

## **Consumer Protection in Light of the Provisions of Law No. 21-15 on Illegal Speculation**

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| العربية               | English                  |
|-----------------------|--------------------------|
| المضاربة غير المشروعة | Illegal speculation      |
| حماية المستهلك        | Consumer protection      |
| القدرة الشرائية       | Purchasing power         |
| العرض والطلب          | Supply and demand        |
| الأسعار               | Prices                   |
| السوق                 | Market                   |
| الندرة                | Scarcity                 |
| السلع والبضائع        | Goods and commodities    |
| التدابير الوقائية     | Preventive measures      |
| التدابير الجزائية     | Criminal measures        |
| الركن الشرعي          | Legal element            |
| الركن المادي          | Material element         |
| الركن المعنوي         | Moral element            |
| القصد الجنائي العام   | General criminal intent  |
| القصد الجنائي الخاص   | Specific criminal intent |
| العقوبة               | Penalty                  |
| عقوبة الحبس           | Imprisonment penalty     |
| الغرامة المالية       | Financial fine           |
| العقوبات التكميلية    | Complementary penalties  |
| المنع من الإقامة      | Residence ban            |
| الحرمان من الحقوق     | Deprivation of rights    |
| المنافسة              | Competition              |
| الممارسات التجارية    | Commercial practices     |
| الأخبار الكاذبة       | False information        |
| التخزين               | Storage                  |
| إخفاء السلع           | Concealment of goods     |
| ارتفاع الأسعار        | Price increase           |
| استقرار الأسعار       | Price stability          |
| الاستهلاك العقلاني    | Rational consumption     |
| المجتمع المدني        | Civil society            |
| وسائل الإعلام         | Media                    |
| الجماعات المحلية      | Local authorities        |
| العرض التجاري         | Commercial offer         |
| الأوراق المالية       | Financial securities     |

**Abstract:**

Law No. 21-15 on illegal speculation includes provisions related to consumer protection, considering the consumer as the weaker party in the economic relationship. The Algerian legislator has sought to protect consumers from all forms of monopolistic practices, price instability, and market disturbances. In order to safeguard the economic rights of the Algerian consumer within the framework of market control mechanisms, it was necessary for the legislator to enact this body of legislation to prevent and combat acts of illegal speculation.

**Keywords:** Illegal speculation, consumer, prices.

**Introduction:**

The 2020 Constitution stipulates in Article 62 that the State is responsible for protecting consumers in a manner that guarantees their safety, health, and economic rights. These rights are constitutionally guaranteed (1).

Legal protection for the consumer is also ensured through several legislative texts, including the Consumer Protection and Fraud Repression Law No. 09-03 (2), the Competition Law No. 03-03 (3), and the law establishing the rules applicable to commercial practices No. 04-02 (4). These laws, in particular, highlight various aspects of legal protection for consumers against unfair practices carried out by economic operators or agents that may harm consumers and their economic interests, given that they are the weaker party in the economic relationship.

However, these provisions and rules governing competition and the honest and fair conduct of commercial activities are no longer sufficient on their own to ensure fair and lawful competition. This has necessitated the enactment of a comprehensive legal framework aimed at achieving a balance between the freedom to conduct trade in a fair competitive environment on the one hand, and meeting consumer needs and ensuring food security on the other.

Thus, Law No. 21-15 on combating illegal speculation (5) was introduced, whereby the Algerian legislator devoted specific provisions to consumers in order to enhance the protection of their economic rights. This is achieved through the adoption of a set of measures and procedures intended to limit acts of illegal speculation and preserve the consumer's purchasing power. Consumers need access to goods and services to meet their consumption needs, which requires eliminating artificial scarcity in the market as well as preventing price manipulation.

The objective of this study is to shed light on the provisions contained in Law No. 21-15 concerning the mechanisms for combating illegal speculation and addressing this phenomenon ...has come to pose a serious threat to consumer interests. After these acts were initially limited to essential goods—thereby threatening consumer food security, with the consumer as the victim and weaker party—they have extended to medical and pharmaceutical products. This development led the Algerian legislator to increase prison penalties for anyone engaging in speculation involving essential or pharmaceutical goods.

