

## ***Reconciling the promotion of free competition and criminal protection of the national market from the perspective of the Algerian legislator***

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### **Abstract:**

*The Algerian state has shown great interest in protecting citizens and the national market from practices that undermine the integrity of trade, transparency and freedom of competition, which are considered basic pillars of the national economy. Perhaps the most important of these is what Algeria, like the world, has witnessed from the*

*effects of the Corona pandemic and its repercussions in various fields, one of which was illegal speculation that eliminates competition and undermines the national economy, which forced the legislator to impose severe penalties and grant broader powers to the ordinary judge and the Competition Council to protect the economy and the country, which is what we study in this research paper.*

**Keywords:** Competition; Speculation; Procedures; Criminal Judge; Penalties.

### **Introduction:**

*Algeria has witnessed a radical transformation after adopting the capitalist system based on freedom of work and competition in the domestic and foreign market, in line with the developments in the global arena resulting from globalization and technological progress, which makes state intervention limited to achieving a trade balance between economic operators and agents, but the practical reality experienced in Algeria has witnessed several violations, greed and sometimes crimes that forced the Algerian legislator to impose regulations and rules to protect the common citizen and the Algerian national market. The Algerian economy has known several problems after the Corona pandemic (Covid 2019), mainly represented by the scarcity of consumer*

*goods and services, and a significant increase in prices. Perhaps the most important of these unfair commercial practices is represented by market monopoly and illegal speculation.*

*This imposed legislative intervention by establishing laws that deter*

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*these violations by enacting strict penalties, which is the role assigned to the criminal judiciary to protect the national market and free competition.*

*In light of this data, we raise the following legal problem:*

*How did the criminal judiciary confront illegal speculation that affects free competition? What are the procedures for suppressing and pursuing it in Algerian law?*

*In response to the topic, we divided the research paper into two axes. In the first axis, we review: The role of the criminal judiciary in protecting competition - illegal speculation as a model - and the second axis: The procedures followed before the criminal judiciary to protect free competition.*

***Chapter I: First main title: The role of the criminal judiciary in protecting competition - illegal speculation as a model -:***

*Since Algeria's independence, the Algerian constitution has stipulated the principle of separation of powers, and in application of the principle, the judiciary devotes the exploitation of the criminal judge in imposing strict criminal penalties in crimes that affect the national economy in general, and therefore economic control bodies, including the Competition Council, cannot interfere in its powers.<sup>(1)</sup>*

***1- First Subtitle: The jurisdiction of the criminal judge in protecting competition:*** *The legislator has restricted the punitive authority of the ordinary judge in imposing civil penalties on practices that restrict competition, after excluding the criminal judge and his lack of jurisdiction to impose criminal punishment on these violations that restrict competition, as Article 57 of Order 03-03 amended and supplemented as follows: "A fine of two million dinars (2,000,000 DZD) shall be imposed on any natural person who personally fraudulently contributes to the organization and implementation of practices restricting competition as specified in this order." This confirms the Algerian legislator's abandonment of the criminal penalty in the competition article, after the criminal judge had a role in protecting the rules of competition within the framework of the repealed Order No. 95-06. According to the text of Article 15 of this order, the criminal courts were competent in the field of anti-competitive practices such as prohibited agreements and the abuse of a dominant position.*

*This crime is expected to result in a set of actions that differ according to the persons who committed them as well as according to*

*their commercial activities, which in turn differ from other commercial activities, which forced the Algerian legislator to intervene criminally by punishing, defining and limiting these dangerous and harmful practices in order to preserve his legitimate interests and also to establish the principle of the legal element of the crime in the Penal Code.*

*It is worth noting that when the causal relationship between the committed crime and the damage that affects the interests and legitimate rights is established, the law authorizes the notification of the regular judicial authorities about the activities that caused damage, or to choose to notify the Competition Council or to raise this notification before them together, considering that the regular judiciary is also competent to suppress these practices and not only the Competition Council.*

*This is what the legislator established in Article 15 of Order 95/36, which represents the legal basis for crimes restricting competition, according to which the Competition Council refers the case to the Public Prosecutor for legal prosecution if it is proven that a natural person contributed to these practices. We find that the legislator did not explain how to prove these practices in Order 95/36, and therefore we return to the general rule mentioned in Article 172 of the Algerian Penal Code, which was amended by Law 21-15 on illegal speculation.*

