International Journal of Law and Jurisprudence
Volume 15 · Issue 2 · 2026 · Pages 1899–1911
e-ISSN 2255-1824 (Online) · revistaidj.com/IJLJ

Special Penal Provisions Governing Neighbourhood Gang Crimes

Dr. Ayad Fawzia

Lecture Class A, Faculty of Law, University of Algiers 1, Criminal Sciences Laboratory, Algeria, Email: f.ayad@univ-alger.dz

Received: 21 March 2026 | **Accepted:** 25 July 2026 | **Published:** 16 October 2026

Abstract

The subject of special penal provisions governing neighbourhood gang crimes is an example of the preventive criminalisation policy adopted by the Algerian legislator in recent years. This policy is intended to prevent neighbourhood gangs, which have become increasingly dangerous, especially since Algeria began modernising popular neighbourhoods, residential areas and informal settlements. This was achieved through the implementation of development projects aimed at providing decent housing for citizens affected by the housing crisis.

However, instead of becoming a civilised model that reflects the image of the city, these residential complexes have become centres of criminal activity. This study therefore aims to shed light on the criminalisation and punishment policy adopted by the Algerian legislator to curb or reduce the scale of this phenomenon, which has become a source of concern for Algerian society.

Keywords: Neighborhood gangs; criminal provisions; constituent elements; punishment.

Introduction:

Neighbourhood gangs are a troubling criminal phenomenon affecting many societies, including Algerian society. Characterised by violent activities and criminal organisation, these gangs pose a serious threat to public security and social order.

Several factors have contributed to the emergence of neighbourhood gangs in Algeria, including poverty and unemployment. Many young Algerians, particularly those living in marginalised neighbourhoods, suffer from these issues, which may drive them to engage in criminal activities in search of money or opportunities. Social marginalisation is also an important factor in the emergence of these gangs, as many young people in disadvantaged neighbourhoods feel marginalised by society, prompting them to seek a sense of belonging and acceptance within neighbourhood gangs.

Family disintegration is another contributing factor as it deprives young people of family care and support, making them more vulnerable to joining neighbourhood gangs. Additionally, a lack of educational opportunities means many young people in marginalised neighbourhoods have limited access to quality education, reducing their chances of obtaining suitable employment and potentially pushing them towards criminal activities. Furthermore, community violence creates an environment conducive to the proliferation of neighbourhood gangs[1].

Over time, neighbourhood gangs in Algeria have evolved and become more organised. They have become more organised and diversified their criminal activities. They no longer limit themselves to traditional criminal acts such as theft and assault, but have expanded to include drug trafficking, money laundering and cybercrime. They also use technology to coordinate their activities, communicate with members and spread fear and intimidation.

In response to this issue, Algeria has enacted Law No. 20-03 of 30 August 2020, which specifically addresses the prevention and combating of neighbourhood gangs.

Studying the substantive provisions relating to neighbourhood gangs is important for understanding the nature of these crimes and their threat to Algerian society, and for developing effective solutions to combat them. Studying these provisions also represents a valuable opportunity to advance scientific research in criminology, sociology and law.

This study aims to present the current penal provisions for combating neighbourhood gang crimes, and analyse their adequacy and proportionality to the seriousness of these crimes.

Accordingly, the following research question arises: To what extent are the current penal provisions for combating neighbourhood gang crimes adequate and effective?

To answer this question, the study is divided into two sections. The first section examines the constituent elements of neighbourhood gang crimes, and the second addresses the prescribed penalties for these crimes.

Section One: The Elements of Neighbourhood Gang Crimes

The substantive provisions that criminalise neighbourhood gangs relate to their three constituent elements. This embodies the principle of legality in criminal matters, as stipulated in Article 1 of the Penal Code: 'There shall be no crime, no punishment, and no security measure except by law.' The aim of these provisions is to protect individuals' right to security and public safety by defining as illegal acts that threaten this right.

According to legal scholars, the elements of a crime are its essential components, such that the absence of any one of them precludes the existence of the crime[2]. Regardless of doctrinal differences, the elements of a crime are generally threefold:

- The legal element, consisting of the criminal provision that criminalises the act and prescribes a punishment for it.
- The material element, consisting of the conduct that constitutes the crime, whether in the form of a positive act or a mere omission.
- The moral element refers to the relationship between the material aspects of the crime and the perpetrator's state of mind.

As with other crimes, neighbourhood gang crimes require the presence of these three elements for the crime to be complete and for the prescribed penalties to be applied to the perpetrators.

Accordingly, this section is divided into two subsections. The first is devoted to examining the specific provisions that criminalise neighbourhood gangs, while the second addresses the features arising from the material and moral elements.

First subsection: The Specific Nature of the Provisions Criminalising Neighbourhood Gangs

This subsection examines the legal elements of neighbourhood gang crimes, which embody the principle of legality in criminal matters as set out in Article 1 of the Penal Code[3]. This is reflected, on the one hand, in the principle of legality and, on the other hand, in the enactment of a specific law concerning the prevention of and fight against neighbourhood gangs. This law was not enacted pursuant to international obligations, but rather in response to a particular period in the history of Algerian society, resulting from the modernisation of residential neighbourhoods and the demolition of those threatened with collapse and disappearance.

