



UNLAWFUL SPECULATION IN THE SECURITIES MARKET

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Abstract :

Unlawful speculation within the securities market constitutes a fundamental breach of disclosure and transparency principles. Such practices, often orchestrated by individuals with substantial expertise in securities market intricacies, are designed to accrue personal gains while detrimentally affecting other investors.

These acts of unlawful speculation are varied; however, legislative bodies have endeavored to shield the market from these detrimental behaviors with a robust legal framework, thus preserving the integrity of the securities market and protecting its investors.

Keywords: Speculation, Unlawful Speculation, Price Manipulation, Crime.

INTRODUCTION

The securities exchange is pivotal to the national economy, serving as a regulated venue that orchestrates the dynamics of the securities market through established mechanisms. These mechanisms are regulated by Legislative Decree No. 93-10, as revised and supplemented, and are under the vigilant oversight of the Stock Exchange Operations Regulatory Committee.

Nevertheless, the securities market still faces practices that contravene established operational protocols, as stipulated in Article 60 of Legislative Decree No. 93-10, amended further by Law No. 03-04¹. Such infringements include the misuse of privileged information, the dissemination of inaccurate or misleading information, and actions designed to impede the smooth functioning of the securities market.

Unlawful speculation, though not explicitly detailed by legislators, falls under these disruptive maneuvers and is recognized as a punishable offense.

Between 2019 and 2021, the global spread of COVID-19 catalyzed numerous anti-competitive behaviors in Algeria and elsewhere, prominently featuring unlawful speculation in various goods and products. This led the government to intensify efforts against such practices, highlighting material shortages and sowing economic uncertainty amongst consumers, which culminated in the enactment of Law No. 21-15 aimed at curbing unlawful speculation². This law explicitly addresses speculation within the securities market.

Our research delves into the ramifications of speculation on the stock exchange, highlighting its adverse effects on market operation and investor confidence, which in turn discourages investment. Article 60 of Legislative Decree No. 93-10, as amended, specifically addresses these concerns.

Consequently, we investigate the following questions: What constitutes unlawful speculation in the securities market? What forms and manifestations does it take within the stock exchange, and what mechanisms are in place to mitigate it? Our approach utilizes both descriptive and analytical methods to thoroughly explore and interpret the pertinent legal texts.

¹ Law No. 03-04 dated 17 February 2003, amending and supplementing Legislative Decree No. 93-10 dated 23 May 1993 related to the Stock Exchange, Official Gazette No. 32, issued on 7 May 2003.

² Law 21-15 dated 29 December 2021 relating to the combat against unlawful speculation, Official Gazette No. 99, issued on 29 December 2021.



1. Concept of Unlawful Speculation in the Stock Exchange

Unlawful speculation is categorized among the illicit activities that infringe upon the principles of disclosure and transparency within the financial markets particularly addressed by Law No. 21/15, enacted on September 28, 2021³.

This legislation was introduced in response to the COVID-19 pandemic, during which numerous unethical practices emerged that adversely affected Algerian citizens and the broader national economy. Notably, unlawful speculation in the securities exchange pertains specifically to a distinct group of individuals, primarily investors interested in transferable securities issued by public corporations,⁴ as stipulated by Legislative Decree 93-10⁵.

This section aims to elucidate the definition of unlawful speculation across various disciplines and distinguish it from analogous activities.

1.1 Definition of Unlawful Speculation

This subsection focuses on defining unlawful speculation within the securities market—a manifestation of breaching the principles of disclosure and transparency. This infringement is often characterized as the crime of price manipulation in transferable securities, with profound detrimental effects on the securities exchange.

1.1.1 The Nature of Unlawful Speculation

The definition of unlawful speculation in the securities market diverges significantly from those in other domains, which will be examined here, including an exploration of lawful speculation and its differentiation from unlawful acts.

A-Definition of Lawful Speculation:

In this segment, we discuss the concept of speculation from linguistic, economic, and commercial perspectives, particularly in the context of the securities market:

•Linguistic Definition of Speculation:

Linguistically, the term 'speculation' originates from the phrase "to strike in the land," historically signifying the departure from one's home as a merchant or warrior in search of sustenance⁶. The expression "he struck in the land" implies traversing through it as a speculator⁷.