**1- Criminalization of practices restricting competition - illegal speculation as a model -:**

*Article 15 of the decree stipulates that “the Competition Council shall refer the case to the competent public prosecutor regionally for legal proceedings if the organization and implementation of anti-competitive practices or abuse resulting from dominance stipulated in Articles 6.7.1.11.12 of this decree entails personal responsibility for any natural person, without prejudice to the penalties stipulated in Articles 13 and 14 of this decree. In this case, the judge may rule imprisonment from one month to one year against natural persons who caused or participated in the aforementioned practices.”*

**2- Criminalization in the Algerian Penal Code:**

*One of the manifestations of the capitalist system based on the freedom of the market economy, however, it is necessary for the state and the legislator to intervene by monitoring the determination of prices between economic operators and consumers to protect and*

*ensure the stability and smoothness of the national market and the transparency of free competition, which the law has classified as illegal speculation.*

*Speculation is an act and preparation that is carried out in the act and planned to cause unusual changes in the market. The Algerian legislator has stipulated the crime of illegal speculation in the Penal Code, in the seventh section of the fifth chapter of the third book in the second part, in Articles 172 - 173 thereof, and for it to be achieved, the material element and the moral element are required. This article remained in force in Algeria until the issuance of Law 21-15 on illegal speculation, which repealed the articles mentioned below, as illegal practices in the field of speculation fell under the amended and supplemented Penal Code<sup>(2)</sup>, within Articles (172, 173, 174) of Chapter Seven under the title of crimes related to industry, trade and public auctions.*

### **3 - Criminalization in the Competition Law of 2003<sup>(3)</sup>:**

*The legislator did not explicitly stipulate the crime of speculation in the Competition Law, but rather implicitly. Article 6/4 states the following: "Practices, deliberate actions, agreements and explicit or implicit agreements are prohibited when they aim to obstruct, limit or disrupt freedom of competition in the same market or in a substantial part of it, especially when they aim to: ...obstruct the determination of prices according to market rules, by artificially encouraging the rise or fall of prices."<sup>(4)</sup>*

#### **- Criminalization in Law 21-15 on Combating Illegal Speculation<sup>(5)</sup>:**

*Due to the shortcomings and limitations of the Penal Code in confronting this serious crime, the Algerian legislator intervened to confront it by issuing the Law on Combating Illegal Speculation, the causes of which go back to the Corona pandemic in 2019 (Covid 2019) and its repercussions on the Algerian national market, especially with the increase in demand and need for materials widely in demand and consumed by citizens in various fields and essential services.*

*This imposed on the legislator to protect consumers and the national market from speculation and monopoly*

*And issue and organize a special law for it divided into five chapters. The first chapter dealt with the statements of the acts that constitute illegal speculation, while the second chapter dealt with the mechanisms*

of combating it, while the third chapter dealt with the procedural rules, and the penal aspect was included in the fourth chapter<sup>(6)</sup>, and its provisions concluded with the fifth chapter, Article 24 of which cancelled the provisions of Articles 172, 173 and 174 of the Penal Code.

**2- Second Subtitle: A legal reading of the developments in the crime of illegal speculation that affects free competition:**

In accordance with the principle of the legality of the crime in the Penal Code, this crime, like all crimes, requires the availability of three elements: a legal element, a material element, and a moral element.

**1- Legal definition of illegal speculation:**

The Algerian legislator<sup>(7)</sup> did not define illegal speculation in the Penal Code, but only stipulated the acts that fall within its scope, similar to comparative legislation. According to Article 15 of Order 95/06, which corresponds to Article 06 - 420 of the French Competition Law.

After issuing the new illegal speculation law, the legislator addressed the definition of the latter as any storage or concealment of goods or merchandise, with the aim of creating a scarcity in the market and a disruption in supply, and any artificial increase or decrease in the prices of goods, merchandise, or securities. The browser of the illegal speculation law.

