

Smuggling Crimes as a Threat to the National Economy

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Abstract

Smuggling is considered one of the most dangerous economic crimes and the most damaging to the national economy. Therefore, comparative legislations, despite their different economic policy orientations, have consistently criminalized and punished this act. The Algerian legislator has not deviated from this pattern, and smuggling has remained a crime regulated by the customs law since its issuance in 1979 until the issuance of Order 05-06, which includes combating smuggling. However, despite being a specialized Algerian law, it did not deviate in its definition of smuggling crimes from the effective legislations, especially the customs law, while adding forms that deviate from the commonly understood meaning in customs law for smuggling, without nullifying the provisions of the latter; this duplication in the definition has cast its shadow on the general meaning of this crime, prompting us to present this research paper that attempts to reveal the ability of the effective legal texts to achieve the required legislative sufficiency to clarify the nature of smuggling crimes.

Keywords: Algerian legislation; penal law; smuggling crimes.

1. Introduction

Since state sovereignty began to restrict movement over these borders, it is quite likely that the genesis of smuggling in its broadest meaning occurred concurrently with the establishment of the state and the drawing of borders. These include political ones based on loyalty and nationality, which inherently distinguish nationality holders' entry into the state from that of outsiders. These also include economic considerations about rights and customs duties, safeguarding domestic goods against imports, and security considerations primarily based on the notion of apprehension over the foreign component and the coming into or going out of certain sensitive materials from the state's territory, and perhaps the Palermo Convention of 2000 related to combating transnational organized crime. And the protocols that were attached to it eventually came to light, exposing the true scope of the smuggling activity. Its scope had expanded beyond the smuggling of consumer goods to include the smuggling of money (money laundering), people, white slaves, and human organs, in addition to concentrating on the smuggling of particular goods like weapons, drugs, nuclear materials, military explosives, and other items that were illegal internationally.

Additionally, due to the complexity of the smuggling problem, we attempted to restrict the scope of this research article to goods-focused smuggling. Even though the crime of smuggling products is not so new, there are still conceptual issues with it. These issues might arise from differences in legislation across countries or even from the internal meanings of each nation, as in the case of Algeria, where we dwell. Even though Order

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05-06 on combating smuggling was created to confirm the meaning adopted in the Customs Law and specifically refer to it in the matter of defining smuggling, it has added new forms that the previous Customs Law of 1979's Article 324 specified.

Furthermore, the sources of the criminalization of smuggling do not end with these two laws; additional laws, such as legislative and regulatory ones, interfere with the regulation of this industry, leading to an imprecise definition of smuggling crimes. This led us to formulate the central research question of this study, which centers on the following: Have the relevant legal texts reached the level of legislative sufficiency necessary to define the crimes associated with smuggling?

We used the descriptive technique, which is based on the examination of pertinent legal sources, to address this primary question as well as several related ones about the definition of smuggling. Consequently, we separated the research into two axes: We attempted to clarify the nature of smuggling offenses through the first axis, but this meaning will only become evident after examining the different criminal representations of smuggling, which is what we did in the second axis.

2. The nature of smuggling crimes:

Before going into an explanation of the crime of smuggling, it is important to emphasize once more that there are two possible interpretations of it: Since money smuggling falls under the category of exchange crimes (the smuggling of capital to and from abroad in violation of applicable legislation and regulation), all smuggling offenses are interpreted broadly, including the smuggling of commodities, cash, and people (individuals or more specifically people). As for smuggling people, it is primarily focused on smuggling immigrants against the provisions of immigration laws. This is the offense to which the narrow definition of smuggling crimes is used when it comes to product smuggling.

Below, we'll define smuggling in language terms before moving on to some definitions of terms that are relevant to the subject.

2.1 The linguistic definition of smuggling:

In *Lisan al-Arab*, the verb means: to flee, to escape, and to evade: to flee. The Dictionary of the Arabic Language stated: evade, he is evading, and the object is evading it, evading his duty, escaping from performing it, and did not fulfill it, evading paying taxes and customs, as stated in the Intermediate Dictionary: The smuggler is the one who commits the crime of bringing prohibited things in and taking them out of the country. Al Ghani dictionary contains: smugglers: plural of smugglers, smugglers, subject of smuggling; Drug smuggler: someone who brings drugs into or takes them out from one country to another, concealing that they are contraband, and smugglers of foreign goods. . It is noted that when smuggling is focused on goods, it follows the meaning intended by the terminology, but it lacks the accuracy required by the law in understanding this crime, and this is what we try to remedy in the conventional definitions.

