

# **The specificity of the crime of arbitrary use of company funds in accordance with the provisions of the Algerian Commercial Law**

**خصوصية جريمة الاستعمال التعسفي لأموال الشركة وفقاً لأحكام القانون التجاري الجزائري**

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## **Abstract:**

The subject of the study is the specificity of the crime of arbitrary use of the company's funds in accordance with the provisions of the Algerian Commercial Code, as it is reflected in determining the conceptual rooting of the crime of arbitrary use of the company's commercial funds in jurisprudence and law, and then clarifying the pillars on which it is based in accordance with the provisions of the Commercial Code, penalties and this Code of Criminal Procedure on the one hand.

On the other hand, mechanisms to combat this crime should be clarified by limiting its personal scope to the managers of the commercial company and those who manage it exclusively, and then imposing criminal and civil penalties as a form of deterrence imposed by the Algerian legislature on the manager of a joint stock company or a limited liability company who was found responsible for committing this crime.

**Key words:** The crime of abusive use of the company's funds; the commercial company; the manager; the mechanisms.

## **Introduction:**

Commercial companies are considered one of the main pillars that contribute to the development of the economic and commercial sector in each country, because these companies represent the main reason for the prosperity of economic, commercial and financial life both at the international and national levels, However, the major economic challenges faced by commercial companies today threaten the continuity of their activities and affect their reputation among their competitors, all of which may be due to the actions of some of the company's managers who abuse and abuse their own funds for their personal interests and gains, which harms the interest of the company as a legal person and the interest of all partners and shareholders.

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Whereas this has led the Algerian legislator to keep pace with economic developments at the regional and international levels by issuing a set of special legal regulations and texts aimed primarily at protecting the financial disclosure of both the commercial company as a legal person and its shareholders, as well as the need to provide all appropriate capabilities for commercial companies so that they can perform their role of achieving the economic development of the State, The success, development and prosperity of the latter depend, in particular, on its proper management, management and protection from all acts of a criminal nature that may be committed by some managers in both the joint stock company and the limited liability company related to the abuse of the company's commercial funds. From the above.

the problem posed in this study is: What are the peculiarities of the crime of abusive use of the company's commercial funds in accordance with the provisions of the Algerian Commercial Code?

This problem includes a number of sub-questions: What is meant by the crime of abusive use of the company's commercial funds? Can the manager of the business be held accountable as a natural or legal person for committing the crime of abusive use of funds? What are the penalties prescribed for the managers of commercial company?

to answer the problem and the questions raised, the analytical approach was used through the description and analysis of the special legal texts in Algerian legislation contained in the Commercial Code, the Penal Code and the Code of Criminal Procedure. In answering the problem posed, this study focused on two main axes, starting with defining the conceptual rooting of the crime of arbitrary use of the company's commercial funds, then detailing the mechanisms for combating the crime of arbitrary use of the company's commercial funds in accordance with the provisions of the Algerian Commercial Code.

### **1-Conceptual rooting of the crime of arbitrary use of commercial company funds:**

The features of the crime of abuse of the management in the use of the company's commercial funds are evident by highlighting the conceptual rooting of this crime by defining what is meant by this crime in jurisprudence and legally, and then clarifying the basic elements on which the crime of arbitrary use of the company's funds is based, within the framework defined by the provisions of the Commercial Code, penalties and the Code of Criminal Procedure, where the elements constituting the crime of arbitrary use of the company's funds are the legal element, the material element and the moral element, which we will explain in the following:

#### **1.1- What is meant by the crime of arbitrary use of the company's commercial funds?**

Crime is defined as a social phenomenon and a legal fact resulting from the violation of legal texts, whether this violation is issued by a natural or legal person, and is embodied in the need to do or refrain from doing an act<sup>2</sup>, and the arbitrary use of the company's funds is defined as any use of the company's funds or the company's adoption by the manager in bad faith in a use contrary to the interest of the legal person, to achieve his personal interest, whether direct or indirect interest.

The origin of the stipulation of this crime goes back to the French law, which dealt with the provisions of this crime in article 15 of the law of July 24 of 1867, amended by decree issued on August 08, 1935, which applied to the provisions of joint stock and limited liability companies.

