Investigation and Inquiry Procedures for Detecting the Crime of Unlawful Speculation and the Prescribed Penalties

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Abstract

The crime of unlawful speculation is considered one of the most serious offenses affecting national economies, security, and stability. It also constitutes a dangerous negative practice that directly impacts citizens' purchasing power. In recent years, this phenomenon has spread alarmingly, particularly following the outbreak of the COVID-19 pandemic, prompting the Algerian legislator to intervene by enacting a special law, namely Law No. 21-15 of 28 December 2021 on combating unlawful speculation. This law primarily aims to confront and limit the spread of such practices. It also establishes the main procedures to be followed in the investigation and detection of unlawful speculation offenses, as well as the penalties prescribed for them.

Keywords: Investigation, Crimes, Inquiry, Speculation, Unlawful, Penalties.

Introduction

Although freedom of trade is constitutionally guaranteed, it must be exercised within the legal framework established by law in a manner that ensures harmony between supply and demand and achieves a balance between the interests of producers and consumers. On the one hand, producers seek to offer goods at prices that correspond to their production costs and enable them to increase production. On the other hand, consumers seek to purchase such goods at prices that are compatible with their purchasing power.(1)

Speculation is regarded as one of the fundamental principles upon which commercial activities are based, since the objective of every trader or economic operator is to generate profit through speculative activities. However, the exercise of such activities must comply with legal regulations and the principles of fair and transparent commercial practices. Otherwise, speculation becomes unlawful, producing adverse consequences for individuals and society and even threatening the national security of the State.

Unlawful speculation may be defined as "fraudulent operations aimed at creating abnormal fluctuations in the market in order to take advantage of newly created or emerging circumstances and generate personal profits."(2)

With the emergence of the global health crisis in 2019 and the spread of the COVID-19 pandemic, accompanied by the proliferation of practices contrary to fair competition—including unlawful speculation—at the international, regional, and national levels, the Algerian legislator began laying the foundations for a legal framework designed to protect citizens' purchasing power and the national economy while combating such practices with firmness and effectiveness.

Accordingly, in 2021, Law No. 21-15 of 28 December 2021 on combating unlawful speculation was enacted. This law encompasses various mechanisms, procedural rules, and penalties applicable in cases involving the detection of unlawful speculation offenses. Therefore, the following research question arises:

What procedures must be followed in the investigation and detection of unlawful speculation offenses, and what penalties are prescribed for such crimes?

To answer this research problem, the descriptive method was adopted to identify the various bodies responsible for detecting and pursuing perpetrators of unlawful speculation offenses, while the analytical method was employed to examine the legal provisions governing the penalties imposed for such offenses. The study is structured into two main sections, as outlined below:

Introduction

Section One: Authorities Responsible for Investigation and Inquiry in Combating Unlawful Speculation and Their Procedures

Subsection One: Persons Authorized to Establish the Offense of Unlawful Speculation

Subsection Two: Investigation and Inquiry Procedures in the Crime of Unlawful Speculation

Section Two: Penalties Prescribed for the Crime of Unlawful Speculation

Subsection One: Commission of the Crime of Unlawful Speculation by a Natural Person

Subsection Two: Commission of the Crime of Unlawful Speculation by a Legal Person

Conclusion

Section One: Authorities Responsible for Investigation and Inquiry in Combating Unlawful Speculation and Their Procedures

In this section, we examine the authorities legally empowered to conduct investigations and inquiries for the detection of unlawful speculation offenses (Subsection One), followed by a presentation of the principal procedures that must be followed during the investigation and inquiry process (Subsection Two).

Subsection One: Persons Authorized to Establish the Crime of Unlawful Speculation

Article 7 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation provides that the persons authorized to establish the offense of unlawful speculation are as follows:[5]

- Judicial police officers and judicial police agents;
- Authorized agents belonging to the special inspection corps under the administration responsible for commerce;
- Authorized agents belonging to the tax administration services.(3)

1. Judicial Police Officers and Judicial Police Agents

These include persons who have acquired the following legal status:

1.1 Judicial Police Officers

Pursuant to Article 23 of the Code of Criminal Procedure, the following persons possess the status of Judicial Police Officer:[7]