2.2 The technical definition of smuggling crimes:

In our search for the implications of the narrow definition of the crime of smuggling, we discovered that jurists differ greatly in their use of terminology. On the other hand, the various national contexts have also prevented the existence of a single, cohesive definition of the crime, even though its manifestations and consequences are similar. This has helped us avoid becoming mired in the specifics of this crime. Differences: To finally make clear where the Algerian legislator stands about his peers, we have attempted to briefly highlight the most significant definitional models of crime.

2.2.1 Definition models for the crime of smuggling:

The World Customs Organization defined smuggling as "a customs violation related to the illegal crossing of goods across borders to evade the rights of the public treasury," which is what we point to at the beginning of our discussion." Some define this crime as "any positive or negative action that includes a violation of customs legislation and regulations and causes harm to the interests of the state, for which the law imposes a penalty." This definition is quite similar to the previous." , as smuggling is generally defined as: "the entry or exit of goods, commodities, or any other materials into or out of the country in violation of the applicable laws and regulations." Smuggling has also been defined as: "Bringing goods into or taking them out of the country in violation of applicable legislation without paying customs duties, fees, and other taxes, in whole or in part, or in violation of the prohibition and restriction provisions contained in this law (Customs Law) or in other laws and regulations." . Note on these previous definitions, and other similar definitions, It expands the circle of smuggling to include every violation of the law when entering or removing goods from the territory, regardless of the scope of committing this crime.

Contrary to the above, we find that there are other definitions that are based on the fact that the crime of smuggling is only: "Import and export operations that take place outside official channels, without passing through customs offices, that is, they take place through illegal entry channels, and it is considered a form of customs fraud." .

From the foregoing, it is evident that there are two distinct approaches to the definition of criminalized smuggling. The first trend focuses on characterizing smuggling as legal export and import activities that are conducted without paying any or all rights or customs charges, as previously mentioned, this trend blurs the lines between smuggling that occurs inside customs offices and that which occurs outside of them, so expanding the scope of smuggling and making it illegal.

Regarding the second tendency, it restricts the scope of smuggling to fraud arising from export and import activities that don't follow official routes, i.e., don't go through customs offices (official ports). The laws that have been approved in France and those that are closely related to it have influenced this tendency. Where is the line drawn between them? Between the crimes of smuggling products through customs and the crimes of importing and exporting without a proper permission, which only happen inside the walls of customs offices when processing items through customs processes. .

2.2.2 Definition of smuggling crimes in Algerian legislation:

Referring to Algerian legislation, specifically Article 02 of Order 05-06 (Law 05-17 We find it states the following: "In the meaning of this matter, what is meant is the following: Smuggling: Acts described as smuggling in applicable customs legislation and regulation as well as in this matter.

The first observation we make regarding this article is that it refers us to both customs legislation and regulation in understanding the acts described as smuggling, and we believe that this approach is realistically justified since interference in defining some elements of the smuggling crime amounts to relying on some regulatory regulations, as we will explain later. If the text, as it is clear, does not indicate adherence to the legislation as a source for the criminal judge, in implementation of the principle of criminal legality, which stipulates according to Article 1 of the Penal Code that: "There is no crime, no punishment, and no security measures without the law." We point out here that the word "law" here is interpreted as the law in the narrow sense. That is, only what is issued by the legislative authority, and this is what is understood from the text of Article 139 of the Constitution, which states that:"Parliament legislates in the areas allocated to it by the Constitution, as well as in the following areas:

1-The basic rights and duties of individuals, especially the system of public freedoms, the protection of individual freedoms, and the duties of citizens,

2 -The general rules of the penal code and criminal procedures, especially the definition of felonies and misdemeanors, the various penalties corresponding to them, comprehensive amnesty, extradition of criminals, and the prison system...." .