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Referring to Algerian law, we find that the Algerian legislators have adopted the French approach, which recognized the misdemeanor of misuse of the company's funds, where the provisions and elements of this crime were regulated in accordance with special legal provisions in the Commercial Code, where the crime of abuse of the company's funds requires that the offender has a specific capacity, which is either the head of the company, or one of those who manage it for the members of the board of directors, or general managers.

about the provisions governing the management of a joint stock company, we find Article 811/03 and 04 of the Commercial Code, which stipulates that the board of directors of a joint stock company shall assume two managers consisting of at least 03 and a maximum of 12 managers, elected by the constituent general assembly or the ordinary general assembly, and the board of directors elects from among its members a president who undertakes under his responsibility the general management of the company and represents it in its relations with others. The form of that company was in accordance with the provisions of Article 840/01 of the same law<sup>3</sup>.

regarding the provisions of the limited liability company, the managers of the company are held accountable for the crime of misuse of the company's funds in accordance with the provisions of Article 800/04 and 05 of the aforementioned law, so that the manager is one or more natural persons, and he may also be a partner or has been chosen as a foreign person, and he may be appointed by the partners in the company's articles of association or appointed by a subsequent contract<sup>4</sup>.

Through the foregoing, we conclude that the Algerian legislator did not set a specific definition of the crime of abuse in the use of the company's commercial funds, but only identified and enumerated the acts that constitute the misuse of these funds, and from this we can define this crime as the use of the commercial company's funds for their personal purposes and interests in bad faith, knowing full well that this is completely contrary to the interest of the company to favor the interest of another company or institution in which there are direct or indirect interests for them.

**1.2- Elements of establishing and investigating the crime of abuse in the use of the company's commercial funds:**

The crime of abuse in the use of the company's commercial funds is subject to the same elements of the same elements that make up all crimes in Algerian law, as this crime is based only on the availability of three basic elements represented in the legal element, the material element and the moral element, and we will elaborate on these elements in the following points:

**A- The legal element:** The legal element in the crime of abuse in the use of the company's funds represents the legal basis for the criminal act, which requires the existence of a provision punishing this crime in accordance with the principle that "there is no crime, no punishment or security measures without law"<sup>5</sup>.

Accordingly, the legal basis criminalizing the act of abuse of the company's funds and determining its scope and penalty is provided for in articles 800/01, 03 and 04 of the Algerian Commercial Code, It ruled that "a penalty of 05 years imprisonment and a fine of 20,000 to 200,000 dinars, or one of these two penalties only... Managers who in bad faith use funds or loans are aware that it is contrary to the interest of the company for their personal purposes or to favor another company or institution in which they have direct or indirect interests".

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**B- Material element:** The material element of the crime of arbitrary use of the company's funds consists of two basic elements, namely the act of using the company's commercial property and using this property contrary to the interest of the company as a legal person; The act of using the company's commercial money means "using something", which means using money owned by the company contrary to its interest to achieve personal purposes, and it is every disposition that falls on the company's funds, where it is enough for the manager to use an element of the financial disclosure of the legal person to achieve a personal purpose and contrary to the economic interests of the company.

The purpose of the Algerian legislator's adoption of this term is because of the breadth of its concept, as it can include all aspects of use, because this term indicates the use of something, and the failure to specify its scope confirms that it includes more serious acts represented in embezzlement, waste, fraud and other illegal acts, which allows the judicial authorities to follow up extensively for the perpetrators of this crime.

While the money subject to the crime of abuse in the use of the company's funds is any positive value in the company's financial disclosure -money in its broad sense-, whether movable or real estate, or material or moral money, and whether it is visible in the company's accounts or hidden, and this money is equal to that this money is public belonging to the state or private belonging to private individuals.

In other words, the company's assets include the sum of fixed and movable funds, and the literary and industrial property that constitutes the company's financial disclosure, which is allocated to fulfill its purpose without there being a distinction between the basic or reserve capital, and the accounting books or others owned by the company should not be excluded, I.e. all its real estate, movables, equipment, goods, inventory, housing, debts, rights and rents, as well as moral funds from trademarks and patents<sup>6</sup>.