To address this issue and answer the research problem—namely, the extent to which Law No. 21-15 is effective in providing consumer protection within the framework of combating

illegal speculation—we rely on the analytical method to examine legal provisions related to preventive and penal protection of consumers from all forms of illegal speculation, as well as the descriptive method to identify acts of illegal speculation as the material element of this crime and to determine the penalties prescribed for it, through a dual-structured plan.

The study is organized as follows:

### **First Section: Preventive Measures to Combat Illegal Speculation**

- **First Requirement:** Manifestations provided for under Article 3 of Law No. 21-15
- **Second Requirement:** Manifestations provided for under Article 4 of Law No. 21-15

### **Second Section: Criminal Protection of the Consumer Against the Crime of Illegal Speculation**

- **First Requirement:** Elements of the Crime of Illegal Speculation
- **Second Requirement:** Penalties Prescribed for the Crime of Illegal Speculation

### **First Section: Preventive Measures to Combat Illegal Speculation**

Among the mechanisms adopted by the State to reduce acts of illegal speculation—aimed at protecting both the consumer and the market, preserving the consumer’s purchasing power, and eliminating the scarcity of consumer goods—are preventive measures (first requirement). These were defined by the legislator in Articles 3 and 4 of Law No. 21-15, in addition to the role of local authorities and civil society in combating illegal speculation (second requirement), as provided for in Articles 5 and 6 of the same law.

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#### **First Requirement: Manifestations of Preventive Measures to Combat the Crime of Illegal Speculation**

The Algerian legislator established security measures in Article 1 of the Penal Code under the principle: “There is no crime, no penalty, and no security measure without a legal provision.”

The manifestations of preventive measures were also set out in Law No. 21-15 on illegal speculation, specifically in Articles 3 and 4. These will be examined in this section.

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#### **First Branch: Manifestations Provided for in Article 3**

The Algerian legislator provided for preventive measures under Article 3 of Law No. 21-15 relating to acts of illegal speculation, which can be summarized as follows (6):

##### **Developing a strategy to ensure market balance:**

This measure relies on accurate data, studies, and statistics produced by specialized bodies—whether existing or newly established by the legislator—at both regional and national levels,

enabling the ...making appropriate decisions to ensure market balance and control the flow of goods and commodities at both wholesale and retail levels.

- **Working to stabilize prices and limit illegal speculation:**  
This measure involves the effective implementation of all procedures that contribute to price stability, whether under the law in question or other related laws and regulations governing prices, such as the Penal Code and the Competition Law.
- **Preserving the purchasing power of citizens:**  
This measure takes two forms: improving individual income on a periodic and continuous basis on the one hand, and ensuring that prices remain accessible on the other. Purchasing power and net individual income are important indicators of economic development and key factors in political stability. For this reason, the State has undertaken this responsibility under the law in question.
- **Preventing the exploitation of circumstances to unjustifiably increase prices, particularly for essential and widely consumed goods:**  
This measure targets exceptional situations, such as natural or health-related crises, which may be exploited by some actors to raise prices, as occurred during periods of total lockdown. The legislator has specifically focused on essential and widely consumed goods because, in practice, illegal speculation often targets these products due to high demand and the significant profits generated, or sometimes for political motives aimed at creating instability and unrest.

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## **Second Branch: Manifestations Provided for in Article 4**

Article 4 of Law No. 21-15 on combating illegal speculation sets out additional measures as a preventive framework to address ...acts of illegal speculation before they occur, and they can be summarized as follows (7):

- **Ensuring the availability of essential goods and commodities in markets:**  
This measure may take a direct form through the direct intervention of the State via its institutions to provide goods, such as professional offices for meat, vegetables, and milk; or an indirect form by facilitating the process for private operators, encouraging them, removing all obstacles, and providing the appropriate legal framework and suitable environment, while exercising the necessary supervision to ensure the flow of essential goods and commodities in markets at prices affordable to consumers.
- **Adopting monitoring mechanisms to take appropriate measures to limit scarcity:**  
This measure is based on anticipating situations of scarcity before they actually occur, in light of available data ensured by the continuous presence of state agents in markets, which allows for taking appropriate measures to prevent the actual occurrence of scarcity.
- **Encouraging rational consumption:**  
This measure includes awareness-raising efforts directed at consumers in all forms, with the aim of making them more responsible in their consumption behavior. It has a dual objective: involving the consumer in combating the phenomenon of illegal speculation by limiting consumption to actual needs and avoiding stockpiling on the one hand, and preserving consumer health on the other, since excessive consumption of any product can have negative effects on health.