What can be learned from this constitutional text is that there is no possibility for regulatory texts to intervene except in the field of violations. As for misdemeanors and felonies, the legislative authority is solely competent to criminalize and punish in this field. Therefore, we conclude that when the legislator used the phrase "acts described as smuggling in the applicable customs legislation and regulation," the text of Article 2 above suffered from some verbal imbalance that leads to an unconstitutional meaning, which is the interference of the executive authority in the field of criminalization and punishment regarding smuggling. The legislative branch is primarily responsible for defining criminal laws, particularly as they pertain to felonies and misdemeanors. The executive branch is only involved in violations or in interpreting certain aspects that make up the material element of smuggling crimes.

Following the legislative referral referred to in Article 02 of the Anti-Smuggling Law, we find that Article 324 of the Customs Law (Law 79-07 modified and supplemented), is the text that is relied upon in defining smuggling, as it states: "For the application of the relevant repressive provisions, smuggling means the following:

- Importing and exporting goods outside customs offices,
- Violating the provisions of Articles 25, 51, 60, 62, 64, 221, 222, 223, 225, 225 bis, and 226 of this law. ,
- Unloading and shipping goods fraudulently,
- Reduction in goods placed under the transit system...

This text indicates that the Algerian legislator has shifted toward the second trend, which considers smuggling to be any crossing of commodities that occurs outside of the official routes of import and export, including those conducted outside of customs offices. Prior to the enactment of Law 98-10 amending and supplementing the Customs Law, which eliminated this classification and replaced it with violations discovered in customs offices or centers during inspection and control operations, crimes committed inside customs offices were known as import and export crimes without a detailed permit. This category of crimes is called office crimes in jurisprudence .

3. Forms of smuggling crimes

For a good understanding of the intended meaning behind criminalizing smuggling, we will try in this context to identify the various criminal forms of smuggling, where we find that jurisprudence has classified them based on the material aspect of the crime into two types: actual smuggling and judicial smuggling.

3.1 Actual smuggling crimes:

Based on what was stated in Article 324 of the Customs Law, which enumerated the forms of smuggling, we find that the first form focused on the act of importing or exporting goods outside customs offices is considered the ideal form of smuggling, and this is what is called the term actual or real smuggling, or smuggling indicated by the word . The typical perception of this crime is that each country places a group of offices or customs centers on its land and sea borders, and it is assumed that any entry or exit of goods takes place only through these designated control points. Any violation of this procedure constitutes an actual smuggling crime.

From the above, we find that actual smuggling requires the presence of two elements: The first is the goods The place of export and import, and the second is that the act of export and import takes place outside customs offices The concept of the violation is that if the goods are exported or imported in transit through customs offices, then we are not faced with an actual case of smuggling, and this is what was stated in a decision of the Supreme Court dated October 9, 1994. This decided that if items are not hidden in locations specifically designed for that purpose, passing through customs offices and being inspected by customs officials does not constitute the crime of smuggling. The offense in this instance was defined as "importing without a permit."

3.2 Judicial smuggling crimes:

Given the experience of smugglers and their invention of advanced and unprecedented methods that enable them to smuggle whether outside customs offices or even inside them, which made the stereotypical image of smuggling (smuggling outside customs offices) incapable of tracking the crime, and thus resorted to a legal trick based on presumption. Smuggling, when this presumption is established, evidence exists that the crime occurred or an attempt to do so, and the burden of proof shifts from the customs administration to the accused, as it is the responsibility of the administration to prove the presumption only and not the crime itself, i.e. the crossing of the goods across the border or the attempt to do so. For more clarity, when imported goods are seized outside the customs zone, the absence of documents proving the customs status of these goods is evidence that they are smuggled goods, and this is the case, as many pictures have appeared that fall within the term of legal smuggling. .

The Criminal Chamber of the Supreme Court issued Decision No. 361787 on June 28, 2006, which is cited in this context. It states that seizing goods at the accused's residence without proof documents constitutes an act of smuggling, but it does not imply that the accused transports the goods across the border, entering or exiting. outside of the country" We uncover numerous forms that have been labeled as smuggling by law by interpreting the remaining wording of Article 324, which was previously mentioned, as well as Article 11 of the Anti-Smuggling Law. We may quickly evaluate these forms through three categories.

