

Precautionary Measures on Funds and Freezing of Bank Transactions in Light of Law 25-14: A New Mechanism to Combat Economic Crime

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Abstract:

This article presents an analytical study of the precautionary measures on funds and the freezing of banking transactions introduced by the Algerian legislator under Law No. 25-14 dated August 3, 2025, which includes the Code of Criminal Procedure. Through this study, we have attempted to reveal the nature of this mechanism, its types, and its scope of application, and then evaluate its effectiveness in confronting organized economic crime, while highlighting the legal issues it raises in relation to the principle of the presumption of innocence enshrined in the Constitution, and the guarantees of the right to defense. We conclude at the end of the study that, although this mechanism is consistent with Algeria's international obligations, particularly the Palermo Convention of 2000, it suffers from fundamental procedural gaps that require legislative treatment, the most prominent of which are: the ambiguity of the criterion of "strong suspicion", the absence of an explicit definition of the freezing periods, and the lack of a clear mechanism for excluding legal defense expenses from the scope of the freezing.

Keywords: *Precautionary measures, freezing of funds, bank seizure, economic crime, presumption of innocence.*

Introduction:

The term "economic criminal" today does not refer to someone caught in the act of committing a crime. Instead, they often hide behind complex financial structures, numerous bank accounts, and shell companies. This makes tracing their funds a far more difficult task than proving the crime itself. The Algerian legislature recognized this reality when it enacted Law No. 25-14 of August 3, 2025, the Code of Criminal Procedure, published in the Official Gazette of the People's Democratic Republic of Algeria, No. 54, replacing Ordinance No. 66-155 of June 8, 1966, which had been in effect for nearly six decades.

What is striking about this law is that it did not merely modernize

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traditional procedural mechanisms, but went further by granting the Public Prosecutor's Office a proactive preventive tool in the form of freezing and seizing funds even before a formal charge is brought, whenever there is "strong suspicion" of a person's involvement in serious economic crimes, as stipulated in Articles 50 and 51. This approach, while reflecting alignment with international standards for combating organized crime, particularly the United Nations Convention against Transnational Organized Crime, which Algeria ratified by Presidential Decree No. 02-55 dated February 5, 2002, This simultaneously raises serious questions ¹ about the extent to which the principle of presumption of innocence, enshrined in Article 41 of the 2020 constitutional amendment, and the guarantees of the right to defense are respected.

The central question of this article is: Has the Algerian legislator, in accordance with Law 25-14, succeeded in striking a balance between the effectiveness of precautionary measures on assets as a mechanism for combating economic crime, on the one hand, and the constitutionally enshrined guarantees of individual rights and freedoms, on the other?

To answer this problem, we adopted the comparative analytical approach, as we first address the conceptual and systemic framework of these procedures (Section One), before moving on to evaluate the mechanisms of their implementation and the problems they entail (Section Two).

First Topic:

The Conceptual and Regulatory Framework of Precautionary Measures on Funds under Law 25-14

Before examining precautionary measures on funds, it is necessary to first define their concept and identify their types (First Subsection). Then, we will address their scope of application in terms of persons and crimes (Second Subsection).

First Requirement: The Nature of Precautionary Measures on Funds and the Freezing of Bank Transactions

Section One: The Concept and Characteristics of Precautionary Measures on Funds

Precautionary measures on funds within the framework of criminal prosecution are temporary preventive measures that involve freezing, seizing, or restricting the disposal of assets. This is not for the purpose of punishment, but rather to preserve these assets until the criminal proceedings are concluded. The Algerian legislator established this concept in Article 51 of Law 25-14. It stipulated the possibility of taking ²

"precautionary measures to seize funds and/or freeze any banking transaction" for any natural or legal person strongly suspected of involvement in one of the crimes stipulated in Article 50 of the same law.³

This legislative definition corresponds to what some legal scholars have defined as "the imposition of a temporary ban on the transfer or disposal of property based on an order issued by a court or competent authority."⁴

This is the same definition adopted by the Algerian legislator in Law No. 06-01 of February 20, 2006, relating to the prevention and combating of corruption.⁵

This procedure is characterized by three essential features:

First, its proactive and preventative nature: The precautionary measure does not punish a crime but rather seeks to prevent the concealment of physical evidence or the smuggling of funds before a final judgment is issued. This is what fundamentally distinguishes it from confiscation, which is a supplementary penalty issued by a conviction, whereas freezing and precautionary seizure do not, in themselves, constitute any conviction.⁶

Second – Temporary Nature: This procedure is linked to the duration of the criminal proceedings, as it ends upon their conclusion, either with the release of funds if the accused is acquitted, or with confiscation if convicted. The Algerian legislator, in the same anti-corruption law, explicitly distinguishes between these two procedures.