- **Taking the necessary measures to counter the spread of rumors aimed at disrupting the market:**
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This measure reflects the legislator's awareness of the significant impact that the spread of false information can have in creating situations of scarcity and rising prices. The measures required to refute such rumors consist of responding to them in a timely manner, with strong and convincing arguments, and by legally qualified persons, while mobilizing all forms of media for this purpose.

- **Preventing any unjustified storage or withdrawal of goods and commodities to create scarcity in the market:**

This measure aims to establish storage structures under state supervision to prevent speculators from exploiting them illegally to create scarcity and raise prices. As previously explained, storage represents the most critical stage in illegal speculation. Moreover, goods withdrawn from the market are often destined for storage; therefore, strict monitoring and control over storage locations and operations are of utmost importance to prevent the commission of the crime of illegal speculation or at least to prevent its consequences.

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## **Second Requirement: The Role of Local Authorities and Civil Society in Combating Illegal Speculation**

The Algerian legislator, within the mechanisms for combating illegal speculation, emphasized the effective role played by both local authorities (first branch) and civil society (second branch) in reducing this type of crime.

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### **First Branch: The Role of Local Authorities in Combating Illegal Speculation**

In Article 5 of Law No. 21-15 on combating illegal speculation, the Algerian legislator outlined the role of local authorities in putting an end to the acts constituting this crime through the adoption of the following measures:

- **Allocating points of sale for essential goods or widely consumed products at prices suitable for low-income groups, especially during holidays, seasons, and exceptional circumstances that usually witness price increases.**
- **Early detection of all forms of scarcity in goods and commodities at the local level, particularly essential and widely consumed products.**
- **Studying and analyzing the condition of the local market and examining price trends.**

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### **Second Branch: The Role of Civil Society and the Media in Combating Illegal Speculation**

In Article 6 of Law No. 21-15, the Algerian legislator emphasized the role of civil society and the media in promoting consumer culture and enhancing awareness aimed at rationalizing consumption and maintaining the balance of supply and demand, particularly during holidays, seasons, and exceptional situations resulting from health crises, epidemics, or disasters.

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## **Second Section: Criminal Protection of the Consumer Against the Crime of Illegal Speculation**

Within the framework of establishing criminal protection for the consumer, it is first necessary to address the crime of illegal speculation by identifying its elements, and then to examine the penalties prescribed for the perpetrator of this crime.

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### **First Requirement: Elements of the Crime of Illegal Speculation**

Like other crimes, the crime of illegal speculation is based on essential elements: the legal element, the material element, and the moral element. A crime cannot exist without all these elements being present. Accordingly, we will first address the legal provision criminalizing acts of illegal speculation, and then move on to **its material and moral elements, and the specificity of the latter in this type of crime.**

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#### **First Branch: The Legal Element**

The Algerian legislator defined acts of illegal speculation in Article 2 of Law No. 21-15, stating that they include: *“any storage or concealment of goods or commodities with the aim of creating scarcity in the market or disrupting supply, and any artificial increase or decrease in the prices of goods, commodities, or financial securities, whether directly, through an intermediary, by using electronic means, or through any other fraudulent methods or means.”*

The Algerian legislator thus criminalized acts of illegal speculation under Article 2 of this law, in addition to Law No. 03-03 relating to competition, and established several penalties included in the law governing the rules applicable to commercial practices (8).

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#### **Second Branch: The Material and Moral Elements of the Crime of Illegal Speculation**

In addition to the legal provision criminalizing acts of illegal speculation, the Algerian legislator specified these acts in Article 2 of the same law. The specificity of this type of crime requires, beyond the legal and material elements, the presence of intent and will to engage in illegal speculation, as will be explained below.