3.2.1 Smuggling crimes related to the customs domain:

Article 2 of Order 05-06 relating to combating smuggling states that the customs zone is: "A special control area along the sea and land borders in accordance with customs law As for the details of these limits, it was stated in Article 29 of the Customs Law specifying the maritime customs zone, which consists of the territorial waters (12 nautical miles) and the contiguous zone (12 nautical miles), in addition to internal waters. Thus, the customs zone extends to a distance of 24 nautical miles. These limits were also specified. Article: The land customs zone, which extends inland at a distance of 30 km from the coast or from the land border in a straight line. The same article allowed this distance to be extended to 60 km for considerations of necessity and the suppression of fraud. This distance can be extended up to 400 km for the vast southern states. .

As for the acts that are considered smuggling by law and are related to the customs jurisdiction, they are:

- Transporting goods without a transport license, as there is a list of goods whose transport within the customs territory is prohibited unless with a transport license, and the violation here means the crime of smuggling.
- We also have the possession of goods that are prohibited or subject to a high duty, as there are goods whose import or export is originally prohibited. When they are found within the customs territory, their possession is considered to have committed the crime of smuggling. There are also goods whose possession requires adherence to some

customs restrictions and procedures, and failure to complete these procedures results in Establishment of criminal liability.

As for the possession of goods subject to a high duty, according to Article 5 of the Customs Law, every good is subject to rights and duties whose total percentage exceeds 45%. When these goods are possessed within the customs territory without being accompanied by legal documents proving their legal status in relation to the customs regulation, we are also facing a smuggling crime. .

In addition to the above, we find that Article 11 of Order 05-06 relating to combating smuggling has introduced another form of the crime of smuggling, which is the possession of a warehouse or a means of transport prepared or equipped for smuggling within the customs area. If someone prepares a warehouse in an illegal manner for storing imported goods or for the purpose of exporting goods within the customs area, he is prosecuted for the crime of smuggling even if these warehouses are empty of any goods. .

In this regard, we point out that Article 310 of the Customs Law was amended by Law 17-04 mentioned above, I have considered that the person who possesses a warehouse (warehouse) within the customs zone whose purpose is smuggling is considered to be a beneficiary of fraud. .

The same applies to those who are caught with a specially prepared means of transport for smuggling, where this means has been modified to be able to accommodate a large quantity of goods exceeding its normal capacity or has secret compartments for smuggling goods out of the sight of customs. The important thing is that once this means is caught within the customs area, the crime of smuggling is committed even if this means is empty of any goods.

What is noted here is that the Algerian legislator has expanded the concept of smuggling to the extent that it has criminalized acts that constitute merely preparatory acts for the crime of smuggling. However, it undoubtedly reflects the intention of the perpetrator, especially if these actions did not occur within the customs jurisdiction.

3.2.2 Smuggling crimes related to customs territory:

Before delving into the nature of these forms, it is important to remember that Article 1 of the Customs Law defines the customs territory as including not only the customs territory itself, but also the entire national territory, including internal and territorial waters, as well as the nearby maritime area. These forms were covered in Article 226 of the Customs Law The airspace above the land and sea customs domain, as well as the territorial territory .

As for the smuggling crimes that may be committed in this territory, they relate to the possession or transport of sensitive goods that can be smuggled into the customs territory without submitting documents proving the status of these goods before the customs organization. . The list of goods subject to this crime was determined by a joint ministerial decision between the Ministers of Finance and Trade .

3.2.3 Other smuggling crimes:

In this category, we refer to other smuggling crimes that may occur inside or outside customs control centers, and we begin with the first case in which goods are unloaded or shipped fraudulently, as Article 58 of the Customs Law relating to maritime transport, as well as Article 65 of the same law relating to air transport, require the necessity Unloading or shipping goods under customs control, and any violation of this procedure is considered smuggling, whether the loading or unloading occurred inside or outside the customs zone, contrary to what was stipulated in Article 327 of the Customs Law before it was amended in 1998, when it was limited to this process, i.e. Loading and unloading takes place within the customs zone only .