The word 'strike' encompasses all endeavors except a few, such as trading or engaging in divine pursuits. In the realm of commerce, speculation involves predicting price trends and capitalizing on these fluctuations to realize profits⁸.

This concept is encapsulated by the following quote from the Quran: "And others travel through the land seeking the bounty of God."⁹

•Conventional Definition of Speculation:

³Ibid.

⁴ Article 715ter30 of Order No. 75-59 dated 26 September 1975, containing the Commercial Law, amended and supplemented by Law No. 22-09 dated 5 May 2022, Official Gazette No. 32 of 2022.

⁵ Legislative Decree 93-10 23 May 1993 concerning the Stock Exchange, Official Gazette No. 34, issued on 23 May 1993, amended and supplemented.

⁶ WafaSadrati, "The Crime of Unlawful Speculation in Algerian Legislation under Law 21-15," Journal of Legal and Social Sciences, Volume 8, Issue 1, ZianAchour University in Djelfa - Algeria, March 2023, p.1318.

⁷ DouniazadThabet, "Crimes of Unlawful Speculation in Algerian Legislation - A Study in Light of Law 21-15 Relating to the Combat of Unlawful Speculation," Journal of Law and Humanities, Volume 15, Issue 02, 2022, p.696.

⁸ Mohamed Ahmed Salam, "Transparency and Disclosure in the Securities Market: A Comparative Economic and Legal Study (Egypt-Saudi Arabia-USA-France)," 2nd Edition, Dar Al-Nahda Al-Arabiya, Egypt, 2020, pp.346-347.

⁹ Surah Al-Muzzammil, Verse 20.



The terminology of speculation differs among the four Sunni Islamic schools of jurisprudence. The Hanafi school refers to it as "Al-Mudaraba," while the Maliki and Shafi'i schools use "Qirad." Mahmoud Mohamed Tantawi describes Mudaraba as "a contractual arrangement where one party entrusts a sum of money to another for trading purposes, with profits to be shared as per a mutually agreed formula." The consensus among Islamic scholars is that Mudaraba constitutes a contractual partnership where one party supplies a predetermined sum of money for the other to engage in commerce, with any resulting profits divided according to a pre-established agreement¹⁰.

•Economic Definition of Speculation:

Economically, speculation involves the pursuit of profit through capitalizing on fluctuating prices, typically by acquiring assets at a low price at an opportune moment and selling them later at a higher price¹¹.

1.1.2 Definition of Speculation in the Securities Market:

This section delineates the distinction between lawful and unlawful speculation within the securities market.

A/ Lawful Speculation:

Lawful speculation in the securities market encompasses buying and selling activities not aimed at earning dividends from stocks or interest from bonds but rather at profiting from temporal price differences. It also involves forecasting price movements in transferable securities to facilitate strategic purchasing and selling, thereby mitigating risks¹².

Lawful speculation is characterized as a forward-looking predictive process undertaken by a security holder, where the holder acquires a security at a lower price with the intention of reselling it at a higher price¹³. In this endeavor, the speculator seeks to anticipate future security prices, buying when prices are low and selling when they rise, aiming for swift profits through exploiting these differences, a stark contrast to investors focused on long-term gains from their assets¹⁴.

B- Definition of Unlawful Speculation in the Securities Market:

Unlawful speculation is deemed an illegal act often described by scholars as "phantom speculation."

¹⁵ It ranks among actions that breach principles of disclosure and transparency, frequently referred to as the manipulation of security prices¹⁶.

This section outlines the definition as per jurisprudence and legislation, including specific references to Algerian law:

B-1 Definition of Unlawful Speculation:

Unlawful speculation is considered a prohibited practice that infringes upon the principles of corporate governance for publicly listed companies in the securities market. It entails activities by a trader that artificially induce price fluctuations, both rises and falls, through manipulative tactics, creating significant volatility in prices to unjustly capitalize on these discrepancies¹⁷.