Third – Judicial Nature: Article 51 of the Algerian legislator stipulates that the public prosecutor must submit a reasoned petition to the presiding judge of the competent court. This ensures a degree of prior judicial oversight and prevents the procedure from being purely administratively arbitrary. In this context, Professor Abdullah Ouhaibia argues that judicial oversight of procedures affecting financial rights constitutes a fundamental guarantee that should not be compromised.⁷

Distinguishing the precautionary measure from similar legal institutions requires three features: it differs from an executive seizure that falls within the framework of executing a judgment of conviction; it differs from a judicial supervision procedure that is limited to restricting a person's freedom without his money; and it differs from the investigator's seizure within the framework of searching residences, which targets physical evidence, not money related to the crime.

Section Two: Types of Precautionary Measures in Law 25-14

In Articles 50 and 51 of Law 25-14, the legislator outlined a comprehensive system of precautionary measures that vary in their degree of restriction on financial freedom and include three different levels:⁸

Level One: Seizure of Funds. This refers to the physical or legal status of movable and immovable assets under judicial control, preventing their disposal, transfer, or concealment. It includes funds suspected of being proceeds of crime or used in its commission. This aligns with Article 12 of the United Nations Convention against Transnational Organized Crime, which obligates States Parties to adopt the necessary measures to identify, freeze, and seize criminal proceeds with the ultimate goal of confiscation.⁹.

The second level: freezing banking operations, which is the most recent procedure in the Algerian legislative system, as it differs from the classic seizure in terms of its subject matter. It does not target existing funds only, but extends to future operations, meaning that it prevents the completion of any transfer, withdrawal or bank deposit as long as the freezing decision remains in effect. This procedure reflects a legislative awareness of the specific nature of financial crime, which is often committed or covered up through quick banking transactions.

Level Three: Preventive Notification to the Anti-Money Laundering Authority. Article 51 authorizes the Public Prosecutor to notify the Financial Intelligence Processing Authority (CTRF), established under Law No. 05-01 concerning the prevention and combating of money laundering and terrorist financing, "for the purpose of precautionary interception of bank transfers in accordance with applicable legislation." This mechanism is characterized by its quasi-administrative nature, as it involves coordination between the judicial system and a specialized financial oversight institution.¹⁰.

Second requirement: The scope of application of precautionary measures on funds

First section: The personal scope (persons subject to the measure)

Article 51 of Law 25-14 defines the circle of persons subject to precautionary measures as "any natural or legal person against whom there are strong suspicions of involvement in one of the crimes stipulated in Article 50," and this definition requires careful analysis from us.¹¹.

With regard to natural persons, the legislator did not stipulate that a formal indictment or formal charge must have been issued against them but rather sufficed with the existence of "strong suspicions"—a flexible criterion not defined by specific objective standards.

Perhaps this ambiguity lies at the heart of the legal issue we will address later, as the difference between "strong suspicion" and "ordinary suspicion" ultimately depends on the personal assessment of the public prosecutor in the absence of explicit legal controls.

The extension of this procedure to legal entities represents a significant legislative development, consistent with the general direction of Law 25-14 towards activating the criminal liability of legal entities. This direction was noted by Professor Abdel Rahman Khalfi, who stated that subjecting legal entities to criminal prosecution has become an imperative in the face of organized economic crime.¹².

Second branch: Thematic scope (crimes warranting action)

Article 51 refers to Article 50 of Law 25-14 to determine the crimes in which it is permissible to resort to precautionary measures. These crimes include a wide range of serious crimes of an economic, financial and organized nature (money laundering, corruption, transnational organized crime, terrorism and its financing, crimes of exchange and movement of capital to and from abroad, smuggling, trafficking in persons and drugs, information and communication technology crimes, and kidnapping crimes¹³.

This legislative choice reflects a conviction that the common link between these crimes is the financial dimension, since all these crimes generate revenues, require funding, or use the financial system as a cover. Thus, the legislator has read the economic crime in a comprehensive way that goes beyond the abstract physical act to the integrated system that links the criminal act and its financial returns.

