Criminal Procedure<sup>3</sup>.

However, when the Code of Criminal Procedure was modified in 1990, these sections were abolished, and the jurisdiction to adjudicate economic crimes was given to the Misdemeanor and Felony Court. This system continued to operate until the Code of Criminal Procedure was amended in 2004, and this is what will be explained in the following two sections.

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<sup>1</sup> - Order No. 75-46 of June 17, 1975 modifying Order No. 66-155 of June 8<sup>th</sup>, 1966 containing the Code of Criminal Procedure, Official Gazette No. 53.

<sup>2</sup> - Law No. 89-06 of April 25<sup>th</sup>, 1989, including the abolition of the State Security Council, Official Gazette No. 17.

-2- Order No. 75-46 of June 17<sup>th</sup>, 1975 modifying Order No. 66-155 containing the Code of Criminal Procedure, Official Gazette No. 53.



**The first section: the regional and qualitative specialization of the economic departments:** According to the article 248-2 of the Code of Criminal Procedure, the Minister of Justice determines the list of economic departments and the regional jurisdiction of each one of them, and in implementation of this article, he issued the following:

- The decision of 10/12/1980 included the creation of economic sections in the criminal courts in Annaba, Ouargla, Tizi Ouzou, Sidi Bel Abbès, Mascara and Skikda and determined the jurisdiction for each of them.
- The decision of 19/04/1982 included the creation of economic departments in criminal courts in Mostaganem, Béchar, M'Sila, Biskra, Tebessa, Oum El Bouaghi, Djelfa, Laghouat, Bouira, Tiaret and Jijel and extending the territorial jurisdiction of each of them.<sup>1</sup>

As for the specific jurisdiction of these sections, it is stipulated in Article 248, Paragraph 3 of the Order 75-46, which states that the Economic Section of the Criminal Court has the exclusive jurisdiction to adjudicate the crimes stipulated in the law, which are:

- The crime of embezzlement, fraud and treachery, Articles 119-123 of the Penal Code.
- Supply crimes, Article 161-162-163 of the Penal Code.
- Counterfeit money crimes, which are crimes against monetary regulation 197-198-424-674 of the Penal Code.
- Crimes of demolition of economic facilities, Articles 401-406 of the Penal Code.
- Other crimes of attacks on the proper functioning of the national economy, represented by obstructing the basic organs of the national economy or reducing the production capacity of economic means, Article 418 of the Penal Code.
- Business crimes involving state funds or a public authority, Article 422 of the Penal Code.
- Crimes related to concluding contracts and transactions, Articles 123-423 of the Penal Code.<sup>2</sup>

Until the year 1990, economic crimes were referred to the economic section by the indictment chamber within 15 days from the date the case was referred to it by the investigating authority. This is in accordance with the provisions of Article 327, paragraph 10 of the Code of Criminal Procedures. The conditions for moving

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<sup>1</sup> - Ben Kalla Leila: former reference, p148.

<sup>2</sup> - Aicha Abdel Hamid: Advisory tasks for the judicial police in combating economic corruption crimes in accordance with Algerian legislation, Academic Gazette for Research and Scientific Publishing, tenth edition, date of publication 02/05/2020, p. 6.



the case apply to judicial follow-up before the economic sections of the criminal courts. Ordinary public lawsuits, until these sections were abolished pursuant to Law No. 90-24 of August 18<sup>th</sup>, 1990 amending the Code of Criminal Procedures<sup>1</sup>.

**Second Section: Jurisdiction of Ordinary Courts:** The abolition of the economic divisions pursuant to the aforementioned Law No. 90-24 led to economic crimes being subject to the same judicial authorities to which ordinary crimes are subject, as misdemeanors remained subject<sup>2</sup> to the misdemeanor divisions of the courts, while felonies became subject to the criminal courts of the judicial councils, that is. For its regular and only sections, the rules and methods of follow-up differed from what they were previously, and this matter continued until the Criminal Procedure Code was amended in 2004

### **The second topic: The competent judicial authorities to look into economic crime in light of the trend towards a market economy**

At the beginning of the nineties, the political approach of the state was modified and the economic model followed in Algeria was reconsidered by moving towards a market economy based on free competition, and this was confirmed by the 1996 Constitution, which enshrined the principle of freedom of industry and trade.

Since this new economic path had an impact on the economic criminalization policy that prompted Algeria to develop a strategy for reform, the legislator realized that the criminal judiciary in its traditional form is not sufficient to deal with this type of crime, which has become very sophisticated with the development of technology, which necessitated the necessity Creating a specialized penal judiciary to adjudicate this type of economic crimes represented the creation of specialized penal poles and an economic and financial penal pole, and we will define their jurisdiction in detail through the following two requests.