- Presidents of Municipal People's Assemblies;
- Officers of the National Gendarmerie;
- Officials belonging to the special corps of inspectors, commissioners, and police officers of the National Security;
- Non-commissioned officers who have served in the National Gendarmerie for at least three (3) years and who are appointed by joint decision of the Minister of National Defence and the Minister of Justice after approval by a special committee;
- Officials belonging to the special corps of inspectors, investigators, custodians, and police agents of the National Security who have served in that capacity for at least three

(3) years and who are appointed by joint decision of the Minister of Justice and the Minister of the Interior after approval by a special committee.(4)

1.2 Judicial Police Agents

Article 29 of the Code of Criminal Procedure provides that Judicial Police Agents are:[9]

Officials of police services, members holding ranks in the National Gendarmerie, gendarmes, personnel of military security services, inspectors of navigation and maritime labor, as well as Coast Guard agents affiliated with the National Coast Guard Service, who do not possess the status of Judicial Police Officer.(5)

These agents assist Judicial Police Officers in carrying out their duties and functions related to establishing offenses provided for in the Penal Code. They act in compliance with the orders of their superiors and are subject to the regulations governing the bodies to which they belong. They are also responsible for collecting all information concerning the perpetrators of crimes.(6)

2. Inspection Agents Affiliated with the Administration Responsible for Trade

These are sworn agents who, in addition to conducting economic investigations and detecting offenses committed by economic operators as provided for in Law No. 04-02 establishing the rules applicable to commercial practices, Law No. 04-08 relating to the conditions for carrying out commercial activities, and Ordinance No. 03-03 concerning competition, are also empowered to detect offenses of unlawful speculation and to draw up official reports for the prosecution of offenders, in accordance with Article 7 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation.[12]

3. Inspection Agents Affiliated with Tax Administration Services

These are sworn agents provided for under various tax laws who, in addition to monitoring tax collection and detecting offenses related to taxation, are also empowered to establish offenses of unlawful speculation and pursue their perpetrators pursuant to Article 7 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation.[13]

Subsection Two: Investigation and Inquiry Procedures in the Crime of Unlawful Speculation

These procedures may be divided into two categories: general procedures and special procedures.

1. General Procedures

General procedures consist of the direct investigation and detection of unlawful speculation offenses, either on the basis of confirmed information indicating the commission or attempted commission of the offense, or through routine inspection operations. In such cases, the persons authorized to detect these offenses undertake the following actions:[14]

- Proceed to the location where the offense of unlawful speculation has been committed;
- Inspect the premises where the offense occurred (shops, warehouses, cold-storage facilities, residences, etc.) and inventory the items involved in the offense;
- Seize the means used in committing the offense and any proceeds derived therefrom;(7)
- Apprehend any principal offender, accomplice, or instigator. (8)

From the foregoing procedures, it may be observed that coordination among the various authorities responsible for combating unlawful speculation is essential. Their activities should be carried out through joint task forces, such as:

- Trade inspection agents, National Security officers, and tax administration inspection agents;
- Trade inspection agents, National Gendarmerie officers, and tax administration inspection agents;

as well as any other joint teams that may be established for this purpose, particularly when it comes to identifying and apprehending principal offenders, accomplices, and instigators.

2. Special Procedures

Special procedures primarily concern the search of residential premises and police custody.

A. Search of Residential Premises

Article 10 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation provides that, notwithstanding the provisions of Articles 47 and 48 of the Code of Criminal Procedure, residential premises may be searched after obtaining prior written authorization from the competent Public Prosecutor or Investigating Judge, at any hour of the day or night, particularly in view of the fact that such offenses have been observed to extend to residential properties.

Given the seriousness of the offense of unlawful speculation and its adverse effects on citizens' purchasing power and the national economy, the Algerian legislator, through Law No. 21-15 on combating unlawful speculation, authorized the search of residential premises at any time, day or night, provided that prior written authorization is obtained from the competent Public Prosecutor or Investigating Judge. This constitutes an exception to the general rule governing residential searches, which stipulates that dwellings may not be searched before 5:00 a.m. or after 8:00 p.m.