However, it is noteworthy that the list in Article 50 includes crimes that vary significantly in their degree of economic severity, which raises a legitimate question about whether the legislator was driven by the logic of expanding the precautionary tool without a sufficient degree of differentiation imposed by the principle of proportionality.

Topic Two:

Mechanisms for Implementing Precautionary Measures and Their Problems in Combating Economic Crime

After setting the conceptual framework, the most important question remains: how are these procedures implemented, and what are their limits? This requires studying the procedural mechanism itself (first requirement), before moving on to the actual evaluation of the extent to which a balance is achieved between effectiveness and safeguards (second requirement)

First Requirement: The Procedural Mechanism for Issuing and Implementing Precautionary Measures

First Section: Competent Authorities and Conditions for Initiating Procedure

Article 51 outlines a procedural path that passes through three axes:

1-The Role of the Public Prosecutor: The legislator granted the Public Prosecutor the authority to initiate proceedings automatically or upon a reasoned request from a judicial police officer during the preliminary investigation phase. Perhaps the most notable aspect of this choice is that it allows for the initiation of proceedings at a very early stage, before the opening of a judicial investigation. This significantly expands the scope of the Public Prosecutor's authority within a context already characterized by a marked expansion of the Public Prosecutor's powers under Law 25-14 as a whole. In this regard, Professor Abdel Rahman Khalfi believes that expanding the Public Prosecutor's powers during the investigation phase is a valuable legislative choice if coupled with sufficient safeguards.¹⁴.

2- The Role of the Court President: The public prosecutor does not have the authority to issue a freezing or seizure order unilaterally. Rather, they submit a reasoned petition to the competent court president, who then has the power to take the action. The legislator stipulated that this petition must include "the reasons justifying the precautionary measures," an important procedural requirement that limits discretionary power and ensures a degree of oversight of the legality of the procedure.

3-The Role of the Judicial Police: The authority to request the intervention of the public prosecutor with a reasoned request has been granted to the judicial police. This means that the procedure can originate from security agencies. While this expansion of the bodies proposing such measures enhances practical effectiveness, it also raises questions about the safeguards in place to ensure the appropriateness of these requests.

Section Two: Implementation and Oversight Procedures for Precautionary Measures

Once the presiding judge issues a decision approving a precautionary measure, implementation procedures are initiated through two parallel tracks:

First - Direct Implementation Track: *Judicial police officers carry out the seizure order on movable and immovable assets in accordance with the general provisions of criminal procedure. Procedurally, this requires notifying the relevant financial institutions and obligating them to comply, an obligation supported by the monetary and banking legislation in force in Algeria.¹⁵.*

Secondly, coordination with the financial system: The Financial Intelligence Processing Authority (CTRF) stands out here. The Public Prosecutor may notify it to issue a precautionary objection to bank transfers. This mechanism is characterized by its quasi-administrative

nature, as this body possesses monitoring and technical tools not usually available to the judiciary. This enhances the effectiveness of financial tracking in highly complex crimes. Legal scholars have noted that this type of coordination between the judiciary and specialized financial bodies has become a hallmark of modern legislation for combating economic crime.¹⁶.

The second requirement: Evaluating the effectiveness of precautionary measures between the requirements of combating economic crime and guarantees of rights and freedoms.

Section One: The effectiveness of precautionary measures as a tool for combating economic crime.

The effectiveness of this mechanism cannot be assessed without considering the context in which it arose. Economic crime differs from other crimes in that the strongest evidence is financial, and the perpetrator prioritizes concealing, smuggling, or laundering funds above all else. In this context, early asset freezing provides the element of surprise, depriving the accused of the opportunity to hide their proceeds.

Regarding alignment with international standards, Article 12 of the Palermo Convention explicitly requires States Parties to adopt measures to enable the "tracing, freezing, and seizure of proceeds of crime with a view to eventual confiscation." Articles 50 and 51 of Law 25-14 clearly embody this international obligation, bringing the Algerian system closer to models of comparative legislation, particularly French law, which also permits the freezing of funds in the pre-trial phase under specific controls as outlined in the French Code of Criminal Procedure.¹⁷.

Furthermore, preventive measures contribute to drying up the sources of funding for organized crime, thus weakening its ability to continue, as confirmed by the United Nations Office on Drugs and Crime (UNODC) as one of the fundamental pillars of effective strategies in combating transnational crime.¹⁸.