Jurisprudence characterizes unlawful speculation as "the employment of illicit methods to sway the pricing of securities to a level not reflective of the natural interplay of supply and demand."

¹⁰ WafaSadrati, op. cit., p.1318.

¹¹ Ahmed El-Baz, "Commitment to Transparency and Disclosure of Information in the Securities Exchange - A Comparative Study," Dar Al-Jamea Al-Jadida, Egypt, 2015, p.331.

¹² Ibid., p.332.

¹³ Ahmed Ibrahim SheblHegazy, "Legal Dimensions of Supervision on Trading in the Egyptian Securities Exchange," Dar Al-Nahda Al-Arabiya, Egypt, 2017, pp.140-139.

¹⁴ Ismail Mohamed Ali Osman, "The Legal System for Trading Joint Stock Company Shares on the Stock Exchange," Dar Al-Jamea Al-Jadida, Egypt, 2016, p.297.

¹⁵ Ahmed El-Baz, op. cit., p.341.

¹⁶ Ahmed Ibrahim SheblHegazy, op. cit., p.139.

¹⁷ Mohamed Ali Soueilm, "Criminal Protection of the Stock Exchange: Procedural Aspects and Substantive Rules - A Comparative Study," Modern University Office, Date and Country of Publication not specified, January 2019, p.80.



Furthermore, it is defined as "manipulative acts that either escalate or depress prices, resulting in abnormal market fluctuations, with the objective of capitalizing on emergent situations to accrue personal profits and interests."¹⁸

These definitions underscore that unlawful speculation represents not merely an economic concept but a categorization of illegal actions within the economic framework.¹⁹

Legislatively, the notion of unlawful speculation was not specifically articulated within the provisions of Legislative Decree No. 93-10, which governs the securities market. This decree generally referred to "maneuvers designed to disrupt the operation of the securities market."

The concept was later explicitly addressed in Law No. 21-15²⁰ concerning the combat against unlawful speculation, enacted post the COVID-19 pandemic, a period marked by speculative **hoarding** by traders, resulting in food shortages and exorbitant pricing. Article 2 of Law No. 21-15²¹ defines unlawful speculation as "any act of storing or concealing goods or commodities to create market shortages and disrupt supply, or any artificial manipulation of the prices of goods, commodities, or securities, whether performed directly or indirectly, through intermediaries, using electronic means, or any fraudulent methods."

This law clarifies that unlawful speculation involves deceptive pricing or price manipulation actions that elevate or depress security prices at any given moment, whether these acts are executed by financial brokers, market members, or electronic manipulators engaging in criminal conduct.

B-2/ Distinguishing Between Lawful and Unlawful Speculation in the Securities Market:

There are several elements that differentiate lawful speculation from unlawful speculation, transforming an action from lawful speculation into an unlawful one through activities that harm the stock market and manipulate the prices of traded securities. The speculator relies on fraudulent and deceptive methods to mislead others, such as investors, thereby directly damaging the stock market.

The speculator uses fraudulent techniques to manipulate the price of a security with criminal intent (fraud)²². We will attempt to focus on the differences between lawful and unlawful speculation in the stock market as follows:

- Lawful speculation is a fundamental element in activating the stock market.
- Unlawful speculation involves the speculator using fraudulent methods, such as deception and fraud, to mislead others into making errors that harm the stock market.
- Lawful speculation operates according to economic principles.
- Unlawful speculation arises from deviating from the correct path of speculation in the stock market by engaging in activities that affect the stock price (price manipulation) by raising, lowering, or fixing the price²³.
- Unlawful speculation is the opposite of lawful speculation because the latter stabilizes the stock market and encourages investment. In contrast, unlawful speculation hinders the movement of

¹⁸ Ahmed El-Baz, *op. cit.*, p.342.

¹⁹ DouniazadThabet, *op. cit.*, p.698.

²⁰ Law 21-15 dated 29 December 2021 relating to the combat against unlawful speculation, Official Gazette No. 99, issued on 29 December 2021.