This law aims to achieve a specific objective intended by the legislator by criminalising certain actions, such as protecting a particular right, value or interest. Accordingly, this subsection is divided into two parts. The first part is devoted to the criminalisation of neighbourhood gangs under a specific legal provision, while the second part examines the interest that is being protected by the criminalisation of neighbourhood gangs.

First Branch: Criminalisation of neighbourhood gangs under a specific legal provision

The Algerian legislator criminalised neighbourhood gangs under Ordinance No. 20-03 of 30 August 2020[4], consisting of six chapters.

Chapter One, entitled 'General Provisions', contains Articles 1 and 2. Article 1 states that the purpose of this Ordinance is to prevent and combat neighbourhood gangs.

Article 2 defines certain terms, including 'neighbourhood gangs'[5] and 'bladed weapons'[6].

Chapter Two, entitled 'Mechanisms for the Prevention of Neighbourhood Gangs'[7], sets out the national strategy adopted by the state to prevent neighbourhood gangs, with the aim of maintaining public security and order, and protecting individuals and property, as set out in Articles 3 to 7.

It also establishes institutional mechanisms, including the 'National Committee for the Prevention of Neighbourhood Gangs', referred to in Section One of Chapter Three, and the 'Wilaya Committee for the Prevention of Neighbourhood Gangs', referred to in Section Two of the same chapter.

Chapter Three, entitled 'Protection of Victims of Neighbourhood Gangs', contains Articles 14 to 16.

Chapter Four, entitled 'Procedural Rules'[8], contains Articles 17 to 20.

Chapter Five, entitled 'Penal Provisions', contains Articles 21 to 38.

Chapter Six, entitled 'Final Provisions', contains Articles 39 and 40.

Second branch: Protected Interest in the Criminalisation of Neighbourhood Gangs

Criminalisation involves granting legal protection to a specific type of interest that is important to both individuals and society by classifying certain acts as crimes because they endanger these interests. This process is based on specific principles and criteria that aim to strike a balance between the interest underlying the criminalisation and the interests of other individuals in society[9], including the perpetrator of the crime.

When interpreting criminal provisions, one of the elements taken into consideration is the identification of the protected legal interest. Therefore, it is necessary for this interest to be clearly established. Where the interest protected by the criminalisation of certain acts is specifically defined, interpretation of the provision will exclude acts that do not affect such interest from the scope of application of the criminal provision.

Given the nature of the protected interest or right that the legislator seeks to protect directly through the criminal provision, crimes are divided into crimes against the public interest and crimes against individuals. If the right harmed or endangered by the crime concerns a specific person or several persons, the crime is characterised as one against individuals. Examples include murder, assault and battery. However, if the right violated by the crime concerns society as a whole, it is considered harmful to public interest.

With reference to Article 3 of Ordinance No. 20-03 on the Prevention of and Fight Against Neighbourhood Gangs, which provides that: 'The State shall establish a national strategy for the prevention of neighbourhood gangs with a view to maintaining public security and public order, and protecting persons and their property', it is clear that the interest sought to be protected by the legislator in criminalising neighbourhood gangs is firstly the public interest, with the aim of maintaining public security and public order, and secondly the private interest, with the aim of protecting persons and their property.

Second subsection: Specific features derived from the material and moral elements

The mere existence of the legal element is insufficient to establish neighbourhood gang crimes. Rather, the criminalised act must manifest itself in the external world in the form of criminal conduct. With regard to neighbourhood gang crimes, the criminalised conduct is positive, as it is inconceivable for these crimes to be committed through passive conduct, such as refraining from performing an act required by law or failing to comply with legal orders. Instead, it consists of conduct involving the commission of an act prohibited by law. The law prohibits acts that threaten public security, public order and public peace, constituting the crime of neighbourhood gangs. This is referred to as the 'material element' of the crime.

However, the existence of the material element alone is not sufficient to establish the crime. Rather, the crime is complete when this element is accompanied by another, the moral element. Accordingly, this subsection has been divided into two parts. The first branch addresses the material elements of neighbourhood gang crimes, while the second branch addresses the moral elements of neighbourhood gang crimes.

First Branch: Elements of the Material Element of Neighbourhood Gang Crimes

The legislator addressed the penal provisions governing neighbourhood gang crimes in Chapter Five of Ordinance No. 20-03 on the Prevention of and Fight Against Neighbourhood Gangs, which contains Articles 21 to 38.

Upon examining these provisions, it becomes clear that the legislator criminalised neighbourhood gangs in several forms, which can be summarised as follows:

First: Criminalization of Acts Committed by Gang Members

The criminalized acts committed by gang members consist of the forms set out in Articles 21 and 22 of the same Ordinance. Article 21 provides that: "Any person shall be punished who:

- establishes or organizes a neighborhood gang;

- joins or participates, in any manner whatsoever, in a neighborhood gang, while being aware of its purpose;

- recruits one or more persons for a neighborhood gang."