Added to this picture is the picture of the reduction of goods placed under the transit system, and Article 125 of the Customs Law defines this system as: “The system in which goods are placed, under customs control, transported from one customs office to another customs office by land or air with suspension of rights.” fees and prohibition measures of an economic nature.” We find that any reduction in the goods placed under this system during their transportation is considered a smuggling crime. . However, after the amendment made by the Algerian legislator to the text of Article 325 of the Customs Law pursuant to Law 17-04 referred to previously, the act of reducing goods placed under the transit system has become described as a first-degree misdemeanor, within the form of importing or exporting goods without a permit, which is what came under the description of “reducing or replacing operations that occur to goods under customs control.” .

In addition to all of the above, another form is the failure to bring the goods before customs upon export or import in accordance with the requirements of Articles 60, 62, and 64 of the Customs Law, where violating one of these articles is considered a form of smuggling, as it is understood from Article 60 above that the importer of goods is responsible. The carrier must take the shortest, direct route to the nearest customs point, according to the route designated by a decision from the governor. When the carrier takes another route, he is considered smugglers in the eyes of the law. The same description applies to the landing of an aircraft on an international flight at an airport in which there are no customs offices unless it is authorized to do so according to what is stated in Article 62 of the Customs Law. The same applies if the goods transported by air are dropped during the flight unless authorized to do so according to what is stated in Article 62 of the Customs Law Article 64 of the same law .

We point out here that these last three cases cannot be declared to be purely legal smuggling, as these methods are commonly used by smugglers to avoid customs control. We estimate that these cases may fall within actual smuggling, contrary to what some have said. In these cases, the goods are seized outside customs offices However; the legal description of smuggling is applied to it until the presumption indicating smuggling is sufficient without proving the act of smuggling itself. In the first case, it is sufficient to seize a shipment outside the route designated by the governor, and it is the responsibility of the carrier of these goods to prove his good faith, and the same applies to whoever lands a plane abroad. Customs-controlled airports or threw some goods from the air before landing. Even if the thrown goods were not seized or the plane did not contain any goods after landing, the crime is committed in this case and the accused must prove the opposite. .

4. Conclusion:

After conducting this research, we have come to the conclusion that the Algerian legislator, like most legislators, established a legislative description for the crime of smuggling. Although he designated Article 2 of Order 05-06 related to combating smuggling as the conceptual framework, he also referred to the concepts approved in legislation as well as the customs regulation in force regarding the nature of smuggling. As a result, the issue of looking for a concept for smuggling crimes is not limited to referring to the provisions of the customs law, specifically Article 324 thereof, but also to any other law that may include forms of smuggling, as this study has demonstrated.

Instead, according to Article 139 of the Algerian Constitution, the issue has even advanced to secondary legislation as a trustworthy source for characterizing criminal acts. This is genuinely regarded as a divergence from the general principle, which essentially restricts jurisdiction to criminalization and punishment to the law in the strict sense, particularly when dealing with felonies or misdemeanors.

In addition to the aforementioned, we also came to the conclusion that there is no comprehensive definition for smuggling crimes because the focus has been on listing the various forms of this crime in order to explain its nature. This is especially true given that there are two categories of smuggling crimes based on their physical components, which has led to images of both true smuggling and other types of smuggling in a metaphorical or figurative manner. This made it more difficult to create a thorough definition for each of these forms.

We also observed that the enactment of a law expressly targeting smuggling crimes established an unprecedented legislative expansion in the penal section, undermining the principle of legal security and impacting the principle of knowledge of the law, even though it appears to be intended to simplify and clarify concepts. On the other hand, the experts had hoped that the passing of the smuggling law would address the injustice of the criminalization of specificity in the customs article. But instead of adopting a new definition of smuggling crimes, the latter added new forms of criminality and, as we previously indicated, resorted to the term recognized in the customs law.

In light of everything said above, we attempted to present a series of recommendations that, in compliance with the restrictions recognized by legal professionals, may lead to the legislative adequacy that the legislator had hoped for:

- The necessity of limiting this type of legislative enthusiasm, which has led to an inflation that does not serve the fundamental principles on which contemporary legislation is based, especially the principle of legal security and the principle of legal knowledge. The original intention was to include these crimes in the penal code, but legislative work and some practical considerations have established these crimes in the customs law, and then a special law was enacted only for smuggling crimes that do not go beyond being customs crimes.

- If there must be a law specific to smuggling crimes, its terminology must be adjusted so that we can unify the meaning in the legal texts, as we see the need to reformulate Article 2 of the Anti-Smuggling Law as follows: "In the meaning of this law, what is meant is the following:

Smuggling: the acts stipulated in this law, especially Articles 10, 11, 12, 13, 14, 15, as well as other forms stipulated in the legislation in force.