Section Two: Implementation Problems and Guarantees Established to Protect Rights

1- Faced with this apparent effectiveness, a number of fundamental problems arise that make evaluating this measure a matter requiring caution:

2- Regarding the conceptual ambiguity of the "strong suspicion" criterion: Applying a highly serious measure such as financial freezing without clear objective criteria for determining when suspicion is "strong" subjects individuals' financial freedom to broad discretionary power. Algerian legal scholars have pointed out that ambiguity in legal standards

affecting individual freedom constitutes a violation of the principle of procedural legality.¹⁹.

3- Regarding the absence of a maximum time limit for the procedure: The duration of the freeze in comparative texts is specified by strict deadlines, and some legal scholars have emphasized that the continuation of the freeze without a specific time limit constitutes a real threat to the principle of the presumption of innocence enshrined in Article 41 of the 2020 constitutional amendment, as this article explicitly states that "every person is considered innocent until proven guilty by a judicial authority, within the framework of a fair trial."²⁰ "

In the context of comparative laws, we find that the French Code of Criminal Procedure requires periodic judicial renewal of the freeze, with the necessity of providing justification each time. The absence of a similar guarantee in Law 25-14 remains a legislative gap worthy of being addressed.²¹.

4- Regarding the impact on the right to defense: It cannot be overlooked that freezing assets may restrict the accused's ability to appoint a defense lawyer if all their assets are frozen. This raises a fundamental question about the necessity of exempting legal defense expenses from the scope of the freeze, an exemption explicitly recognized by the French legislature in its procedural texts. Law 25-14, however, lacks any corresponding provision in this regard. Professor Youssef Delanda pointed out that the right to legal counsel is a fundamental guarantee of a fair trial, which cannot be undermined by any means whatsoever.²² .

5- Regarding the absence of a clear appeal mechanism: Respecting the right to litigation necessitates an effective mechanism for appealing a freezing order. While the Algerian legislator stipulates that the decision is issued by the head of the court, Law 25-14 does not sufficiently define the available appeal procedures and their deadlines. This weakens the judicial guarantee that the text is supposed to provide. Legal scholars have indicated that the absence of an effective appeal procedure renders judicial oversight meaningless.²³ .

Conclusion:

In conclusion, this study has shown that Law 25-14 introduced a precautionary mechanism for funds that represents a qualitative leap in the Algerian procedural system. This mechanism is largely consistent with international trends in combating economic crime, particularly the Palermo Convention's requirement to adopt freezing and early seizure mechanisms as essential means of recovering criminal proceeds.

However, this alignment with international standards remains incomplete without a similar alignment with international human rights standards concerning fair trial guarantees. Our study has led to a number of recommendations, which can be summarized as follows:

-The gap concerning the "strong suspicion" criterion must be addressed through an explicit provision defining its objective elements to prevent any abuse of its application. - An explicit provision must be included specifying the maximum period for which funds may remain frozen before trial, and subjecting the continuation of the freeze to periodic judicial renewal with justification, in order to safeguard the principle of the presumption of innocence enshrined in Article 41 of the 2020 Constitutional Amendment.

-Establishing a clear mechanism for exempting legal defense expenses from the scope of the freeze is an urgent necessity, to protect the right to a defense, which is a cornerstone of a fair trial.

-The methods of appeal must be explicitly and effectively stipulated in the freezing orders, guaranteeing the concerned party the right to challenge their legality and appropriateness.

In conclusion, it can be said that the precautionary measures on funds in Law 25-14 are an effective tool in combating economic crime, but they are a double-edged sword if the conditions of their use are not governed by clear and sufficient procedural safeguards.

References:

1Presidential Decree No. 02-55 signed on February 5, 2002, included the ratification, with reservations, of the United Nations Convention against Transnational Organized Crime, adopted by the General Assembly of the United Nations on November 15, 2000, Official Gazette No. 9 dated February 10, 2002.

2Law No. 25-14 signed on August 3, 2025, includes the Code of Criminal Procedure, Official Gazette No. 54 dated August 13, 2025.