²¹ "Article 02: Unlawful speculation: any storage or concealment of goods or commodities with the intention of causing a shortage in the market and disruption in the supply, any artificial raising or lowering of the prices of goods, commodities, or securities, whether directly or indirectly, or through an intermediary or the use of electronic means or any other fraudulent methods or means: Unlawful speculation shall include: - Promoting false or malicious news deliberately among the public with the intent to disrupt the market and raise prices in an abrupt and unjustified manner, - Offering prices higher than those usually applied by sellers, - Conducting, individually or collectively or based on agreements, an operation in the market with the aim of making a profit not resulting from the natural application of supply and demand, - Using maneuvers aimed at raising or lowering the value of securities,"

²² Ismail Mohamed Ali Osman, *op. cit.*, pp. 296-297.

²³ Mohamed Ahmed Salam, *op. cit.*, pp.354-355.



the financial market, as it involves many wealthy individuals engaging in unlawful activities (unlawful speculation), leading to market disruption and imbalance.

- Lawful speculation relies on correct and legitimate methods to predict the market conditions, unlike unlawful speculation, which depends on fraudulent and misleading techniques that harm the public's interests²⁴.

1.2 Forms of Unlawful Speculation in the Securities Market (Price Manipulation)

Unlawful speculation represents a fundamental violation of the principles of disclosure and transparency within the securities market. It manifests in various forms, such as fictitious trading, monopolistic purchases, and collusion agreements.

Below, we explore the specific types of unlawful speculation prevalent in the securities market:

1.2.1 Fictitious Trading and Purchasing with the Intent to Monopolize

A- Fictitious Trading:

Defined under Algerian civil law, the concept of 'fictitiousness' in the securities market deviates from its traditional legal definition²⁵. In the context of transferable securities, fictitious trading, also known as the fictitious sale of listed securities, is characterized as a "sham transaction that fails to produce any genuine change in ownership or economic outcome."²⁶

It involves transactions in stocks or bonds that are nominally executed but are, in essence, nonexistent. The core of fictitious trading lies in the fact that a trader might sell securities only to repurchase them shortly after, crafting the illusion of price movement. This type of trading undermines the fundamental rule of supply and demand by fabricating a stock's price for the purpose of illicit profit generation²⁷.

Fictitious trading is observed in various forms within the exchange, including but not limited to:

- An actor placing numerous offers and bids for a security at prices divergent from those of actual transactions, misleading market participants about the volume of available securities.
- Traders employing a strategy where a stock is repeatedly bought and sold in rapid succession, with the trader acting as both buyer and seller, to give the appearance of high trading activity and thereby artificially inflating its price.
- Brokerage firms manipulating prices of transferable securities without justification.²⁸

B- Purchasing with the Intent to Monopolize:

Monopolization in the securities market entails an individual acquiring substantial quantities of a specific security to gain control over the issuing company, potentially allowing them to dictate the security's price at a later stage if their attempt at domination is thwarted.²⁹

This practice involves purchasing stocks or bonds with the explicit intent to monopolize and manipulate market prices to favor personal objectives. Monopolization parallels certain commercial behaviors where a trader hoards specific goods for a period, only to resell them later at substantially

²⁴ Hassan Tahrawi, "The Specificity of Criminalization in the Crime of Unlawful Speculation According to Law No. 21-15," *Journal of Legal and Political Thought*, Volume 6, Issue 2, 2022, pp.525-526.

²⁵ Order 75-58 containing the Algerian Civil Law issued on 26-09-1975, amended and supplemented by Law No. 07-05 dated 13 May 2007.

²⁶ Khaled Ahmed SaifShaarawi, "The Legal Framework for Trading Operations on the Stock Exchange," 1st Edition, Dar Al-Jamea Al-Jadida, 2015, p.402.

²⁷ FatihaBenazzouz, "The Role of the Committee for the Regulation and Monitoring of Stock Exchange Operations in Protecting the Shareholder in a Joint Stock Company," *Doctoral Thesis, Private Law, Faculty of Law and Political Science, Abu Bakr Belkaid University-Tlemcen*, 2015-2016, p.469.

²⁸ Khaled Ahmed SaifShaarawi, *op. cit.*, p.404.