The first theory is that is based on the general rules in contracts and considers that the company is a contract in which the interests of the company are mixed with the interests of the partners, as the proponents of this theory believe that the company was not established to satisfy an interest other than the interest of the partners who alone have the capacity to share the company's profits in what Including<sup>7</sup>.

While the second theory considers the company a legal system based on the idea of the institutional theory, which considers that the interest of the institution is the supreme interest, without taking into account any consideration of the interest of the partners on the basis that the shareholders are the ones who added legitimacy and legal personality to the company<sup>8</sup>, and through the above, we find that the crime of misuse of the company's funds not only protects the interest of the shareholders partners, but also protects the financial disclosure of the company as a legal person.

about the question of the extent to which the company's interest is violated, we can say that the discretion rests with the trial judge, who decides whether this use is contrary to the interest of the commercial company or not, despite the difficulty of proving some of the actions of the managers of commercial companies, since this assessment in itself is considered controversial before the Algerian judicial authorities, and this is due to two reasons; The first reason is that the expression of the company's will is by the partners who decide whether the act committed by the manager affects the interest of the company or not, and the second reason is the inability of the

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trial judge to intervene in the conduct of the company's affairs without an existing lawsuit against one of the company's managers<sup>9</sup>.

**C- The moral element:** The crime of misuse of the company's funds is classified as an intentional crime as this crime<sup>10</sup>, must be committed with the intention and will of the offender to commit the act with full certainty that it is a violation of the provisions of the Penal Code, and his will requires the availability of criminal intent, which is divided into two types, general criminal intent and special criminal intent.

Professor -NORMAND- defined the general criminal intent as "the offender knowing that he was committing the act described as a crime in the law and knew that he violated his orders and prohibitions", and Professor -GARRAUD- also defined it as "the will to break the law by action or omission, or it is the will to harm an interest protected by the law that is supposed to be known to the perpetrator"<sup>11</sup>, while Professor -GARCON- defined it as "the will to commit the crime as defined by the law, which is the knowledge of the offender also violating the prohibitions of the law, which always assumes knowledge" By it"<sup>12</sup>.

Hence, the general criminal intent is one of the basic elements that make up the moral element in the crime of misuse of the company's funds, and for its existence both knowledge and will must be available, as the basis for the establishment of the general criminal intent is the bad faith of the manager who committed the criminal act, as "bad faith" is an essential element in the crime of arbitrary use of the company's funds.

"Bad faith" is an essential element in the crime of abuse of company funds<sup>13</sup>, where intent is defined The Algerian legislator usually uses several terms, including "deliberately, intentionally, voluntarily, knowingly, and in bad faith".

In this regard, articles 800/04, 811/03 and 840/01 contained in the provisions of the Commercial Code specify that the manager who committed the crime of abusive use of the company's funds had the will to commit this crime<sup>14</sup>.

While the special criminal intent is the intention of the perpetrator that prompted him to commit the act, the special criminal intent does not exist independently and is not carried out by the crime, That is, the special criminal intent complements the element of general criminal intent, So the availability of private intent in an intentional crime inevitably assumes the availability of general criminal intent, while the availability of the latter does not always assume the availability of special criminal intent, but the legislator may sometimes consider in some crimes the motive that led to the commission of Crime along with general criminal intent.

The motive in the crime of misuse of the company's funds is the use by the manager of the company's funds contrary to its interest, i.e. for the purpose of achieving personal purposes, or to favor a company or other institution in which he has direct or indirect interests<sup>15</sup>.

## **2-Mechanisms to combat the crime of arbitrary use of the company's commercial funds in accordance with the provisions of the Algerian Trade Code:**

The main reason for the Algerian legislature's decriminalization of any material act or conduct that would constitute an abuse of the company's commercial funds lies in preserving the financial disclosure of the commercial company in addition to protecting and preserving the interests of all partners and shareholders.