### **First: The Material Element**

Article 2 of Law No. 21-15 sets out the main acts constituting the crime of illegal speculation, which can be summarized as follows:

- **Deliberately spreading false news and information among the public with the aim of disrupting the market.**
  - **Placing offers on the market with the aim of causing price disturbances or exceeding legally established profit margins.**
  - **Making offers at prices higher than those normally applied by sellers.**
  - **Carrying out, individually or collectively, or based on agreements, operations in the market with the aim of obtaining abnormal profit resulting from the natural operation of supply and demand.**
  - **Using maneuvers with the aim of raising or lowering the value of financial securities.**
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### **Second: The Moral Element**

The crime of illegal speculation, in its moral element, is based on both general criminal intent and specific criminal intent (9):

- **General criminal intent:**  
This is established when the perpetrator is aware that their conduct violates the rules of commercial activity and the spirit of competition—that is, they know the falsity of their claims—and possesses the will to disrupt free competition and the law of supply and demand.
  - **Specific criminal intent:**  
This exists when the perpetrator aims to provoke an unjustified increase in prices.
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### **Second Requirement: Penalties Prescribed for the Crime of Illegal Speculation**

The penalties prescribed for this crime under Law No. 21-15 on combating illegal speculation are divided into principal penalties and complementary penalties, in addition to aggravated penalties where certain circumstances are present.

#### **First Branch: Principal Penalty**

This is provided for in Article 12 of Law No. 21-15, where the Algerian legislator established a penalty of imprisonment ranging from three to ten years, along with a fine ranging from 1,000,000 to 2,000,000 Algerian dinars.

The penalty is aggravated under Article 13 of the same law if the aforementioned acts concern essential goods such as cereals, milk, vegetables and fruits, oil, sugar, coffee, fuel, and pharmaceutical products. In such cases, the penalty is increased to imprisonment ranging from ten to twenty years, along with a fine from 2,000,000 up to 10,000,000 Algerian dinars (10).

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### **Second Branch: Complementary Penalties**

These are provided for in Articles 16, 17, and 18 of Law No. 21-15, and include a ban on residence for a period ranging from two to five years, as well as deprivation of certain rights mentioned in Article 9 bis 1 of the Algerian Civil Code, including national, civil, and political rights (11).

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### **Conclusion**

Although the Algerian legislator recognizes freedom of competition, trade, and investment as constitutionally guaranteed rights, these freedoms are nevertheless limited in order to protect consumer interests and their economic rights. Through this study on consumer protection under Law No. 21-15 on combating illegal speculation, several findings have been reached, followed by key recommendations.

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### **Findings**

- Criminalization of illegal speculation acts and aggravation of penalties when they involve essential goods.
  - **Requiring the presence of specific criminal intent in the crime of illegal speculation.**
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### **Recommendations**

- **The necessity of strict enforcement of Law No. 21-15 on combating illegal speculation**, in order to ensure price stability and preserve the consumer's purchasing power.
- **Activating the role of consumer protection associations** in raising awareness among consumers about rational consumption and avoiding falling into the trap of illegal speculation, as well as preventing panic over potential shortages of goods in the market.

- **Ensuring the consumer's right to access goods and products** according to their purchasing power and monthly income, either through increasing wages or reducing prices in a way that aligns with their living conditions.
  - **Promoting a culture of refraining from excessive purchasing and stockpiling of consumer goods at home** out of fear of scarcity in the market, and encouraging the reporting of unjustified price increases.
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### **Footnotes**

1. Algerian Constitution.
2. Law No. 03-09 relating to consumer protection and fraud suppression.
3. Ordinance No. 03-03 relating to competition law, dated 19 July 2003, Official Gazette No. 43, issued on 20 July 2003.
4. Law No. 02-04 relating to the rules applicable to commercial practices, dated 23 June 2004, Official Gazette No. 41, issued on 27 June 2004.
5. Law No. 15-21 on combating illegal speculation, dated 28 December 2021, Official Gazette No. 99, issued on 29 December 2021.
6. See Article 3 of Law No. 15-21; and see Dr. Khalifi Mohamed and PhD candidate Ghribi Bilal, *Recent developments in preventive measures for consumer protection under Law No. 15-21 on combating illegal speculation*, Journal of Law and Political Science, Vol. 8, Issue 2, 2022, pp. 578.
7. See Article 4 of Law No. 15-21; and see Dr. Khalifi Mohamed, previous reference, p. 579.
8. Archouch Sofiane, *The crime of illegal speculation under Law No. 15-21*, Journal of Rights and Freedoms, Vol. 10, Issue 1, 2022, p. 814.