²⁹ *Ibid.*, p.406.



higher prices.³⁰ This phenomenon was notably prevalent during the COVID-19 pandemic, affecting Algeria and other nations globally.

2.2.1 Collusion Agreements and Exploitation of Client Trust

In the realm of securities markets, beyond the forms of unlawful speculation previously examined, additional methods include collusion agreements and exploitation of client trust.

A/ Collusion Agreement:

A collusion agreement involves a coordinated effort among parties to manipulate the market price of a security. This manipulation is executed by strategically placing orders that simulate high trading activity, thereby artificially inflating the security's price. While such agreements may initially appear legitimate, they become unlawful if the underlying intent is to distort the market by manipulating prices³¹.

Participants in a collusion scheme often distribute a large number of buy and sell orders across different brokers, each of whom is unaware of the broader manipulation, creating a misleading impression of extensive trading activity.³² This orchestrated activity is sometimes amplified through various media channels to attract investors and inflate the security's value, thereby executing the manipulators' strategy.³³ Similarly, the strategy may involve depressing the security's price, exploiting market conditions to the manipulators' benefit.³⁴

B/ Exploiting Client Trust:

Exploitation of client trust occurs when a broker or intermediary, ostensibly acting in the client's best interest, engages in conduct detrimental to the client.³⁵ This typically involves pressuring or persuading clients into transactions that are not in their favor, primarily to generate commissions. Such practices severely compromise the fiduciary duty owed to clients and undermine their financial interests.³⁶

2. Elements of the Crime of Unlawful Speculation (Price Manipulation) and Countermeasures

Unlawful speculation, particularly price manipulation within the securities market, constitutes criminal behavior that is legislatively penalized. This encompasses the regulatory framework of the securities market, alongside specific statutes addressing unlawful speculation.

2.1 Elements of the Crime of Unlawful Speculation:

According to Legislative Decree No. 93-10, as amended by Law No. 03-04, and other laws targeting unlawful speculation, such actions are legally recognized as punishable offenses.³⁷

For an action to qualify as a criminal offense, essential elements must be present: the intent to commit the crime (*mens rea*), the act itself (*actus reus*), and the resultant or potential harm to the

³⁰ Said Bouheraoua, "Manipulation in Financial Markets - An Analytical Critical Presentation," 20th Session of the Islamic Fiqh Academy held in Mecca on 19-23 Muharram 1432 corresponding to 25-29 December 2010, p.13.

³¹ Khaled Ahmed SaifShaarawi, *op. cit.*, p.412.

³² "A stock exchange order is an instruction given by a client to a broker in stock market operations, or initiated by the latter in the context of a management agency or in the framework of trading on its own account" Committee System No. 23-04 dated 25 October 2023, concerning the General System of the Stock Exchange, Official Gazette No. 05, issued on 25 January 2024, p.10.

³³ Media means: publication in newspapers and other screen media.

³⁴ Said Bouheraoua, *op. cit.*, p.13.

³⁵ "The financial intermediary is a person who has expertise, competence, guarantee, and commitment to fulfill its obligations towards the investor in concluding securities buying and selling transactions in a regulated and official place, which is the stock exchange," Nadia Belabbes, "Regulation of Stock Exchange Activity in Algeria," Doctoral Thesis, Said Hamdine Law School, University of Algiers 1 Benyoucef Benkhedda, 2020-2021, p.124.

³⁶ Mohamed Ahmed Salam, "Transparency and Disclosure in the Securities Market," 2nd Edition, Dar Al-Nahda Al-Arabiya, 2020, p.370.

³⁷ Law No. 03-04 dated 17 February 2003, related to the Stock Exchange, Official Gazette No. 11, issued on 19 February 2003.



market or individuals. This stringent legal structure ensures that those engaged in such illicit activities are prosecuted, thereby upholding the integrity and stability of the financial markets.³⁸

2.1.1 Elements of the Crime of Price Manipulation in Listed Securities

The crime of price manipulation in the securities market is comprehensively defined as any unlawful act committed against an individual's person, property, honor, society's institutions, and its political and economic systems, and can even extend to actions against animals.³⁹ This broad definition underscores that any deliberate act intended to cause harm and punishable by law falls under the category of criminal behavior.