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It is also necessary to highlight the modalities for imposing criminal and civil penalties as a kind of deterrence imposed by the Algerian legislator on the manager of a joint stock company or a limited liability company who has been proven responsible for committing the crime of arbitrary use of the company's funds:

**2.1- Personal scope of the crime of abusive use of commercial company funds:**

The crime of abuse or arbitrary use of the company's funds is based on some of the actions committed by the managers of the limited liability company, the board of directors and the general managers in charge of management in the joint stock company, where there are many ways of using the crime, including exaggerating the expenses of the tasks entrusted to them as well as the expenses of transportation, transportation and gasoline supply at the expense of the company, This is without providing any justification, explaining that these expenses are necessary and real and serve the benefit and interest of the commercial company, and the special expenses of managers paid at the company's expense are considered an abuse of its funds.

Among the modalities of the abusive use of the company's funds are also the use of the company's real estate and property, for personal purposes that do not serve its interests and expose it to bankruptcy, as well as the use of the company's credit to pay personal debts, such as the manager guaranteeing himself by the company through in-kind insurances such as mortgage or personal insurance such as guarantee and reserve guarantee, or accepting courtesy payments in the name of the company and for his own account<sup>16</sup>, about the original perpetrator of the crime of arbitrary use of the company's funds, we find that Article 811/03 of the Commercial Code defines the scope of application of the crime to all those who manage the joint stock company, who can be legal or natural persons.

The Algerian legislator has embodied the principle of prosecuting a legal person for all crimes committed, and this principle is explicitly enshrined in the provisions of the Penal Code, specifically in the text of article 51 bus thereof, which stipulates that "with the exception of the State, local communities and persons subject to public law, the legal person shall be criminally liable for crimes committed on its behalf by its legal organs or representatives when the law so provides."<sup>17</sup>.

In this case, the managing legal person shall choose a permanent representative, so that he shall be a natural person subject to the same conditions and duties and bear the same civil and penal liabilities as if he were managing in his own name, without prejudice to the joint liability of the legal person he represents<sup>18</sup>.

If the manager of a commercial company is a natural person, according to the legal provisions contained in the Algerian Commercial Code, he is not only considered the manager of the company, but he is a shareholder in it and appointed by the general assembly to ensure its operation, and in this individual capacity does not represent the powers of management, but it is the board of directors that has very broad powers to act on behalf of the company in any circumstances.

It should be noted that there is an aspect of jurisprudence that considers that the board of directors only maintains without acting, but grants these privileges to the chairman of the board of directors, and for a joint stock company, if the manager is not the head of the company<sup>19</sup>, he cannot manage it, and in the event that he actually manages, it is considered an actual manager of the joint stock company.

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However, the actual manager of a joint stock company is not responsible for the actual management, but rather for the abuse of the company's funds as a caretaker and committed acts aimed at achieving his own interests, and in this regard, Article 811/03<sup>20</sup>, which was previously mentioned, stipulates that "the president of the joint stock company and those in charge of its management shall be punished by imprisonment from one to five years and a fine of 20.000 DA to 200.000 DZ, or by one of these two penalties only".

**2.2- Penalties for perpetrators of the crime of abusive use of commercial company funds:**

The imposition of punishment on the perpetrator of the offence of the abusive use of the company's commercial funds is a form of deterrence imposed by the Algerian legislature on the company's manager, who has been found responsible for the commission of the criminal act.

**A- Criminal penalty:** The criminal penalty is divided into punishment and security measures, and the penalty itself is divided into a negative or freedom-restricting penalty such as imprisonment and imprisonment, as well as taking the form of financial punishment, and the crime of abuse of the company's funds is punishable as a misdemeanor with original penalties of imprisonment from one year to five years and a fine of 20.000 DZ to 200.000 DZ or one of these two penalties only.

This penalty was prescribed for all managers of limited liability companies, in accordance with the provisions of article 800/04 of the Commercial Code, as well as the president of a joint stock company, its managers and its general managers, as approved by article 811/03 of the same law.