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- Goods are defined in Article 2 of Order No. 05-06 relating to combating smuggling as: "All commercial or non-commercial products or objects, and in general all objects that can be traded and owned." This definition is identical to what was stipulated in the amended Article 5 of the Customs Law. In fact, this legislative definition is derived from what has been established by judicial work in France. After ebb and flow regarding the definition of goods, some courts initially decided that goods are all things that can be transferred and owned. Individuals, whether commercial or otherwise, then this expanded definition was withdrawn, as some courts tended to mean that goods are a concept limited only to goods that are purchased with the intention of selling them, and then all things intended for personal exploitation are excluded. However, the French Court of Cassation rejected this distinction and ruled that All things that can be traded commercially are considered goods, regardless of their value, so that its jurisprudence developed and finally settled on the fact that goods are: "all things that can be owned and traded, regardless of the use assigned to them." The Supreme Court in Algeria adopted the same approach as it described it in a decision issued on May 9, 1993 The goods are defined as: "all commercial and non-commercial products and objects intended to cross customs borders, and in general all objects capable of being traded and owned." It was ruled in multiple decisions that drugs, means of transportation, livestock, jewelry, gold, national and foreign currency, and others are considered... Before the goods that may be the subject of a customs crime, see in more detail: Ahsan Bousaqui'a, *Customs Disputes, opcit*, pp. 37-38. Mamouni Al-Taher and Boularas Al-Nasser, *opcit*, pp. 195-196. Othmani Muhammad Al-Hadi, *opcit*, pp. 31-33. Sabiq Al-Sharqawi, "Customs Evasion", *Journal of the Supreme Court, Algeria*, special issue of the two-day study on tax fraud. And *Customs Evasion*, November 13 and 14, 2007, p. 238. Bin Tibi Mubarak, *Customs Evasion and Means of Combating It in Algerian Legislation, opcit*, pp. 27-28.
- See many judicial decisions issued by the Criminal Chamber of the Supreme Court in Algeria, which stated that the crime of smuggling is distinguished from others by importing goods or attempting to do so outside customs offices, whether the goods are transported by land or sea. The distinctive element of this crime is crossing the border with goods without any Customs control. Ahsan Bousqaia, *Customs Disputes, opcit*, p. 39.
- An unpublished decision referred to in: Ahsan Bousqaia, *Customs Disputes, opcit*, p. 39.
- What is meant by Presumption is the assumption of an unproven fact by proving another fact due to the connection between them, where the proof is focused on an undisputed fact, but it is inherent in the fact in dispute. The evidence is divided into judicial and legal, the latter of which is in turn divided into conclusive evidence that does not accept proof of the contrary, and simple evidence that does accept. Prove the opposite. See: Ben Tibi Mubarak, *Procedural*

Provisions for Smuggling Crimes in Algerian Legislation, Doctoral Dissertation in Private Law, University of Tlemcen, 2016, p. 180. Mahmoudi Linda, *opcit*, p. 106.