Article 22 of the same Ordinance provides that: "Any person who heads a neighborhood gang or assumes any leadership position within it shall be punished."

These two provisions make it clear that criminal conduct constituting the material element of neighbourhood gang crimes takes the following forms:

1. Establishing or organising a neighbourhood gang;

2. Joining or participating in any way in a neighbourhood gang.

3. Recruiting one or more persons for a neighbourhood gang.

4. Taking the lead in a neighbourhood gang or assuming any leadership position within it.

It should be noted that the legislator merely specified the penalties for the above acts, without defining what constitutes a neighbourhood gang.

However, Article 2 of the same Ordinance defines a neighbourhood gang as follows:

'Any group, under whatever name, consisting of two or more persons belonging to one or more residential neighbourhoods, which commits one or more acts with the purpose of creating an atmosphere of insecurity within residential neighbourhoods or in any other geographical area, or with the purpose of imposing control over them, through moral or physical assault against others, or by endangering their lives, freedom or security, or by violating their property, while carrying or using visible or concealed bladed weapons.'

Moral assault includes any verbal assault likely to create fear or terror in others, such as threats, insults, verbal abuse, defamation, intimidation, or deprivation of a right.'

Regarding the aforementioned acts, it should be noted that the legislator confined them to the criminal conduct itself, not requiring the occurrence of a specific criminal result. Accordingly, they constitute formal offences, which are established even if

no harm is caused to others and the result does not occur.

Second: criminalisation of acts committed by persons outside the gang.

These acts are defined in Articles 23, 24, 25, 26, 27 and 28 of Ordinance No. 20-03 on the Prevention of and Fight Against Neighbourhood Gangs.

Article 23 provides that: 'Any person who:

- knowingly encourages or finances, by any means whatsoever, a neighbourhood gang;

supports the activities or actions of a neighbourhood gang, or directly or indirectly disseminates its ideas;

provides one or more members of a neighbourhood gang with a place for meetings or accommodation;

- deliberately conceals a member of a neighbourhood gang knowing that they have committed an offence under this Ordinance or are wanted by the judicial authorities;

- deliberately prevents the arrest of a neighbourhood gang member or assists them in concealing themselves or escaping.'

With reference to Article 24 of the same Ordinance, it provides that: 'Any person who forces another person to join or remain in a neighbourhood gang by using force, threats, incitement, gifts, promises or inducements shall be punished.'

Article 25 states the following: 'Any person who participates in a brawl, insurrection or gathering between neighbourhood gangs, during which acts of violence result in the death of one of their members, shall be punished.'

Article 26 provides that: 'Any person who manufactures or repairs bladed weapons in a lawful or unlawful workshop, or elsewhere; imports, distributes, transports, sells, offers for sale, purchases or purchases for resale; or stores bladed weapons for the benefit of a neighbourhood gang, knowing its purpose, shall be punished.'

Article 27 provides that: 'Any person who knows of an attempt to commit one of the offences provided for in this Ordinance, or knows that such an offence has actually been committed, and fails to inform the competent authorities thereof, shall be punished.'

Article 28 provides that: 'Any person who resorts to retaliation, intimidation or threats by any means or in any form whatsoever against victims, witnesses, informants, members of their families or other persons closely connected to them shall be punished.'

It is apparent from these provisions that the legislator has criminalized every act likely to provide support to the gang or strengthen its influence within society. The legislator has also criminalized any conduct that constitutes encouragement of the gang's ideas or their dissemination, whether explicitly or implicitly. Criminalization also extends to all acts that constitute assistance to the gang, whether by providing places of shelter, concealing one of its members, preventing the gang from being brought to justice, or facilitating its escape. It also extends to participation in insurrection, brawls, or gatherings involving such gangs.

Accordingly, neighbourhood gang crimes are formal offences, in which the legislator has confined the offence to the criminal conduct itself, rather than requiring a specific result to occur. Thus, the scope of criminalisation has been broadened to encompass conduct that threatens the security and order of society. This is a notable addition by the Algerian legislature in an attempt to address this widespread phenomenon in Algerian society, particularly in recent years.

Second Branch: The Moral Element of Neighbourhood Gang Crimes

A crime's existence does not depend solely on the presence of its material element; rather, a psychological relationship must exist between the perpetrator and the material conduct, referred to as the crime's moral element.

The moral element constitutes the psychological aspect of the crime. A crime does not arise merely from the occurrence of a material act that falls within the scope of a criminal provision; rather, there must be a connection between the material elements of the crime and the perpetrator's state of mind. The general principle is that there is no crime without a moral element.

This approach is adopted by legislators when determining liability for a crime, as a person cannot be held responsible unless a relationship exists between the material elements of the crime and their state of mind. Ultimately, this element safeguards justice and enables punishment to achieve its social objectives[10].

The moral element is based either on intentional fault, also known as criminal intent, or on unintentional fault. Accordingly, crimes are divided into intentional crimes, which are based on criminal intent, and unintentional crimes, which are based on unintentional fault.