In addition to the original penalties, the legislator also approved qualitative complementary penalties taking into account the nature and gravity of the crime committed, as stipulated in article 09 of the Penal Code, which stipulates that "supplementary penalties are 1- Legal interdiction, 2- deprivation from the exercise of national, civil and family rights, 3- Determination of residence, 4- Prohibition of residence, 5- Penal sources of funds, 6- Temporary prohibition from practicing a profession or activity, 7- Closure of the institution, 8- Exclusion from public procurement's, 9- Prohibition from issuing cheques and/or using payment cards, 10- Suspending, withdrawing or cancelling a driving license with a ban on issuing a new license, 11- Withdrawing the passport, 12- Publishing or suspending a verdict or conviction"<sup>21</sup>.

According to the text of article 04/03 of the Penal Code, supplementary penalties are ruled separately from the original penalties<sup>22</sup>, as it ruled that "complementary penalties are those that may not be sentenced independently of the original penalty, except in cases expressly provided for by law, which are compulsory or optional", Explicit in the text of Article 09 above.

In this regard, it must be noted that the crime of concealment, is considered an independent crime, but it exists only when the original crime of abuse of the company's funds is committed.

Where the material element is represented in the act of physical possession carried out by the manager of funds, such as hiding the funds or keeping them in his bank or bank account, while the moral element is the manager's knowledge that the thing obtained constitutes a criminal act based on his bad faith in undertaking the act of concealment<sup>23</sup>, which is explicitly confirmed by Article 387 of the Penal Code, which ruled that "whoever deliberately conceals things embezzled, wasted or obtained from a felony or misdemeanor in whole or in part thereof shall be punishable"<sup>24</sup>.

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**B- Civil Penalty:** The civil lawsuit filed by extension before the Criminal Court is a legal basis for claiming compensation for damages resulting from the crime of arbitrary use of the company's funds, and compensation is meant in its general concept as "repairing the damage resulting from the crime, either by paying a financial consideration for the damage or by returning the thing to the owner of the right to it, or by paying the various expenses incurred to obtain his right subject to the lawsuit"<sup>25</sup>.

It should be noted that the main victim in the crime of arbitrary use of the company's funds is represented in both the commercial company as a legal person and all the partners who are shareholders in it and take the capacity of a partner in accordance with the company's basic law, and every person who does not have the status of a partner or shareholder, which constitutes a necessary condition for accepting a civil lawsuit, is excluded from the circle of persons affected by this crime, but these can claim compensation for damages resulting from this crime before the civil court<sup>26</sup>.

Whereas the content of compensation in the civil penalty is the reparation of all material damage, whether physical or financial damage, as well as compensation for moral or moral damage suffered by the victims, because these damages are suitable as a basis for claiming civil compensation before the criminal courts, and in this regard article 03/04 of the Algerian Code of Criminal Procedure stipulates that "a civil liability action for all aspects of damage, whether material, physical or moral, shall be accepted as long as it results from the facts in question Penal"<sup>27</sup>.

Through the above, the material damage is represented in every act aimed primarily at reducing the financial disclosure of the injured person, whether the reduction is related to the gain he missed or the loss suffered<sup>28</sup>, while physical damage is damage to the human body and causes him temporary or permanent effects such as disabilities and injuries that would hinder his performance of his normal and daily activities, while moral or moral damage is all that inflicts on the injured person and affects him in his feeling, reputation or honor and would affect negatively on his morale.

It should be noted that compensation for bodily injury mentioned in the text of Article 03/04 of the Code of Criminal Procedure resulting from the crime of arbitrary use of the company's funds does not apply to the company as a legal person, because the damage in this crime is limited to financial damages that cause losses to its financial disclosure in addition to compensation for moral damages suffered by it, which mainly affect the company's credit and commercial reputation, Therefore, the company must be compensated in this case for moral damages, for the loss and loss of profit, whether this damage is foreseeable or unforeseeable<sup>29</sup>.

It should also be noted that the damage suffered by the partners or shareholders of the commercial company of any kind, material -physical, financial- or moral, is not commendable unless it is real damage and not probable, in the sense that this damage is realized and resulting from the crime of arbitrary use of the company's funds<sup>30</sup>, as well as the availability of elements of its assessment sufficiently, and whether it is immediately actually achieved and its extent is finally determined at the time of filing the lawsuit, or the damage is certain to have occurred in part or It's all in the future.