It should be noted that Article 47 of the former Code of Criminal Procedure corresponds to Article 78 of the new Code, while Article 48 corresponds to Article 80. Although the numbering has changed, the same procedures and powers granted to Judicial Police Officers regarding residential searches have essentially been maintained. Nevertheless, this legislative amendment should be expressly noted.(9)

B. Detention for Questioning (Police Custody)

Article 11 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation provides that, notwithstanding the provisions of Articles 51 and 65 of the Code of Criminal Procedure, the original period of police custody may be extended twice upon written authorization from the competent Public Prosecutor when the offense concerns unlawful speculation.[19]

It should be noted that Article 51 of the former Code of Criminal Procedure corresponds to Article 83 of the new Code, which provides that the period of police custody may be extended four (4) times upon written authorization from the competent Public Prosecutor when offenses against State security or transnational organized crime are involved. The legislator thus increased the possible number of extensions from two (2) to four (4), in view of the seriousness of unlawful speculation, which has been classified among offenses affecting State security.[20]

Likewise, Article 65 of the former Code of Criminal Procedure authorized the extension of police custody twice upon written authorization from the competent Public Prosecutor in cases involving offenses against State security. The corresponding provision in the new Code of Criminal Procedure is Article 98, which adopted the rule contained in Article 83(5) of Law No. 25-14 of 3 August 2025 establishing the Code of Criminal Procedure. This provision allows police custody to be extended up to four (4) times, upon written authorization from the competent Public Prosecutor, when dealing with offenses against State security and transnational organized crime, including the offense of unlawful speculation.(10)

It should further be emphasized that searches of residential premises and detention for questioning may only be carried out by Judicial Police Officers in accordance with Articles 78, 83, and 98 of the Code of Criminal Procedure, even when dealing with offenses of unlawful speculation provided for under Law No. 21-15. Consequently, effective coordination among the various authorities legally empowered to investigate and inquire into unlawful speculation offenses is essential in order to avoid any errors in the application of the law.[22]

Section Two: Penalties Prescribed for the Crime of Unlawful Speculation

In this section, a distinction must be drawn between offenses committed by natural persons and those committed by legal persons, since the applicable penalties differ according to the nature of the offender.[23]

Subsection One: Commission of the Crime of Unlawful Speculation by a Natural Person

With regard to natural persons, the penalties imposed for unlawful speculation offenses are divided into two categories: principal penalties and supplementary penalties.[24]

1. Principal Penalties

A distinction must be made between ordinary penalties and aggravated penalties.

A. Ordinary Penalties

Article 12 of Law No. 21-15 on combating unlawful speculation provides that unlawful speculation is punishable by imprisonment ranging from three (3) years to ten (10) years and a fine ranging from DZD 1,000,000 to DZD 2,000,000.[25]

It should be noted that this constitutes the least severe penalty applicable to unlawful speculation when compared with the aggravated penalties discussed below.(11)

B. Aggravated Penalties

These penalties are provided for in Articles 13, 14, and 15 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation. They are as follows:[27]

- Where the offense of unlawful speculation concerns cereals and their derivatives, dry legumes, milk, vegetables, fruits, oil, sugar, coffee, fuel products, or pharmaceutical products, the penalty shall be imprisonment from ten (10) years to twenty (20) years and a fine ranging from DZD 2,000,000 to DZD 10,000,000.
- Where the offense of unlawful speculation concerning the aforementioned products is committed during exceptional circumstances, a public health emergency, the outbreak of an epidemic, or the occurrence of a disaster, the penalty shall be temporary imprisonment for a term ranging from twenty (20) years to thirty (30) years and a fine ranging from DZD 10,000,000 to DZD 20,000,000.[29]
- Where the offense of unlawful speculation concerning the aforementioned products is committed by an organized criminal group, the penalty shall be life imprisonment.[30]

It can be observed that the legislator established a graduated system of principal penalties for unlawful speculation offenses, taking into consideration both the nature of the goods affected and the surrounding circumstances. These penalties are considerably more severe than those previously provided under Articles 172 and 173 of Ordinance No. 66-156 establishing the Penal Code, which were repealed by Article 24 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation.(12)

2. Supplementary Penalties

Supplementary penalties are themselves divided into two categories: mandatory supplementary penalties and optional supplementary penalties.

A. Mandatory Supplementary Penalties

The principal mandatory supplementary penalties include the following:

- Publication and posting of the judgment in the event of conviction, by order of the judge, pursuant to Article 18 of the Penal Code.(13)

13Confiscation of the objects constituting the subject matter of the offense, the means used in its commission, and the proceeds derived therefrom.