Criminal intent requires the perpetrator to be aware that they are voluntarily committing an act that is characterised as a crime under the law, and thus to know that they are violating its commands and prohibitions. It also involves knowledge of the elements of the crime as defined in its legal model, together with the perpetrator directing their will towards realising those elements[11].

Intentional fault involves a breach of the legal duty of care and a failure to prevent the outcome.

With reference to the provisions governing neighborhood gang crimes set out in Law No. 20-03 on the Prevention of and Fight Against Neighborhood Gangs, it is clear that these crimes are intentional offenses, as the legislator expressly indicated the intentional nature of these crimes with regard to certain forms of conduct constituting them, through the use of the following

expressions: “while being aware of its purpose,” “knowingly encourages or finances,” “deliberately conceals,” “knows,” and “deliberately prevents.”

In other cases, however, the legislator merely criminalised the act constituting the neighbourhood gang crime without expressly referring to the intentional nature of the offence. However, the legislator did not stipulate that these offences could be committed on the basis of unintentional fault. This is because the legislator relied on the general legal principle that, when the law criminalises an act without specifying its moral element, criminal intent is required.

The intentional nature of the offence means that its moral element consists of criminal intent, which is based on two elements: knowledge and intention.

Knowledge is a mental state or degree of awareness that precedes the realisation of the will and enables matters to be perceived correctly and in accordance with reality. In this sense, knowledge determines the direction of the will and defines its scope in bringing about the criminal act. Therefore, in order for criminal intent to be established, the perpetrator must have knowledge of the elements of the criminal act and must have had them in mind prior to committing the crime.

Criminal intent is established through knowledge of all the legal elements of the crime, i.e. its constituent elements as defined by the criminal provision. If knowledge of any one of these elements is absent, criminal intent is likewise absent[12].

Applying this to neighbourhood gang crimes, for example, criminal intent in the offence of joining or participating in any manner whatsoever in a neighbourhood gang, while being aware of its purpose, is established through the perpetrator’s knowledge of the gang’s activities. However, if the perpetrator is unaware of the gang’s purpose, criminal intent is not established.

In addition to the acts of ‘knowingly encouraging or financing, by any means whatsoever, a neighbourhood gang’ and ‘deliberately concealing a member of a neighbourhood gang while knowing that they have committed an offence under Ordinance No. 20-03 or are wanted by the judicial authorities’, there is also the act of ‘deliberately preventing the arrest of a member of a neighbourhood gang’.

If a person encourages or finances a neighbourhood gang without knowing that they are financing such a gang, or conceals a person without knowing that they are a member of a neighbourhood gang or are wanted by the judicial authorities, criminal intent is absent. Consequently, their conduct does not constitute a criminal offence relating to neighbourhood gangs.

In all cases, the perpetrator’s knowledge of the elements that constitute the material aspect of the crime is not sufficient, in itself, to prove criminal intent. Additionally, the perpetrator’s intention must be to commit the act, even if the intended result does not occur. This is because neighbourhood gang offences are formal offences, meaning that the mere commission of the criminal conduct is sufficient. Therefore, it is sufficient for the perpetrator to intend to establish, join or participate in a neighbourhood gang, recruit one or more persons to join it, finance it, encourage or support its activities or assist its members in any way.

It should be noted that in neighbourhood gang crimes, the legislator did not limit the requirement to general criminal intent; specific criminal intent is also required for their commission, consisting of the perpetrator’s intention to achieve a particular purpose through the neighbourhood gang. This is provided for in Article 2 of Ordinance No. 20-03, which states: ‘[Committing] one or more acts with the purpose of creating an atmosphere of insecurity within residential neighbourhoods or in any other geographical area, or with the purpose of imposing control over them, through moral or physical assault against others...’

Accordingly, the specific criminal intent in neighbourhood gang crimes consists of creating an atmosphere of insecurity in residential neighbourhoods or other geographical areas, or seeking to impose control over them.

Section Two: Penalties for Neighbourhood Gang Crimes

Under Ordinance No. 20-03 on the Prevention of and Fight Against Neighbourhood Gangs, the Algerian legislature has introduced strict penalties for individuals involved in neighbourhood gang crimes. These penalties are divided into those prescribed for natural persons and those prescribed for legal persons.

Accordingly, this section has been divided into two subsections. The first is devoted to penalties for individuals, while the second addresses penalties for legal entities.

First Subsection: Penalties prescribed for natural persons

The penalties for a natural person involved in neighbourhood gang crimes consist of principal and supplementary penalties. The legislator has also provided for the application of mitigating circumstances, statutory excuses and the security period.

Accordingly, this subsection is divided into three sections. The first branch covers principal penalties, the second covers the application of mitigating circumstances, statutory excuses and the security period, and the third covers supplementary penalties.

First Branch: Principal Penalties

Pursuant to the second paragraph of Article 4 of the Penal Code, principal penalties are defined as follows: ‘Principal penalties are those that may be imposed without being accompanied by any other penalty.’