It becomes clear to us that the legislative text defined the crime of illegal speculation as well as the factors that constitute it and the artificial increase and decrease in prices and storage and added other acts mentioned in its text: and is considered as illegal speculation. Promoting false or malicious news or information among the public intentionally..., offering offers in the market with the aim of causing price disturbance..., submitting offers at high prices..., carrying out, individually or collectively or based on agreements, an operation in the market..., using manoeuvres aimed at raising or lowering the value of securities.

These are all practices that aim to make quick and illegal profits, as well as violating all applicable legal legislation.

Referring to the legislative definition, we find that the Algerian legislator defines illegal speculation through Article 02 of Law 21-15 as "any hoarding or concealment of goods or merchandise with the aim of creating scarcity in the market and disruption of supply, and any artificial increase or decrease in the prices of goods, merchandise or

*securities, directly or indirectly, or through an intermediary, or using electronic means or any other fraudulent methods or means.”<sup>(8)</sup>*

*Other legal experts defined speculation as a crime of adventure and risk in buying and selling in the hope of future price increases in order to gain more potential price profits, which is an adventure because it may lose instead of collecting the potential and expected profit difference. It also seeks to sow discord in the markets by deluding consumers and agents with a warning (by hiding goods and services) to achieve quick and double profits in the sales of goods and services and high demand.<sup>(9)</sup>*

*Illegal speculation, which some call the crime of price manipulation, takes several methods, the most important of which is executing deals at prices that are far from the actual values of securities, submitting offers at prices higher than those usually applied by sellers, and carrying out, individually or collectively or based on agreements, an operation in the market for the purpose of obtaining a profit that does not result from the normal application of supply and demand, and using maneuvers that aim to raise or lower the value of securities.*

***1 - The legal element of the crime of illegal speculation according to Law No. 21-19, relating to combating illegal speculation:***

*Article 172 thereof stipulates the penalty and acts constituting the material element of the crime of illegal speculation, stating: “Anyone who, directly or through an intermediary, artificially raises or lowers the prices of goods, merchandise, or public or private securities, or attempts to do so, shall be considered to have committed the crime of illegal speculation and shall be punished by imprisonment from six months to five years and a fine from 20,000 DZD to 200,000 DZD:*

*- By deliberately spreading false or malicious news or information among the public.*

*- Or by offering offers in the market with the aim of causing a disturbance in prices.*

*- Or by offering offers at prices higher than those requested by sellers.*

*- Or by carrying out, individually or through a meeting or association, business in the market or attempting to do so with the aim of obtaining a profit not resulting from the normal application of supply and demand*

*- Or by any fraudulent methods or means” With the issuance of Law*

No. 21-15 related to illegal speculation, the aforementioned articles of the Penal Code (172, 173 and 174) were cancelled.

Whereas the Algerian legislator cancelled Articles 172, 173 and 174 related to speculation in <sup>(10)</sup>the Penal Code and issued Law 21, 15 related to combating illegal speculation, which was divided into five chapters, Article Two stipulated that it is considered illegal speculation.

- Promoting false or malicious news and information intentionally among the public with the aim of causing disruption in the market and raising prices in an unjustified manner.

- Offering offers in the market with the aim of causing disruption in prices and profit margins specified by law.

- Offering offers at prices higher than those usually applied by sellers.

Carrying out, individually or collectively and based on agreements, a market operation for the purpose of obtaining a profit not resulting from the normal application of supply and demand.

- Using maneuvers that aim to raise or lower the value of securities, as stated in the second paragraph on the definition of scarcity<sup>(11)</sup>.

Article 4 of the Competition Law 03-03 stipulates that: Measures to determine, cap or approve profit margins and prices of goods and services shall be taken on the basis of proposals from the sectors concerned for the following main reasons:

- To stabilize the price levels of essential or widely exploited goods and services in the event of widespread market turmoil;

- To combat speculation in all its forms and preserve the purchasing power of the consumer. Temporary measures may also be taken to determine and cap profit margins, prices and services according to the same forms in the event of their excessive and unjustified increase, particularly due to serious market turmoil, a disaster or chronic difficulties in financing within a specific sector of activity or in cases of natural innovation<sup>(12)</sup>.