B. Optional Supplementary Penalties

The optional supplementary penalties include the following (14)

- The offender may be prohibited from residing in a specified place for a period ranging from two (2) to five (5) years.
- Deprivation of one or more of the rights provided for under Article 9 bis 1 of the Penal Code, where the conviction relates to a misdemeanor.
- The court may order the removal of the offender's commercial registration and prohibit the exercise of commercial activities in accordance with the provisions of the Penal Code.
- The temporary closure of the premises used in the commission of the offense for a period not exceeding one (1) year, without prejudice to the rights of bona fide third parties.

Subsection Two: Commission of the Crime of Unlawful Speculation by a Legal Person

As is the case with natural persons, the penalties prescribed for unlawful speculation offenses committed by legal persons are divided into two categories: principal penalties and supplementary penalties.

1. Principal Penalties

Article 19 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation provides that a legal person committing any of the offenses stipulated under this law shall be subject to the penalties prescribed by the Penal Code.

Reference to Article 18 bis of the Penal Code reveals that the principal penalty applicable to legal persons is solely a monetary fine, the amount of which ranges from one (1) to five (5) times the maximum fine prescribed for a natural person under the law criminalizing the offense. All other sanctions are considered supplementary penalties.

2. Supplementary Penalties Applicable to Legal Persons

Supplementary penalties applicable to legal persons are divided into two categories: mandatory supplementary penalties and optional supplementary penalties.

A. Mandatory Supplementary Penalties Applicable to Legal Persons

The mandatory supplementary penalties consist of:

- Confiscation;
- Publication and posting of the judgment or conviction decision.

B. Optional Supplementary Penalties Applicable to Legal Persons

Article 17 of Law No. 21-15 of 28 December 2021 on combating unlawful speculation provides for the following optional supplementary penalties:

- Cancellation of the commercial registration;
- Prohibition from carrying on commercial activities (dissolution);
- Temporary closure of the premises for a period not exceeding one (1) year.

Conclusion

Through our study of this subject, we have reached a number of findings, the most important of which are the following:

- Investigation and inquiry procedures aimed at detecting unlawful speculation offenses may only be carried out by the persons designated under Article 7 of Law No. 21-15 on combating unlawful speculation.
- Since the special procedures relating to the detection and investigation of unlawful speculation offenses are primarily based on the inspection of commercial and residential premises and the detention of suspects for questioning, continuous coordination is required between Judicial Police Officers, authorized inspection agents affiliated with the administration responsible for trade, and agents affiliated with the tax administration services in order to prevent offenders from escaping punishment.
- The legislator wisely adopted a graduated system of penalties for unlawful speculation offenses based on the nature of the goods affected by the unlawful speculation (cereals and their derivatives, milk, dry legumes, fuel products, pharmaceutical products, etc.), the circumstances surrounding the offense (exceptional situations, epidemics, health crises, etc.), and whether the offense was committed by an individual or by an organized criminal group.

The study also led to a number of recommendations that should be emphasized:

- Persons authorized to detect unlawful speculation offenses (authorized inspection agents affiliated with the administration responsible for trade, authorized agents of the tax administration, and members of the National Security and National Gendarmerie services) should receive specialized training in view of the seriousness of this offense and its negative impact on both individuals and society.

- The authorities responsible for combating unlawful speculation should ensure the accurate legal characterization of such offenses, particularly where they overlap with related crimes such as smuggling and hoarding.
- Specialized cybersecurity units should be established to monitor various online platforms and social media networks in order to detect at an early stage any propaganda or activities likely to contribute to the commission of unlawful speculation offenses in any form.

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9. See Articles 78 and 80 of Law No. 25-14 of 3 August 2025 containing the Code of Criminal Procedure, previously cited.

10. See Article 83(5), Paragraph 3, of Law No. 25-14 of 3 August 2025 containing the Code of Criminal Procedure, ibid.

11. See Article 12 of Law No. 21-15 of 28 December 2021 relating to the combating of unlawful speculation, previously cited.

12. See Articles 13, 14, and 15 of Law No. 21-15 of 28 December 2021 relating to the combating of unlawful speculation, ibid.

13. For further details, see Articles 16 and 18 of Law No. 21-15 of 28 December 2021 relating to the combating of unlawful speculation, previously cited.

14. Articles 16 and 17 of Law No. 21-15 of 28 December 2021 relating to the combating of unlawful speculation, ibid.