- Othmani Muhammad Al-Hadi, *opcit*, pp. 52-53. Bin Ammar Abd al-Rahman and Sadi Omar, *opcit*, p. 286. Yusufat Ali Hashim, *opcit*, pp. 194-195. Shaaban Lamia, *opcit*, p. 331. Bin Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *opcit*, p. 50.
- Raziq Saleh, *opcit*, pp. 04-05. Ahsan Bousqaia, Customs Disputes, *opcit*, p. 39. Saleh Boukrouh, *opcit*, p. 64. Othmani Muhammad Al-Hadi, *opcit*, pp. 25-26. Abdul Hamid Al-Haj Saleh, *opcit*, pp. 21-22. Ben Tibi Mubarak, procedural provisions for smuggling crimes in Algerian legislation, *OpCit*, p. 180.
- A decision referred to in: Mamouni Al-Taher and Boularas Al-Nasser, *opcit*, p. 217.
- Ahsan Bousqaia, Customs Disputes, *opcit*, pp. 41-43. Imad al-Din Mimoun and Laouarem Wahiba, *opcit*, pp. 627-628. Bin Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *opcit*, pp. 64-65. Mahmoudi Linda, *opcit*, p. 102-103. Shirouf Noha, Customs Crime in Algerian Legislation: Text and Application, doctoral thesis specializing in business law, Constantine University, 2018, sPp. 122-123.
- Raziq Saleh, *opcit*, p. 05. Ahsan Bousqaia, Customs Disputes, *opcit*, pp. 43-72. Othmani Muhammad Al-Hadi, *opcit*, pp. 37 et seq. Ben Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *op. cit.*, p. 80. Mahmoudi Linda, *opcit*, p. 124.
- Imad al-Din Maimoun and Laouarem Wahiba, *op. cit.*, p. 633. Bahia Barakat, *opcit*, p. 53. Ahsan Bousqaia, The Crime of Smuggling, *opcit*, p. 42. Ben Tibi Mubarak, procedural provisions for smuggling crimes in Algerian legislation, *OpCit*, p. 184.
- Ahsan Bousqaia, The Crime of Smuggling, *opcit*, p. 42.
- Ben Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, previously cited, p. 79. Ahsan Bousqaia, The Crime of Smuggling, *opcit*, p. 42. Ibn Ammar Abd al-Rahman and Sadi Omar, *opcit*, pp. 268-369.
- Ahsan Bousqaia, Customs Disputes, *opcit*, p. 73. Mamouni Al-Taher and Boularas Al-Nasser, *op. cit.*, ppp. 196-197. Ben Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *opcit*, pp. 61-63. See comparative legislation: Zulfikar Ali Rasan, *opcit*, p. 139. Taher Bougarka, "Corporal Smuggling," *Journal of the Supreme Court, Algeria*, special two-day issue on tax fraud and customs evasion, November 13 and 14, 2007, pp. 253-254. Mahmoudi Linda, *opcit*, p. 100-101. Shirouf Noha, *op. cit.*, pPp. 123-124.
- See more detail on the subject in: Raziq Salih, *opcit*, pp. 05-06. Ahsan Bousqaia, Customs Disputes, *opcit*, pp. 72-81. Othmani Muhammad Al-Hadi, *opcit*, pp. 72 et seq. Imad al-Din Mimoun and Laouarem Wahiba, *opcit*, pp. 633-634. Bin Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *opcit*, p. 80. Mahmoudi Linda, *opcit*, p. 124. Shirouf Noha, *op. cit.*, ppp. 135 - 136.
- Given that this joint ministerial decision was not issued, an implicitly canceled decision was resorted to, as sensitive materials susceptible to smuggling were specified in accordance with the decision of the Minister of Finance dated November 30, 1994, and here the question arises about the extent of the legitimacy of the follow-ups that are carried out based on this decision issued by the Minister of Finance. Financial only. See in this regard: Ben Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *op. cit.*, p. 40. Saleh Boukrouh, *opcit*, p. 68.
- Bin Tibi Mubarak, Customs smuggling and means of combating it in Algerian legislation, *opcit*, pp. 80-81. Imad Al-Din Mimoun and Laouarem Wahiba, *opcit*, p. 635. Ahsan Bousqaia, Customs Disputes, *opcit*, p. 83.
- Ben Tibi Mubarak, customs smuggling and means of combating it in Algerian legislation, *op. cit.*, p. 81. Ahsan Bousqaia, Customs Disputes, *opcit*, p. 83. Mahmoudi Linda, *opcit*, p. 119-120.
- Ahsan Bousqaia, The Crime of Smuggling, *opcit*, p. 51.
- Imad al-Din Maimoun and Laouarem Wahiba, *op. cit.*, p. 634. Mahmoudi Linda, *opcit*, p. 119. Shirouf Noha, *op. cit.*, pPp. 127-128.
- Ahsan Bousqaia, Customs Disputes, *opcit*, p. 82.

- Saleh Boukrouh, opcit, p. 62. Othmani Muhammad Al-Hadi, opcit, pp. 15-16.Mahmoudi Linda, opcit, p. 119.
- See the issue of shifting the burden of proof in customs matter:Mamouni Al-Taher and Boularas Al-Nasser, opcit, p. 198. Tahar Bougarka, opcit, p. 282.Mahmoudi Linda, opcit, p. 105.