Article 7 of the Competition Law also added that it prohibits any abuse resulting from a position of dominance or monopoly over the market or part of it with the aim of: limiting entry into the market and practicing commercial activities in it. Reducing or controlling production according to market rules by artificially encouraging the rise and fall of prices.<sup>(13)</sup>



*In the same context, Article 12 of the Algerian Competition Law stipulated that: "It is prohibited to offer prices or practice arbitrarily reduced selling prices to consumers compared to the costs of production, transformation and marketing, or if these offers or practices aim or could lead to the exclusion of an institution or the obstruction of one of its products from entering the market."<sup>(14)</sup>*

*We conclude from these articles that there is a complete and sometimes implicit match between the Competition Law and the Unlawful Speculation Law, which both agreed on the illegality and crime of all unusual and circumstantial maneuvers, manipulations and adventures that affect the national market to create confusion in order to achieve illegitimate profits.*

**2- The material element of the crime of unlawful speculation that is anti-competitive:**

*The material element of unlawful speculation is represented by committing the acts mentioned above in Article 2 of the aforementioned Law 21-15, and in conjunction with Articles 7 and 12 of the Competition Law, it is represented by the following:*

*- Promoting false or malicious news to obtain profits and create a position of dominance and arbitrary exploitation of the market and excluding other competitors<sup>(15)</sup>.*

*Offering in the market with the aim of causing a disturbance in prices:*

*- Offering at prices higher than those required by sellers.*

*- Obtaining a profit not resulting from the natural application of supply and demand: According to Article 6 of the aforementioned Competition Law.*

*- Using maneuvers aimed at raising or lowering the value of securities:*

*The criminal result of the crime of illegal speculation lies in the increase, decrease and exclusion of competitors or dominance of the market and the arbitrary exploitation of dominance as a result of carrying out the prohibited acts above.<sup>(16)</sup>*

**3- The moral element of the crime of illegal speculation:**

*In addition to the aforementioned material element, it must be coupled with the moral, psychological or voluntary aspect of the perpetrator or contributor intentionally with the availability of knowledge and certainty of what will be achieved from the illegal*

speculation.

*Through maneuvers and manipulations aimed at influencing and eliminating fair competition and removing other competitors from the market and controlling the laws of supply and demand, and the criminal intent is to achieve additional profits.*

*From a realistic and practical standpoint and due to the necessity of preserving the national economy from these serious crimes, the judiciary and the legislator no longer follow the general legal rule in the theory of crime that the moral element must be present, but rather they have become a condition and impose the realization of the crime by the realization of criminal behavior through the actions of the illegal speculation, as well as the achieved result and the causal relationship between them, unlike what was previously in Article 15 of the repealed Order 95/06 and in comparison with French legislation in Article 420-6 of the French Commercial Code, which required that the accused's behavior be fraudulent, i.e. that the perpetrator be of bad faith.*

*We note from the position of the Algerian legislator that he has somewhat abandoned the criminal penalty that has become available to the person harmed by illegal commercial practices by filing a complaint with the Public Prosecutor to initiate public action. In contrast, the legislator has turned to financial penalties and fines and financial threats, which falls within the powers of the Competition Council.*

***Chapter II: Second main title: Judicial procedures followed before the criminal judiciary to protect free competition:***

*The judicial follow-up before the criminal judge shall be as follows:*

***1-First Subtitle: Initiating and conducting the public lawsuit:***

*In the previous period, the Competition Council referred the lawsuit to the regionally competent public prosecutor for the purpose of legal follow-up when violations and crimes were proven, where the judge could rule in this case with imprisonment from one month to one year against natural persons who caused or participated in the aforementioned practices, according to what was stated in Article 15 of the repealed Order 95/06, which has not been replaced currently by such a procedure.*

*The legislator has organized in the provisions of the Competition Law and within the framework of combating practices contrary to free*

*competition that national consumer protection associations be established as a civil party, and the public pro secutor shall.*

*The public lawsuit after the case reaches him, which in turn refers it to the competent judicial authority that decides on it in accordance with the law according to the text of Article 29 of the Algerian Criminal Procedures, the Public Prosecution, after collecting evidence and proof, is considered the only judicial authority competent to initiate the public lawsuit.*