The aggrieved partner or shareholder may also claim compensation for the moral damage suffered, as is the case, for example, when embezzlement of funds that were not distribute due to the deficit situation known to the commercial company, where he could not invoke and claim



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compensation for material damage -financial- he could therefore claim compensation for moral damage.

**Conclusion:**

At the end of this study, it appears to us clearly that the research on the subject of the specificity of the crime of arbitrary use of the company's funds in accordance with the provisions of the Algerian Trade Law is manifested by determining the conceptual rooting of this crime, as the crime of abuse in the use of company funds is considered as the cornerstone of the criminal law of business, especially since it is considered among the new crimes carried out by managers of joint stock and limited liability companies, Which negatively affects the activity of commercial companies, their continuity and reputation in the commercial markets, and thus affects the development of economic, commercial and financial activity in Algeria, and we have reached in this regard a number of results listed as follows:

1- Studying the crime of arbitrary use of the company's commercial funds through knowledge of all its aspects, by developing a theoretical construction of the idea and concept of the abuse of the manager's funds in the use of the company's commercial funds, by highlighting the conceptual framework of this crime by defining it, as well as trying to address this crime within the framework of the commercial law and criminal procedures by identifying the most important elements with which this crime is based, represented in the legal element, the material element and the moral element.

2- The main reason for the criminalizing of acts that constitute an abuse of the company's commercial funds is primarily due to the desire of the Algerian legislators to preserve the common property and the common interest of the company and the shareholders, which aims to achieve and develop the national economy sector in Algeria.

3- The Algerian legislator imposed prison sentences and a fine on the manager in the event that he committed the crime of abuse in the use of the company's funds, by imprisonment from one to five years, and a fine from 20.000 DZ to 200.0000 DZ or one of these two penalties, as the Algerian legislator by imposing financial penalties tried to deter the actions of the manager and exhaust his financial disclosure more than imposing a penalty depriving him of liberty on the basis that the manager often aims, through his abuse of the company's funds, to achieve benefits Private and personal finances.

4- The legal provisions contained in the Commercial Code and the Code of Criminal Procedure relating to the imposition of penalties on the perpetrators of the crime of abuse of the company's commercial funds expressly indicate that the scope of application of penalties is limited only to two types of commercial companies, namely the joint stock company and the limited liability company.

5- The crime of abuse of the company's commercial funds aims to protect the private interests of the company as a legal person, companies, shareholders and others who deal with them, so it was necessary for the legislator to expand the actions that determine the scope of this crime to protect the company's assets and wealth from all abuse or waste in the use of its funds by its managers in general, Instead of following up managers on the basis of separate crimes such as the crime of breach of trust, fraud and fraud, and other multiple crimes with limited impact that does not constitute any actual protection for the interest of the company, partners, shareholders and third parties dealing with it.

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By extrapolating the penalties prescribed for the crime of abuse in the company's commercial funds, it is clear that they are severe, strict and deterrent penalties that are fully in line with the seriousness of this crime, and that the legislator has imposed complementary penalties or other measures in addition to the original penalties, given the damage caused by this crime to the financial disclosure of the company, which negatively affects the sustainability of its commercial activity and its reputation in the markets, This has forced him to adopt these complementary penalties and measures in the face of the perpetrator to maintain commercial confidence in dealing.