Price manipulation involves three core elements: legal, material, and moral. Each of these components plays a crucial role in defining the boundaries and implications of the crime within the securities market.

A- Legal Element:

The legal framework concerning price manipulation is specified under Algerian law. Article 60 of Legislative Decree No. 93-10, as amended and supplemented by Law No. 03-04, and further detailed in Article 19, outlines several key provisions:

- "Any individual who knowingly spreads false or misleading information to the public through various means regarding the performance or condition of a company whose securities are traded on the stock exchange, or about the prospects of a security permitted for trading on the exchange, with the intention of influencing prices."
- "Anyone who engages or attempts to engage, directly or indirectly, in maneuvers designed to disrupt the regular operations of the securities market through deceitful practices is considered to have performed void transactions."

Furthermore, Law No. 21-15 in Article 2 specifies⁴⁰:

- "The intentional circulation of false or harmful news among the public with the objective to unsettle the market and cause unwarranted and sudden price increases."
- "Offering securities at prices significantly higher than those typically quoted by sellers."
- "Executing, either alone or in collaboration or based on agreements, market transactions aimed at securing profits that do not result from the natural forces of supply and demand."
- "Engaging in maneuvers intended to artificially raise or lower the value of securities."

B- Material Element:

The material element relates to the tangible actions taken by manipulators that disrupt the normal functioning of the securities market, leading to investor harm by causing confusion and deception. The criminal activities associated with manipulators in the securities market include:

- Any conduct or behavior that interrupts the orderly flow of the securities market and manipulates market prices.
- Actions resulting in deception and mistakes among clients and customers, causing them damage and artificially inflating the prices of securities in the market.⁴¹

Article 60 of Law No. 03-04 specifically states:

- "Any individual who engages or attempts to engage, either directly or indirectly, in any scheme intended to disrupt the regular operation of the securities market through deception..."

The Algerian legislature, through these articles, emphasizes that unlawful speculation must be capable of causing notable harm to both the securities market and its investors. The material element in the crime of unlawful speculation comprises any activity that disrupts the natural market flow by

³⁸ Law 21-15 dated 29 December 2021 relating to the combat against unlawful speculation, previously mentioned.

³⁹ Ahsan Bouskia, "The Concise in General Penal Law," 12th Edition, Dar Houma, Algeria, 2019, p.29.

⁴⁰ Law 21-15, relating to the combat against unlawful speculation, previously mentioned.

⁴¹ Mohamed Ahmed Salam, *op. cit.*, p.390.



manipulating prices, which violates the fundamental principle of supply and demand and misleads investors.⁴²

The material element of this crime encompasses three pivotal components:

1. **Character of the Perpetrator:** According to Article 60, the perpetrator must occupy a specific role or professional capacity within the securities market, such as that of a financial broker.
2. **Criminal Activity:** This is typified by actions or strategies undertaken by the perpetrator that disrupt the normal operations of the securities market.⁴³ These actions may employ electronic means or various advertising methods, though Article 60 of Law No. 03-04 does not limit the methods to be used. Manipulators often adapt to technological advancements by employing sophisticated electronic tools.
3. **Criminal Outcome:** The crime of unlawful speculation or securities price manipulation is recognized as causing substantial harm, evident in market disruptions and significant impacts on security prices.
4. **Causality Relationship:** For the crime of price manipulation to be established, there must be a direct causal link between the perpetrator's actions and the criminal outcome. This causality is determined by the judge based on the specifics of each case.⁴⁴

C- Moral Element:

The realization of the criminal outcome necessitates criminal intent (knowledge and will) on the part of the perpetrator.⁴⁵ Article 60 of Legislative Decree No. 93-10, as amended and supplemented, explicitly states the need for "intent to disrupt the regular operation of the securities market through deception." This clause underscores the necessity for a motive behind committing the crime of price manipulation.⁴⁶