*Accordingly, the prosecution alone is responsible for initiating the public lawsuit without anyone else participating in it, as it collects evidence and grounds that support its presentation before the ruling authorities after directing the accusation. Through the interpretation of Article 38 of the Code of Criminal Procedure, the law authorizes the Public Prosecutor to directly initiate all investigation procedures that he deems necessary to uncover the illegal speculation, and in the event that he is unable to continue the investigation, he may assign someone to represent him and delegate him, who is usually one of the judicial police officers, to continue collecting evidence on the accused. After the crime is proven, the case is presented to the competent misdemeanor court.*

**1- Legal powers to combat illegal speculation according to Law 21-15:**

**- Determination of prices by the state:**

*Within the framework of preserving the national economy, several bodies, such as the Ministry of Industry, Agriculture and Trade, are responsible for ensuring price stability, taking into account the market profit margin and combating illegal speculation<sup>(17)</sup>, by following the following procedures specified in Article 5 of the amended and supplemented Order 03-03, which are: <sup>(18)</sup>*

**-Determination mechanism:**

*The content of this procedure is that the state undertakes to punish anyone who exceeds the price that it alone determines in various goods, services and sectors, and this after taking into account the economic conditions of citizens according to Article 5 of Law 21-15 mentioned above, and in the same context, the state and municipality undertake to prepare and equip points of sale and neighborhood markets for those with limited, medium and low incomes, and this is within the framework of combating illegal speculation.*



**- Capping mechanism:**

*The state undertakes the issue of capping or setting the maximum price limit and maximum profit margins in the various stages and processes of production, sale, purchase, import, export and distribution of various goods and services, and this is after the proposals of the ministries and sectors concerned, and the state finally approves them<sup>(19)</sup>.*

**- Promoting and developing the consumer culture among citizens:**

*This is the primary role assigned to consumer protection associations and the Algerian media in guiding and directing consumers to purchase goods and services rationally and according to need and necessity and avoiding waste and extravagance and the policy of saving prices in their homes for fear of scarcity in the market and following the rumors that are spread and incite illegal speculation.*

*This is confirmed by Article 6 of Law 21-15 on illegal speculation, which states that "Civil society and the media contribute to promoting consumer culture and activating the process of rationalizing awareness with the aim of rationalizing consumption and not disrupting the rule of supply and demand, especially during holidays, seasons, exceptional situations and those arising from an emergency health crisis or the spread of an epidemic or a disaster."*

**2- Second Subtitle: Procedures for initiating public prosecution and investigations into the crime of illegal speculation:**

*Article 2 of Law 21/15 on combating illegal speculation states that it exposes itself to criminal prosecution that begins with search and investigation procedures, where judicial police officers and agents and qualified agents affiliated with the special control branches affiliated with the administration in charge of trade and the interests of the tax administration are qualified to inspect illegal speculation.*

*Shops and residences suspected of collusion in committing the crime of illegal speculation are not exempted from investigation and inspection procedures at any time and at any hour, which is an exception to the rule, which is from five in the morning to eight in the evening, in addition to the possibility of the competent public prosecutor extending the original period of detention under investigation when it relates to the aforementioned crime, in accordance with Article 11 of Law 21/15, related to illegal speculation, which states that "the original period of detention under investigation*

*may be extended with written permission from the competent public prosecutor twice."*

***1- Penalties prescribed for competition crimes:***

*The Penal Code and the Competition Law stipulate that the judge has the authority to impose original and complementary penalties that vary according to the crime committed, which affects free competition as follows.<sup>(20)</sup>*

***A- Original penalties:***

*Original penalties include imprisonment and a fine according to Article 172 of the Penal Code for crimes against competition with imprisonment from six months to a maximum of five years. While the fine imposed on the perpetrator of the crime was set at five thousand dinars, i.e. from 5,000 as a minimum to 100,000 dinars as a maximum for anyone who directly or through an intermediary raise or an artificial reduction in the prices of goods, merchandise, or public or private securities, or attempted to do so.*

*The penalties imposed on the crime of illegal speculation vary according to the nature of the perpetrator, whether he is a natural or legal person.*