**The first requirement: specialized penal poles:** The Algerian legislator has turned to the idea of specialized penal poles in an attempt to establish legal mechanisms that allow for the creation of an apparatus characterized by efficiency and speed to adjudicate economic cases characterized by difficulty and danger. Therefore, through

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<sup>1</sup> - Law No. 90-24 of August 18<sup>th</sup>, 1990 modifying the Code of Criminal Procedure, Official Gazette No. 36, of August 22<sup>th</sup>, 1990.

<sup>2</sup> - Ben Kalla Leila: same reference, p153.



this demand, we will address the legal basis of these poles and determine the local and specific jurisdiction for them.

**The first section: The legal basis for specialized penal poles:** Criminal courts with expanded regional jurisdiction, or what are known as specialized penal centers, have been established as a new judicial mechanism to combat specific crimes dictated by a number of circumstances and reasons, including:

1-The absence of judicial bodies and specialized procedures to combat organized crime. Organized crime has become a tangible criminal reality and poses a major threat to banking institutions and financial transactions. The threat of drug smuggling, transferring money in hard currency...etc. must be met by legislation and a specialized judicial system on the part of the state.

2-Coordinating and keeping pace with research and investigation interests requires the presence of a specialized judiciary.

3-The current judicial system is not equipped to combat organized crime.<sup>1</sup>

The desired goals of creating criminal courts with expanded regional jurisdiction were to create specialized judges who would adjudicate specific cases and speed up the pace of managing judicial files in terms of specialization

These courts with expanded regional jurisdiction were established pursuant to Law No. 04-14 of November 10<sup>th</sup>, 2004 amending the Code of Criminal Procedure<sup>2</sup>. The latter included, under Articles 37 and Article 40 bis, special rules applicable to judicial bodies created by the Algerian legislator, which allow the expansion of jurisdiction to some courts, public prosecutors, and investigative judges. In the following year, Organic Law No. 05-11 of July 17<sup>th</sup>, 2005 was issued relating to the organization Judicial<sup>3</sup>, the Article 24 of which stipulates the following: "Specialized judicial poles with expanded regional jurisdiction may be established in the courts.

The specific jurisdiction of these poles is determined according to the situation in the Code of Civil Procedure or the Code of Criminal Procedure."

In addition to stipulating the formation of these poles in Article 25 of Organic Law No. 05-11, the legal texts confirming this type of specialized poles continued, this

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<sup>1</sup> - Machouch Murad: Economic crimes and ways to combat them, a thesis to obtain a doctorate degree in public law, Faculty of Law, University of Ghardaia, year 2019-2020, p. 230.

<sup>2</sup> - Law No. 04-14 of November 10<sup>th</sup>, 2004 modifying and supplementing Order No. 66-155 containing the Code of Criminal Procedure, Official Gazette No. 71, of November 10<sup>th</sup>, 2004.

<sup>3</sup> - Organic Law No. 05-11 of July 17<sup>th</sup>, 2005 relating to judicial organization, Official Gazette No. 51, of July 20, 2005.



time under Article 32 of the Civil and Administrative Procedures Law of 2008<sup>1</sup>, which stipulates the following: “The court is the authority.” The judiciary has jurisdiction and is composed of departments that may also be composed of specialized poles.

The specialized divisions held in some courts are exclusively competent to consider conflicts related to international trade, bankruptcy, judicial settlement, conflicts related to banks, intellectual property conflicts, maritime conflicts, air transportation, and insurance conflicts.

The headquarters of the specialized poles and their affiliated judicial authorities are determined by regulation.

The specialized poles shall be decided by a group of three judges who shall determine the methods of implementing this article through regulation.

In an attempt to define these poles, they are judicial authorities specialized in looking into some crimes specified by law and are not special judicial authorities, active in special legal procedures outside the scope of the applicable judicial system<sup>2</sup>.

So, the method followed by the legislator in embodying the idea of a specialized criminal judiciary differed in Law 04-14 from the method he took in all the legislation he issued until 1992, whether under Order 75-46, which created economic departments, or the Security Council, while we find it in this law. They have resorted to the method of extending the local jurisdiction of prosecutorial judges, investigative judges, and sentencing judges to some judicial authorities stipulated in regulatory texts without creating any specialized departments within these authorities.<sup>3</sup>

**The second section: The local and specific jurisdiction of the specialized penal poles:** The executive Decree No. 06-348 of October 5<sup>th</sup>, 2006<sup>4</sup>, amended by Executive Decree No. 16-267 of October 17<sup>th</sup>, 2016<sup>5</sup>, provided for the extension of

<sup>1</sup> - Law No. 08-09 of February 25<sup>th</sup>, 2008 includes the Civil and Administrative Procedures Law, Official Gazette No. 21 delivered on April 23, 2008.

<sup>2</sup> - Liratni Fatima Al-Zahra: The economic and financial penal pole is a modern legislative trend to pursue and suppress economic and financial crimes, a virtual national forum on the phenomenon of financial crime and mechanisms for combating it on 11/21/2021, University of Algiers, Faculty of Law, Said Hamdine.