3Article 50 of Law 25-14, which includes the Code of Criminal Procedure, states: ((The property, funds, and illicit proceeds resulting from the commission of one or more of the following crimes may be frozen and/or seized: drug and psychotropic substance crimes, smuggling crimes, human trafficking crimes, organ trafficking crimes, migrant smuggling crimes, kidnapping of persons, illegal speculation, money laundering crimes, financing of terrorism, financing of the proliferation of weapons of mass destruction, corruption crimes, crimes of violating legislation relating to exchange and the movement of funds to and from abroad, crimes of violating monetary and banking law, tax evasion and fraud crimes, terrorism crimes, and/or crimes related to information and communication technologies.

Precautionary measures may include freezing and/or partially or completely seizing the assets and funds of the suspected person and the assets and funds of persons connected to him where there is strong evidence that they are proceeds of the crimes under investigation. Article 51/Paragraph 1 of the same law stipulates: "The Public Prosecutor

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may, on his own initiative or upon a reasoned request from a judicial police officer, during the preliminary investigations, request the President of the competent court to take precautionary measures to seize funds and/or freeze any banking transaction of any natural or legal person against whom there are strong suspicions of involvement in one of the crimes stipulated in Article 50 above, in addition to the possibility of notifying the competent body in the field of preventing and combating money laundering and terrorist financing crimes for the purpose of precautionary objection to bank transfers in accordance with the legislation in force”.

4Abdullah Ouhaibia, *Explanation of the Algerian Code of Criminal Procedure - Investigation and Inquiry*, Dar Houma for Printing, Publishing and Distribution, Algeria, 2008, pp. 252-262.

5Law No. 06-01 signed on February 20, 2006 relating to the prevention and combating of corruption, *Official Gazette*, No. 14 dated March 8, 2006 - amended and supplemented by Order No. 10-05 signed on August 26, 2010, No. 50 dated September 1, 2010.

6United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, Article 12, paragraphs 1 and 2.

7Abdullah Ouhaibia, *Explanation of the Criminal Procedure Law, Part One*, House of Ideas, Algeria, 2022, pp. 31-32.

8Articles 50 and 51 of Law No. 25-14, which includes the Code of Criminal Procedure.

9Article 12, paragraph 2 of the United Nations Convention against Transnational Organized Crime.

10Law No. 05-01 signed on February 6, 2005 relating to the prevention and combating of money laundering and terrorist financing, *Official Gazette*, No. 11 dated February 9, 2005, amended and supplemented by Law No. 25-10 signed on July 24, 2025, *Official Gazette*, No. 48 dated July 24, 2025.

11Article 51/Paragraph 1 of Law 25-14, which includes the Code of Criminal Procedure, stipulates that: “The Public Prosecutor may, either *ex officio* or upon a reasoned request from a judicial police officer, during the preliminary investigations, request the presiding judge of the competent court to take precautionary measures to seize funds and/or freeze any banking transaction of any natural or legal person against whom there is strong suspicion of involvement in one of the crimes stipulated in Article 50”.

12Above, in addition to the possibility of notifying the competent authority in the field of preventing and combating money laundering and terrorist financing crimes in order to make a precautionary objection to bank transfers in accordance with the legislation in force)

12Abdelrahman Khalfi, *Criminal Procedures in Algerian and Comparative Legislation*, Dar Belqis Publishing, Casablanca, 2017, pp. 214-220.

13Article 50 of Law 25-14 containing the Code of Criminal Procedure.

14Abdul Rahman Khalfi, previous reference, pp. 188-192.

15Law No. 23-09 signed on June 21, 2023, which includes the Monetary and Banking Law, *Official Gazette* No. 43 dated June 27, 2023.

16Moulay Milani Baghdadi, *Criminal Procedures in Algerian Legislation*, National Book Foundation, Algeria, 1992, p. 342.

17French Code of Criminal Procedure, Articles 706-141 to 706-158 relating to criminal seizure and confiscation (from Law No. 2010-768 of July 9, 2010).

18UNODC, *Digest of Organized Crime Cases*, Nations Unies, Vienne, 2012, p.14-18.

19Youssef Dalanda, *The Concise Guide to Guarantees of a Fair Trial*, Dar Houma for Publishing and Distribution, Algeria, 2005, pp. 89-95.

20Constitutional Amendment of 2020 issued by Presidential Decree 20-442 signed on December 30, 2020, *Official Gazette*, No. 82 dated December 30, 2020.

21French Code of Criminal Procedure, Article 706-150 relating to the release of the seizure.

22Youssef Dalanda, previous reference, pp. 112-118.

23Abdul Rahman Khalfi, previous reference, p. 225.