***- Penalties applied to a natural person:***

*The original penalties include imprisonment and a fine.*

***- Imprisonment;***

*The period was specified in Article 12 of Law 21/15, where the crime of illegal speculation is punishable by imprisonment from three years to ten years.*

***B - Fine<sup>(21)</sup>;***

*It was limited in these crimes to a value of one million dinars to two million dinars, which the perpetrator is obligated to pay to the state treasury.*

*The legislator increased the penalty under Article 13 of the same law, if the acts mentioned in Article 12 above occurred on grains and their derivatives, dried legumes, milk, vegetables and fruits, oil, sugar, coffee, fuel materials, or pharmaceutical materials; The penalty is imprisonment from 10 to 20 years, and a fine from two million dinars to ten million dinars.*

*Or in the event that the acts mentioned in Article 13 of the same law are committed during exceptional circumstances, or the emergence of an emergency health crisis, the spread of an epidemic, or the*

*occurrence of a disaster; the penalty shall be temporary imprisonment from 20 years to 30 years and a fine from 10 million dinars to 20 million dinars.*

*If the acts mentioned in Article 13 above are committed by an organized criminal group, the penalty shall be life imprisonment.<sup>(22)</sup>*

## **2 - Additional penalties:**

*It follows the original penalties and is not separate from them unless the law stipulates otherwise, such as the ban on residence and the publication of the ruling.*

*Comparing the repealed Article 174 of the Algerian Penal Code, it allows the criminal judge to rule on the offender to ban him from residence, which is regulated by Article 12 of the Algerian Penal Code, and means prohibiting the accused from residing in the places specified in the ruling issued against him. The period of the ban on residence for competition crimes is from two to five years, starting from the day of his release and after he is notified.*

*In addition to publishing the ruling as a complementary penalty taken by the criminal judge against the offender, to degrade the value of the convicted person and harm his reputation among people and defame him, Article 174 of the Penal Code stipulates that "the judge must, even if he applies mitigating circumstances, order the publication of his ruling in accordance with the provisions of Article 18." From the induction of the two articles, the same penalties were maintained in the crime of illegal speculation, such as the period of residence ban and others. The judge competent to adjudicate the case must also order the publication of the ruling in full in one or more newspapers or its posting in the places specified in the ruling for one month at the expense of the perpetrator, which does not exceed the value of the fine imposed.*

*The legislator also stipulated additional penalties under Articles 16, 17, and 18 of the same law, in this crime by banning residence from two to five years, and the judge may rule to prevent the exercise of one or more of the rights mentioned in Article 09 bis 01 of the Penal Code related to the deprivation of the exercise of national, civil and political rights.*

## **Conclusion:**

*From the above, we find that the Algerian legislator fought the crime of illegal speculation and all practices contrary to free competition, such as monopoly and creating a situation of economic dominance and*

*dependence and others through a group*

*The regulations and laws are hated by the judicial authorities as well as the administrative control authorities such as the Competition Council to protect the national economy.*

*What we have concluded is that the ordinary judicial authorities, including the criminal judge, do not have important powers because they do not directly confront anti-commercial practices, unlike the powers dedicated to the Competition Council, which intervenes immediately and directly, and they are within its general jurisdiction and based on the recommendations of the parties concerned with the national economy, such as the Ministry of Industry, Agriculture, Trade, etc.*

*Accordingly, we can make the following recommendations:*

*That the jurisdiction to combat the crime of illegal speculation be returned to specialists from judicial police officers, agents of the departments responsible for monitoring, and economic experts in the market.*

*- We propose that the economic penal pole be competent to adjudicate the crime of illegal speculation as a serious economic crime.*

*- Strengthening and activating the role of consumer protection associations in various audio-visual communication means to raise citizens' awareness of the negative effects of speculation and practices that restrict free competition.*

*- Increase sudden and continuous supervision of the practical exits of shops, commercial warehouses and stores, with supervision of the prices displayed in the markets to combat speculation and monopoly.*

#### **Referrals and References:**

<sup>(1)</sup>- Tioursi Mohamed, Tioursi Mohamed, *Legal Controls for Competitive Freedom in Algeria*, Dar Houma, Algeria, 2003, p. 252.