**Citations:**

- 1- Zadi Safia, Commercial Corporate Crimes, memorandum submitted to complete the master's degree in private law specializing in business law, Faculty of Law and Political Science, University of Mohamed Lamine Dabbaghine - Sétif, academic year 2016, p. 05.
- 2- for more details, see the provisions Decree-Law of 8 August 1935 amending the law of 24-07-1867 on companies about the criminal liability of directors and the choice and powers of auditors, publication on the website: <https://www.legifrance.gouv.fr>.
- 3- Zakri Weiss Maya, The crime of abusive use of company funds, memorandum submitted to complete the master's degree in law, Faculty of Law and Political Science, University of the Lekhwa Monturi - Constantine, academic year 2005, p. 04.
- 4- Article 811/03 and 04 of Ordinance N°. 75-59 on the Commercial Code, amended and supplemented by Law N°. 05-02, Official Gazette N°. 11, of February 9, 2005.
- 5- See articles 800/04 and 05 of Ordinance No. 75-59 in the Algerian Commercial Code.
- 6- Article 01 of Ordinance N°. 66-156 amending and supplementing the Algerian Penal Code.
- 6- Article 01 of Ordinance N°. 66-156 amending and supplementing the Algerian Penal Code.
- 7- See: Wahi Farouk Luqman, Powers and Responsibilities of Directors in Commercial Companies, a Comparative Study, Dar Al-Fikr Al-Arabi, p. 93.
- 8- Tharwa Abdul Rahim, Encyclopedia of Judiciary and Jurisprudence of the Arab State, Arab House of Encyclopedias, Beirut, p. 02.
- 9- Annie Medina, Abus de bien sociaux, Prévention-Détection-Poursuite, Dalloz, Référence Droit de l'entreprise éditions, Dalloz, 2001, p. 91.
- 10- Annie Média, Op.cit. p118.
- 11-Tayeb Belloula, droit pénal des affaires & des sociétés commerciales, Berti Editions, Alger, 2011, p. 62.
- 12- Al-Shayassi Ibrahim, Al-Wajeez fi Sharh Al-Aqqab Al-Jazairi, General Section, Dar Al-Kitab Al-Libanani for Printing, Publishing and Distribution, Beirut, 2001, p. 27.
- 13- Faraj Reda, Explanation of the Algerian Penal Code, General Section, National Company for Publishing and Distribution, Algeria, p. 41.
- 14- Abdul Rahman Tawfiq Ahmed, Explanation of the Algerian Penal Code -Special Section Crimes against funds according to the latest amendments-, 11Th Edition, Dar Al-Thaqafa, Jordan, 2011, p. 45.
- 15- See: Harakati Jamila, Criminal Responsibility of the Managers of the Public Economic Enterprise, memorandum submitted to complete the master's degree in law, specializing in public law, branch of economic organization, University of Constantine, academic year 2013, p. 179.
- <sup>16</sup> - Annie Medina, op. Cit, P 210.
- 17- Shriqi Nisreen, Bankruptcy and Judicial Settlement, 11Th Edition, Dar Belkis Publishing, Algeria, 2013, p. 102.
- 18- Article 51 bus of Ordinance N°. 66-156 amending and supplementing the Algerian Penal Code.

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- 19- Ahsan Bousqaia, Al-Wajeez fi Private Criminal Law, vol. 2, 8Th edition, Dar Houma, Algeria, 2003, p. 113.
- 20- Zakri Weiss Maya, op. cit, p. 112.
- 21- Article 811/03 of Ordinance N°. 75-59 in the Algerian Commercial Code.
- 22- Article 09 of Ordinance N°. 66-156 amending and supplementing the Algerian Penal Code.
- 23- Article 04/03 of Ordinance N°. 66-156 amending and supplementing the Algerian Penal Code.
- 24- Ahsan Bousqaia, op. cit., p. 233.
- 25- Article 387 of Ordinance N°. 66-156 amending and supplementing the Algerian Penal Code.
- 26- Nazir Faraj Mina, Summary of Algerian Criminal Procedures, 33rd Edition, Diwan of University Publications, Algeria, 1992, p. 33.
- 27- See: Zakri Weiss Maya, op. cit, p. 173.
- 28- Code of Criminal Procedure N°. 18/06 amending and supplementing Ordinance N°. 66-155, Official Gazette N°. 34 of 10 June 2018.
- 29- Abdallah Ouhaibia, Explanation of the Algerian Code of Criminal Procedure, Dar Houma, Algeria, 2004, p. 147.
- 30- Saudi Mohammed Tawfiq, Civil and Criminal Responsibility of the members of the Board of Directors of a joint stock company for the company's business, Dar Al-Amin, 2001, p. 82.
- 31- Ahmed Shawky Chalakani, Principles of Criminal Procedure in Algerian Legislation, vol. 1, University Press, Algeria, p. 105.