<sup>3</sup> - Machouch Mourad, former reference, p235

<sup>4</sup> - Decree No. 06-348 of October 5<sup>th</sup>, 2006 extends the local jurisdiction of some courts, prosecutors, and investigating judges, Official Gazette No. 63, delivered on October 8, 2006.

<sup>5</sup> - Executive Decree No. 16-267 of October 17<sup>th</sup>, 2016 amending Executive Decree No. 06-348 of October 8<sup>th</sup>, 2006 extending local jurisdiction to some courts, prosecutors, and investigating judges, Official Gazette No. 62 delivered on October 23, 2016.



local jurisdiction for some courts, prosecutors, and investigating judges in certain crimes specified by law in the Code of Criminal Procedure as follows:

- 1- The local jurisdiction of the Sidi M'hamed Court, its prosecutor and its investigating judge extends to the courts of the judicial councils of the wilayas of Algiers, Chlef, Laghouat, Blida, Bouira, Tizi Ouzou, Djelfa, Medea, M'Sila, Boumerdes, Tipaza and Ain Defla.
- 2- The local jurisdiction of the Constantine Court, its prosecutor and its investigating judge extends to the courts of the judicial councils of the wilayas of Constantine, Oum El Bouaghi, Batna, Bejaia, Tebessa, Jijel, Setif, Skikda, Annaba, Guelma, Bordj Bou Arreridj, El Tarif, Khenchela and Souk Ahras.
- 3- The local jurisdiction of the Oran Court, the Public Prosecutor and its investigating judge extends to the courts of the judicial councils of the wilayas of Oran, Bechar, Tlemcen, Tiaret, Tindouf, Saida, Sidi Bel Abbes, Mostaganem, Maskar, El Bayadh, Tsimsilt, Naama, Ain Temouchent and Relizane.

The legislator did not assign these poles to consider all common law crimes, including simple and ordinary ones, but only specific crimes that ordinary judicial authorities are unable to keep up with due to the lack of means to enable them to do so or due to the weakness of their specialization.

And for that, according to the Law No. 04-14 modifying the Code of Criminal Procedures, and pursuant to Articles 37, 40 and 329 thereof, the specific jurisdiction of courts with expanded regional jurisdiction extends to a group of crimes that have been specified exclusively, namely:

- ✓ Drug crimes: These are crimes stipulated and punished according to the Law No. 04-18 of December 25<sup>th</sup>, 2004 relating to the prevention of narcotic drugs and psychotropic substances and the suppression of their illicit use and trade.
- ✓ Transnational organized crime: Among the forms of transnational organized crime we mention:
  - Crimes of trafficking in persons criminalized according to the Articles: 303 bis 4 to 303 bis 15 of the modified and supplemented Penal Code.
  - Organ trafficking crimes: according to the Articles 303 bis 16 to 303 bis 29 of the Penal Code.
  - Migrant smuggling crimes according to the Articles 303 bis 30 to 303 bis 41.<sup>1</sup>

<sup>1</sup> - Aicha Abdelhamid, former referennce, p4.



- ✓ Crimes affecting automated data processing systems: These are crimes stipulated and punishable according to the Articles 394 bis to 394 bis 7 of the Penal Code.
- ✓ Money laundering crimes: These are the crimes stipulated and punished according to the Law 05-01 of February 5<sup>th</sup>, 2005 relating to the prevention and combating of money laundering and terrorist financing, modified and supplemented, in addition to Articles 389 bis to 389 bis 7 of the Penal Code.
- ✓ Terrorism crimes: These are crimes stipulated and punishable according to the Articles 87 bis to 87 bis 10 of the Penal Code.
- ✓ Crimes related to the legislation on Exchange: These are the crimes stipulated and punished according to the Order No. 96-22 of July 9, 1996, modified and supplemented by Order 03-11 and Order 10-03.
- ✓ Corruption crimes: These are crimes stipulated and punished according to the Law 06-01 relating to the prevention and combating of corruption, modified and supplemented by Order 10-05 of August 26<sup>th</sup>, 2010.
- ✓ Smuggling crimes: These are crimes punishable according to the Order 05-06 relating to combating smuggling.

It should be noted that the expanded regional jurisdiction of the specialized courts includes all stages of the public lawsuit, starting from the first investigations until the criminal follow-up of the investigation and trial.