Under the general rules set out in the Penal Code, these penalties consist of deprivation-of-liberty penalties (imprisonment or incarceration) and financial penalties (namely fines).

The penalty of imprisonment applies to felonies, whereas the penalty of incarceration applies to misdemeanours. With reference to Ordinance No. 20-03 on the Prevention of and Fight Against Neighbourhood Gang Crimes, particularly Chapter Five thereof concerning penal provisions, the legislator classified neighbourhood gang crimes as misdemeanours since a penalty of incarceration, in addition to a fine, was prescribed for them.

The length of the prison sentence and the amount of the fine for neighbourhood gang crimes varies according to the type of criminal conduct that constitutes the material element of these crimes. The legislator has also established aggravating circumstances for these offences when they are accompanied by one or more such circumstances. Furthermore, the perpetrator of one of these crimes may only benefit from mitigating circumstances within the limit of half of the minimum penalty prescribed by law. The provisions relating to the security period also apply to this type of crime.

Accordingly, this branch will address the principal penalties without aggravating circumstances first, and then the principal penalties accompanied by an aggravating circumstance.

First: Principal Penalties Without Aggravating Circumstances

The legislator distinguished between neighbourhood gang misdemeanours with regard to the prescribed penalties, establishing a different penalty for each type. The penalty prescribed for each type is addressed below:

A. Penalty prescribed for the misdemeanour of establishing or organising a neighbourhood gang, joining or participating in it, or recruiting one or more persons for its benefit.

Article 21 of Ordinance No. 20-03 sets out the penalty for this offence: imprisonment for three to ten years and a fine ranging from 300,000 to 1,000,000 dinar.

This provision makes it clear that the legislator has prescribed a severe penalty for forming a neighbourhood gang, even if the gang has not engaged in any activity, as this offence constitutes a crime in itself. The prescribed penalty aims to deter anyone from forming such gangs and to prevent the perpetrator from returning to activities that threaten the security and stability of society.

B. Penalty for the Misdemeanour of Leading a Neighbourhood Gang or Assuming Any Leadership Position Within It

Article 22 of Ordinance No. 20-03 sets out the penalty for heading a neighbourhood gang or assuming any leadership position within it, which is imprisonment for a term of ten (10) to twenty (20) years and a fine ranging from DZD 1,000,000 to DZD 2,000,000.

C. Penalty for the Misdemeanor of Providing Any Form of Encouragement, Support, or Assistance to Members of a Neighborhood Gang

Article 23 of the same Ordinance provides for the penalty for this misdemeanor, namely imprisonment for a term of two (2) to five (5) years and a fine ranging from DZD 200,000 to DZD 500,000.

D. Penalty for the Misdemeanor of Forcing a Person to Join a Neighborhood Gang or Preventing Him from Leaving It by Using Force, Threats, Incitement, a Gift, a Promise, Inducement, or Any Other Means

Article 24 of the same ordinance sets out the penalty for this offence: imprisonment for a term of five to twelve years and a fine ranging from 500,000 to 1,200,000 dinar.

E. Penalty for the misdemeanour of participating in a brawl, insurrection or gathering between neighbourhood gangs during which acts of violence occur resulting in the death of one of their members:

Article 25 of the same Ordinance provides for a penalty of imprisonment for a term of five to fifteen years and a fine ranging from 500,000 to 1,500,000 DZD.

If battery or injury occurs during the brawl, insurrection or gathering, the penalty is imprisonment for a term of two to seven years and a fine ranging from 200,000 to 700,000 dinar. In this case, it should be noted that the legislator reduced both the minimum and maximum limits of the prescribed penalty for this misdemeanour.

The penalty for the misdemeanour of manufacturing or repairing a bladed weapon in a lawful or unlawful workshop or elsewhere, or importing, distributing, transporting, selling, offering for sale, purchasing for the purpose of resale, or storing bladed weapons for the benefit of a neighbourhood gang, while being aware of its purpose, is imprisonment for a term of five (5) to fifteen (15) years and a fine ranging from DZD 500,000 to DZD 1,500,000.

Article 26 of the same Ordinance provides for the penalty for these offences, namely imprisonment for a term of five (5) to twelve (12) years and a fine ranging from 500,000 to 1,200,000 dinar.

G. Penalty for the misdemeanour of failing to inform the authorities of an attempt to commit a neighbourhood gang crime or of its actual commission.

In an effort to promote security and stability in society, the Algerian legislature has enacted penalties for individuals who conceal neighbourhood gang crimes by failing to report them. According to Article 27 of the same Ordinance, such a person may be imprisoned for between six and 24 months and/or fined between 60,000 and 200,000 Algerian dinars.

This provision indicates that the legislator has not excluded any person from the application of the penalty, as it does not specify the status of the perpetrator of this offence, instead using the expression ‘any person who knows...’. This indicates that the

scope of criminalising this conduct has been broadened. The scope of criminalisation has also been expanded to include failing to report an attempt to commit any neighbourhood gang crime when the person is aware of it. This is a measure adopted by the legislator to block all avenues available to gangs that threaten public security, order and peace, thereby enabling the competent authorities to protect victims of these crimes before they occur.