<sup>(2)</sup>- Order No. 66-156 dated June 8, 1966, including the amended and supplemented Penal Code,

<sup>(3)</sup>- Order No. 03-03 dated Jumada I 19, 1424 AH, corresponding to July 19, 2003, relating to competition, *Official Gazette*, No. 43, dated Jumada I 20, 1424 AH, corresponding to July 20, 2003, p. 25.

<sup>(4)</sup>- See Article: 6 of Order No. 03-03 on Competition.

<sup>(5)</sup>- Law No. 21-15, on combating illegal speculation, *Official Gazette*, No. 99, dated 24 Jumada I 1443 AH, corresponding to December 29, 2021. p. 7

<sup>(6)</sup>- Article: 24 of Law No. 21-15, on combating illegal speculation.

<sup>(7)</sup>- The legislator required three conditions for the application of the text of Article 15 of Order 95/06 for the crime to be committed in the field of competition.

1 - There must be one of the practices that are, according to Order 95/06, agreements, a position of dominance, abuse of the position of dominance, and abuse of economic dependence to apply the text of Article 420-6. As for the abusive sale, it is not concerned with this criminalization.

We also find that the phrases used by the legislator in defining competition crimes "aims or may aim to obstruct, limit or disrupt the freedom of competition" were inaccurate to establish a criminal offense.

2 - These practices must not be justified, whether by a legislative text or by a license from the Competition Council.

<sup>(8)</sup>- Article 02 of Law 21/15 on combating illegal speculation, dated 23 Jumada Al-Ula 1443 AH corresponding to December 28, 2021, Official Gazette No. 99.

<sup>(9)</sup>- Shafar Nabia, *Crimes Related to Competition in Algerian Law and Comparative Law*, Master's Thesis in Private Law, Specialization in Economic Agents/Consumer Relations, Faculty of Law, University of Oran. 2012/2013, p. 19.

<sup>(10)</sup>- Article 24 of Law 21-15, relating to combating illegal speculation.

<sup>(11)</sup>- Article 2 of Law 21-15, relating to the fight against illegal speculation

<sup>(12)</sup>- Article 4 of Order 03-03 relating to the Competition Law.

<sup>(13)</sup>- Article 7 of Order 03\03 relating to the Competition Law .

<sup>(14)</sup>- Article 12 of Order 03/03, relating to the Competition Law.

<sup>(15)</sup>- Issawi Samir Mon Fatima Zahra, *Crimes of Competition and Prices*, Graduation Thesis for a Master's Degree in Law, Business Law Specialization, University of May 8, 1945, Guelma, 2016, p. 121 Shafar Naba, previous reference, p. 121

<sup>(16)</sup>- Qaisar Mahmoud, *Crime of Manipulating Stock Prices Illegal Speculation*, p. 6

<sup>(17)</sup>- Abdelkrim Saada, *Combating the Crime of Illegal Speculation under Algerian Legislation in Light of Law 21\15*, *Journal of Rights and Freedoms*, Issue 1, Algeria 2022, p. 133.

<sup>(18)</sup>- Sabia Jamila, *Criminal Protection of Competition in Economic Activities in Algerian Legislation*, University of Arab Tebessi - Tebessa - Algeria, Faculty of Law and Political Sciences, Department of Law, A memorandum submitted as part of the requirements for obtaining a Master's degree, Specialization: Criminal Law and Criminal Sciences 2021-2022 - p. 57.

<sup>(19)</sup>- Arshoush Sofiane, *The Crime of Illegal Speculation According to Law 21\15*, *Journal of Rights and Freedoms*, Issue 1, University of Laghrour Abbas Khenchela, 2022, p. 821

<sup>(20)</sup>- Ahsen Boussegaya, *General Criminal Law*, National Office of Educational Works, 2002, p. 104.

<sup>(21)</sup>- Article 12 of Law 21/15 on combating illegal speculation, which states: "Illegal speculation is punishable by imprisonment from three to 10 years, and a fine from one million to two million Algerian dinars.

<sup>(22)</sup>- Articles 13-14-15 of Law 21/15 on combating illegal speculation.