**The second requirement: the economic and financial penal pole:** The establishment of the economic and financial penal pole came as a result of the developments that the country witnessed, especially in the year 2019, and after the heavy judicial prosecutions of senior officials on charges of economic crimes that were characterized by great complexity and complexity. The principle of litigation privilege hindered these prosecutions before the judiciary, as it argued that the examining courts lacked jurisdiction. In these cases, according to Article 573 of the Code of Criminal Procedure until it was amended by Order 20-04.<sup>1</sup>

The order 20-04 of August 30<sup>th</sup>, 2020<sup>2</sup>, modifying and supplementing the Code of Criminal Procedure, created a new mechanism for following up on certain crimes and called it the Economic and Financial Penal Pole, granting it national regional

<sup>1</sup> - Malek Nassima: The institutional components of the economic and financial penal pole in Algerian law, Algerian Gazette of Legal and Political Sciences, No. 2, 2023, p. 255.

<sup>2</sup>-Order No. 20-04 of August 30<sup>th</sup>, 2020 modified and supplements Order No. 66-155 of June 8<sup>th</sup>, 1966 containing the Code of Criminal Procedure, Official Gazette No. 51 delivered on August 31<sup>st</sup>, 2020.



jurisdiction and specifically specializing in combating specific crimes exclusively, and this is within the framework of efforts. Efforts to protect the national economy and fight everything that affects it, and this will be explained later.

**The first section: The local jurisdiction of the Economic and Financial Penal Pole:** According to the text of Article 211 bis of Ordinance 20-04, a national penal pole specialized in combating economic crime shall be established at the level of the court of the Algerian Judicial Council's headquarters, as the public prosecutor is at this pole. The investigating judge and the head of the pole exercise their powers throughout the entire national territory<sup>1</sup>.

It is a national judicial authority, which explains the fact that it does not have branches at the level of all the courts of the Republic, but rather the original jurisdiction is enjoyed by the pole of the Algerian Judicial Council only<sup>2</sup>

**The second section: The specific jurisdiction of the economic and financial penal pole:** This pole is specialized in dealing with a specific type of crime, which is the most complex economic and financial crimes and the crimes associated with them. Article 211 bis 3 defines this type of crime as the crime that, in view of the multiplicity of perpetrators, partners, or harmed persons, Because of the wide geographical area of the place where the crime was committed, the seriousness of the damages resulting from it, or its organized or transnational character, or the use of media and communication technologies in its commission, it requires resorting to special investigative methods, specialized technical expertise, or international judicial cooperation.

The Public Prosecutor, the investigating judge, and the head of the Economic and Financial Penal Pole also exercise joint jurisdiction with the jurisdiction resulting from the application of Articles 37, 40 and 329 with regard to the following crimes:

- Crimes stipulated in Articles 119 bis, 389 bis, 389 bis 1, 389 bis 2 and 389 bis 3 of the Penal Code.
- Crimes stipulated in Law No. 06-01 of February 20<sup>th</sup>, 2006 relating to preventing and combating corruption.

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<sup>1</sup>-See Article 211 bis 1 of Order 20-04.

<sup>2</sup> - Badra Laour: New mechanisms for combating economic crimes in Algerian legislation (economic and financial penal poles introduced or renewed), Al-Resala Journal for Humanitarian Studies and Research, Volume 6, 3<sup>rd</sup> edition, September 2021, p. 654.



- Crimes stipulated in Order No. 96-22 of July 9, 1996 relating to the suppression of violations of legislation and regulation related to Exchange and the movement of capital to and from abroad.
- Crimes stipulated in Articles 11, 12, 13, 14 and 15 of Order No. 05-06 of August 23<sup>rd</sup>, 2005 relating to combating smuggling.

The Economic and Financial Penal Pole is also responsible for research, investigation, follow-up, investigation, and adjudication of the most complex economic crimes and crimes related to them.

### **Conclusion:**

At the end of this research paper, through which the study dealt with the jurisdiction of the judiciary in Algeria and its development in the field of combating economic crime, since independence until the present day, it was shown that this development came in accordance with the political and economic stages that the country experienced and the change in the economic system from socialism to an economic system. Market.

The jurisdiction of the judiciary in combating economic crime has moved from exceptional courts to economic departments in ordinary courts to specialized criminal divisions in accordance with the recent amendments that affected the Code of Criminal Procedure, and this is with the aim of the Algerian legislator to keep pace with developments taking place in the field of economic crimes.

Therefore, the following points can be highlighted:

- The judicial aspect has importance and an effective role in enhancing the protection of economic policy through the application of legal texts that are characterized by privacy and importance over other legislations.
- Judicial jurisdiction plays an important role in economic development through speed in adjudicating and deciding cases.

As a result, the following recommendations can be made:

- Giving broader powers to the economic and financial penal poles, as it helps to consolidate the idea of specialized judiciary and contributes to combating economic crimes.
- The necessity of training judges by organizing regular and continuous training courses in order to ensure specialization and competence in adjudicating economic crimes characterized by continuous development.
- The role of criminal jurisdiction must be reinforced from a procedural standpoint, given the complexity of some issues as a result of the development and openness we are witnessing in the economic and technological field.



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