However, this raises the issue of how to prove criminal intent in cases where a person fails to report a crime, i.e. how to establish that they were aware a neighbourhood gang crime had been committed yet still did not report it to the relevant authorities. This issue is further complicated when a person is aware of an attempt to commit one of these crimes and fails to report it.

H. Penalty for the Misdemeanour of Resorting to Retaliation, Intimidation or Threats by Any Means or in Any Form Against Victims, Witnesses, Informants, Members of Their Families or Other Persons Closely Connected to Them

Article 28 of the same Ordinance sets out the penalty for this offence: imprisonment for one to five years and a fine ranging from 100,000 to 500,000 dinar.

The provisions of Articles 21, 22, 24, 25 and 26 clearly show that the legislator has departed from the standard range of penalties set out in Article 5 of the Penal Code. This article sets the maximum term of imprisonment for misdemeanours at between two months and five years. However, a term ranging from five to thirty years is prescribed for felonies.

Accordingly, the penalties prescribed for neighbourhood gang misdemeanours referred to in these provisions are based on Article 5 of the Penal Code, which allows for exceptions to the legally prescribed limits in cases established by law. The article provides: 'The principal penalties for misdemeanours are: imprisonment for a period exceeding two (2) months up to five (5) years, except in cases where the law establishes other limits...'

This raises the question of why the legislator did not classify these crimes as felonies.

According to Article 31 of the same Ordinance, attempting to commit neighbourhood gang misdemeanours is punishable by the penalties prescribed for the completed offence.

Second: Principal Penalties Accompanied by an Aggravating Circumstance

Article 29 of Ordinance No. 20-03 specifies the aggravating circumstances applicable to penalties for neighbourhood gang crimes, as well as specific circumstances applicable to misdemeanours under Article 25 of the same Ordinance.

The following will address the aggravating circumstances provided for in both articles, followed by the consequences that arise when neighbourhood gang crimes are accompanied by one or more of these circumstances.

A. Aggravating circumstances

Aggravation of the penalty means that the judge imposes a penalty that exceeds the maximum prescribed by law or that is of a more severe nature, either because of objective circumstances relating to the criminal act itself or because of personal circumstances relating to the perpetrator. Aggravating circumstances are characterised by the fact that they are predetermined by law. There are two types: general and specific.

General aggravating circumstances apply to all crimes and are not limited to a particular offence. Specific aggravating circumstances, on the other hand, apply to a particular crime or specific crimes.

The following addresses the specific aggravating circumstances relating to neighbourhood gang crimes and provided for in Ordinance No. 20-03, in addition to recidivism, which the legislator expressly addressed in the same Ordinance despite it being a general personal circumstance.[1]

1. Aggravating circumstances for the misdemeanour provided for in Article 25

With reference to Article 25, the penalty for the misdemeanour of participating in a brawl, insurrection or gathering between neighbourhood gangs is aggravated in two cases.

If the brawl, insurrection or gathering results in the death of someone who is not a gang member.

- if the brawl, insurrection or gathering takes place at night.

2. Aggravating circumstances provided for in Article 29

The penalties for neighbourhood gang crimes are increased, pursuant to Article 29 of the same Ordinance, if the crime is committed in any of the following circumstances:

- Recruiting a child or any other person because of their vulnerability resulting from a physical or mental disability or incapacity;

- breaking into a home;

Using information and communication technologies;

- Carrying or using a firearm, incendiary bottles, fireworks, flares, explosives, incapacitating spray or tear gas, or using attack dogs;

- While under the influence of narcotic drugs or psychotropic substances;

- By more than twelve (12) people.

3. Recidivism

Article 37 of the same Ordinance provides for the aggravation of penalties for neighbourhood gang crimes in cases of recidivism. Recidivism is a general aggravating personal circumstance and is governed by Articles 54 bis to 54 bis 10 of the Penal Code[13].

B. Effects of the presence of an aggravating circumstance in neighbourhood gang crimes

1. Aggravation of the penalty without changing the legal classification of the crime

Pursuant to Article 29 of Ordinance No. 20-03, when a neighbourhood gang misdemeanour is accompanied by one of the aforementioned aggravating circumstances, the minimum term of imprisonment prescribed for the offence under this Ordinance is doubled.

It should be noted that the legislator limited the increase to the minimum term of imprisonment, rather than increasing the maximum term. Furthermore, the legislator did not provide for an increase in the amount of the fine, either with regard to its minimum or maximum limit.

Furthermore, according to the second paragraph of Article 22 of the same Ordinance, the minimum penalty prescribed in that article is increased to fifteen years if the crime of heading or leading a neighbourhood gang is committed in the presence of one of the circumstances set out in Article 29 of the same Ordinance.

If a neighbourhood gang crime is committed by a repeat offender, the penalties provided for in Ordinance No. 20-03 are doubled. This applies to both deprivation-of-liberty penalties (imprisonment) and financial penalties (fines).