2.1.2 Penalties for the Crime of Securities Price Manipulation

Should the elements of the crime of securities price manipulation be present, especially with intent to deceive investors and disrupt the market, the legislator acknowledges the presence of specific criminal intent. According to Article 60, paragraph 01: "Punishment ranges from six (6) months to five (5) years of imprisonment, and a fine of 30,000 DZD, which can be increased to up to four times the amount of the potential profit, provided that the fine is not less than the profit itself."⁴⁷

2.2 Consequences of Committing the Crime of Price Manipulation on the Securities Market, Investors, and the Prescribed Penalties

Unlawful speculation in the securities market detrimentally affects investors and the market while potentially benefiting the manipulator. The impacts include:

2.2.1 Effects of Price Manipulation in the Securities Market:

- Unlawful speculation often results in a direct and rapid decrease in stock values, affecting all listed securities and leading to situations where stocks are sold off without finding buyers.
- It reduces investors' purchasing power, notably harming small investors who may lose significant portions of their savings.
- Small investors can find themselves deeply indebted, facing financial difficulties that are hard to surmount.

⁴² Ibid., p.390.

⁴³ "Article 02" from Law No. 21-15, previously mentioned.

⁴⁴ Hassan Tahrawi, "The Specificity of Criminalization in the Crime of Unlawful Speculation According to Law No. 21-15," *Journal of Legal and Political Thought*, Volume 6, Issue 2, 2022, p.530.

⁴⁵ Knowledge: refers to the perpetrator (manipulators) being aware that the actions they are engaging in are criminalized by legal text.

⁴⁶ Hassan Tahrawi, *op. cit.*, p.530.

⁴⁷ Legislative Decree No. 93-10 concerning the Stock Exchange, amended and supplemented by Law 03-04.



- Historically, unlawful speculation has triggered major economic crises, such as the Wall Street crash of 1929 in the United States, which precipitated a severe depression in the securities market, leading to widespread company bankruptcies and subsequent banking failures as banks struggled to recover their loans.⁴⁸

2.2.2: Effects of Unlawful Speculation on Small Investors and the Investment Sector as a Whole: Unlawful speculation exerts a profound impact on small investors, who often find themselves purchasing stocks at prices announced publicly but which have been artificially inflated through manipulative practices. As a result, manipulators are able to extract substantial profits at the direct expense of these small savers, who are left with devalued assets once the true market conditions become apparent.

In a broader context, unlawful speculation severely undermines the economic system by misallocating and misusing funds in ventures that fail to produce beneficial returns. This redirection of capital leads investors away from substantive economic investments that are designed to nurture and develop tangible economic projects. Instead, they are drawn towards financial investments driven by fictitious speculation, such as the manipulation of prices in transferable securities.

This shift not only aims to secure substantial profits for the manipulators but does so at the significant cost of the national economy. Such activities divert resources from productive economic growth and channel them into volatile and non-productive financial maneuvers, thereby destabilizing the foundational economic structures of the state.⁴⁹

CONCLUSION

In this analysis, we have thoroughly examined the phenomenon of unlawful speculation within the Algerian securities market. We have defined unlawful speculation, as characterized by scholars, as the manipulation of prices of securities listed in the market, and contrasted it with lawful speculation. The elements of this crime, the significant harm it inflicts on both the economic sector at large and the securities exchange system specifically, and the penalties for those convicted, have all been discussed in detail.

In response to these unlawful practices, the Algerian legislator along with the stock exchange system have mandated strict adherence to corporate governance rules for listed companies and upheld the principles of disclosure and transparency. Key measures implemented to combat these practices include:

- Enhancing the role of the Stock Exchange Operations Regulatory Committee, expanding its supervisory capacity over all associated entities of the securities exchange to ensure robust regulation.
- Both pre-trade and post-trade surveillance of listed companies on the stock exchange have been intensified. This ensures that the information disclosed about the securities being traded is verifiable, accurate, and truly reflective of the real value of the transferable securities.

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⁴⁸ Ahmed El-Baz, p.356.

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6. Regulation of the Committee No. 23-04 dated 25 October 2023, concerning the General System of the Stock Exchange, Official Gazette No. 05, issued on 25 January 2024, p.10.