The minimum penalty prescribed in the first paragraph of Article 25 is also doubled if the brawl, insurrection or gathering takes place at night. In this case, the legislator did not specify whether the minimum limit to be doubled is that of imprisonment or a fine. Therefore, it is understood that the minimum limit of both penalties is doubled.

2. Aggravation of the penalty with a change in the legal characterisation of the offence:

According to paragraph 2 of Article 25, if a brawl, riot or gathering results in the death of someone who is not a gang member, the penalty is life imprisonment. This is the only misdemeanour for which the legislator has changed the legal characterisation to a felony, while also significantly aggravating the penalty compared to other misdemeanours. This demonstrates the legislator's commitment to respecting individuals' rights, particularly the right to life.

Subsection Two: Application of Mitigating Circumstances, Statutory Excuses and the Security Period

This subsection addresses the application of mitigating circumstances to neighbourhood gang offences (First), statutory excuses (Second) and the security period (Third).

First: Application of Mitigating Circumstances to Neighbourhood Gang Offences

Mitigating circumstances can be either statutory excuses, which are grounds recognised by law, or judicial circumstances, which are grounds left to the discretionary authority of the judge and require the reduction of the sentence imposed. These circumstances may be either objective, relating to the criminal act itself, or personal, relating to the offender.

With reference to Article 35 of Order No. 20-03, it states that: 'A person who has committed any of the offences stipulated in this Order shall benefit from mitigating circumstances only within the limit of half of the minimum penalty prescribed by law.'

Second: application of statutory excuses

Article 33 of the same Order provides that: 'Any person who has committed or participated in one or more of the offences stipulated in this Order shall benefit from the statutory excuses exempting them from punishment under the Penal Code, provided that they inform the administrative or judicial authorities of the offence and assist in identifying and apprehending the perpetrators before any prosecution proceedings are initiated.

The prescribed penalty shall be reduced by half for any person who has committed or participated in one of the offences stipulated in this Order, and who assists in apprehending one or more persons involved in its commission and/or disclosing the identity of those who contributed to its commission after the initiation of prosecution proceedings."

This article implements the provisions of Article 52 of the Penal Code, which defines statutory excuses as cases that are explicitly and exhaustively specified by law. These cases result in exemption from punishment if they are exculpatory or mitigation of punishment if they are mitigating, while the offence and criminal liability remain established. The rationale behind this provision, as intended by the legislator, is to encourage offenders to abandon their criminal plans.

Third: application of the security period.

Article 38 of the same Order states the following: 'The provisions relating to the security period stipulated in the Penal Code shall apply to the offences provided for under this Order.'

According to the Penal Code, the security period is defined in Article 60[14] bis as the deprivation of measures such as the temporary suspension of a sentence, placement in external workshops or an open environment, temporary leave, semi-liberty and conditional release for the specified period or the period determined by a judicial authority.

The security period applies where a custodial sentence of 10 years or more is imposed for offences for which the law expressly provides a security period. For offences not covered by this provision, the trial court that has imposed a custodial sentence of five years or more may determine a security period, provided it does not exceed two-thirds of the imposed sentence, or 20 years in the case of life imprisonment.

Subsection Three: Supplementary Penalties

Article 34 of Order No. 20-03 provides that: 'The competent judicial authority may sentence the perpetrator to one or more of the supplementary penalties provided for in the Penal Code.'

According to the Penal Code, supplementary penalties are defined in paragraph 3 of Article 4 as follows: 'Penalties that may not be imposed independently of a principal penalty, except in cases expressly provided for by law.' They may be either mandatory or discretionary.'

With reference to Article 9 of the Penal Code, the supplementary penalties applicable to a natural person are: legal interdiction; deprivation of the exercise of national, civil, and family rights; compulsory residence; prohibition of residence; partial confiscation of property; temporary prohibition from practising a profession or engaging in an activity; closure of an establishment; exclusion from public procurement contracts; prohibition from issuing cheques and/or using payment cards; suspension or withdrawal of a driving licence, or its cancellation, together with a prohibition on obtaining a new licence; withdrawal of a passport; and publication or posting of the conviction judgment or decision.

The judge has discretionary authority to select supplementary penalties for neighbourhood gang offences from those set out in Article 9 of the Penal Code.

Order No. 20-03 also expressly provides for the confiscation of the means used to commit neighbourhood gang offences and the proceeds obtained from them, while preserving the rights of third parties acting in good faith pursuant to Article 32.

Confiscation is defined in Article 15 of the Penal Code as follows: 'the final transfer to the State of specified property or a group of specified assets, or, where appropriate[15], the equivalent of their value'[16].

Article 15 bis 1 of the Penal Code specifies the objects that the court may order to be confiscated. These include objects used or intended to be used in the commission of the offence or resulting from it; gifts or other benefits used to reward the perpetrator; and objects used to reward the perpetrator.

Where the law expressly provides for this penalty, the confiscation of such objects shall be mandatory in the event of a conviction for a misdemeanour or an infraction, while preserving the rights of third parties acting in good faith[17]. This is stipulated in paragraph 2 of Article 15 bis 1 of the Penal Code and expressly provided for in Article 32 of Order No. 20-03 with regard to neighbourhood gang offences, given that they constitute misdemeanours.

Subsection Two: Penalties Prescribed for Legal Persons

The criminal liability of legal persons was established under Law No. 04-15 of 10 November 2004[18], which amended and supplemented the Penal Code. This law introduced a new section, Title I bis, to the Penal Code, which sets out the penalties applicable to legal persons in cases of felonies, misdemeanours and infringements. It also added a new article, Article 51 bis, to Chapter II relating to criminal liability, which expressly establishes the criminal liability of legal persons.

For a legal person to be subject to criminal punishment, the law must specifically provide for their criminal liability in respect of the offence committed. The legislator has done this with regard to neighbourhood gang offences by providing for such liability in Article 30 of Order No. 20-03, which states: 'A legal person that commits any of the offences provided for under this Order shall be subject to the penalties prescribed in the Penal Code.'

According to the Penal Code, the penalties applicable to legal persons, as set out in Article 18 bis, are limited to principal and supplementary penalties.

Accordingly, this subsection is divided into two sections: the first section addresses the principal penalties, and the second section addresses the supplementary penalties.

Section One: Principal Penalties Prescribed for Legal Persons

Article 18 bis of the Penal Code specifies the main penalties applicable to legal entities for felonies and misdemeanours, while Article 18 bis 1 specifies the main penalties applicable to legal entities for infractions. As neighbourhood gang offences constitute misdemeanours, this section will address the penalties prescribed for legal persons in such cases.

These penalties consist of a fine ranging from one to five times the maximum fine prescribed by law for a natural person convicted of the offence. Accordingly, the applicable fine for a legal person committing one of the neighbourhood gang offences varies depending on the specific offence.

For instance, the fine for the offence of establishing or organising a neighbourhood gang ranges from DZD 1,000,000 to DZD 5,000,000. Similarly, for the offence of leading a neighbourhood gang, the applicable fine ranges

from DZD 2,000,000 to DZD 10,000,000.

The fine applicable to the legal person for the misdemeanour of encouraging or financing a neighbourhood gang, forcing a person to join a neighbourhood gang, participating in a brawl, riot or gathering between neighbourhood gangs during which acts of violence result in the death of one of their members, or resorting to retaliation, intimidation or threats against victims, witnesses, informants, members of their families or other persons closely connected to them ranges from DZD 500,000 to DZD 2,500,000.

For the offence of a brawl, riot or gathering during which beatings or injuries occur, the applicable fine for a legal person ranges from 700,000 to 1,400,000 dinar.

For the offence of forcing someone to join or remain in a neighbourhood gang through the use of force, threats, incitement, gifts, promises or inducements, or for manufacturing, repairing or importing bladed weapons for the benefit of a neighbourhood gang, the fine for a legal person ranges from DZD 1,200,000 to DZD 6,000,000.

Finally, the fine applicable to the legal person for the misdemeanour of being aware of an attempt to commit a neighbourhood gang offence or of its actual commission and failing to notify the competent authorities thereof ranges from DZD 200,000 to DZD 1,000,000.

Section Two: Supplementary Penalties for Legal Persons

Paragraph 2 of Article 18 bis of the Penal Code sets out the supplementary penalties applicable to legal persons for felonies and misdemeanours[19]. These penalties include:

- dissolution of the legal person

- closure of the establishment or one of its branches for a period not exceeding five years

- exclusion from public procurement contracts for a period not exceeding five years

- prohibition from directly or indirectly engaging in one or more professional or social activities, either permanently or for a period not exceeding five years

- confiscation of the property used in the commission of the offence or resulting therefrom

- publication and posting of the conviction judgment

- placement under judicial supervision for a period not exceeding five years, with such supervision applying to the activity that led to the offence or in connection with which the offence was committed

If a natural person violates these penalties, Article 18 bis 3, paragraph 1 provides for imprisonment ranging from one to five years and a fine ranging from 100,000 to 500,000 dinar. Criminal liability may also arise for the legal person in respect of the same offence, pursuant to paragraph 2 of the same Article. In such a case, the legal person shall be subject to a fine in accordance with Article 18 bis of the Penal Code.

It is noteworthy in this regard that the legislator has been criticised for failing to specify the content of the supplementary penalties prescribed for legal persons, as well as the manner in which they are to be applied. This is in contrast to the supplementary penalties prescribed for natural persons.

Conclusion:

In summary, this study shows that enacting a law specifically targeting neighbourhood gangs is an important addition to the legal framework for addressing emerging forms of criminality, particularly in recent years. This legislative development reflects the Algerian legislature's aim to protect society by maintaining security and public order in residential neighbourhoods.

However, combatting neighbourhood gang offences is not solely the responsibility of the legislator. Rather, it is a shared responsibility involving all members of society, including governments, legislators, law enforcement agencies, researchers and civil society organisations.

Through this study, we have reached several conclusions, which can be summarised as follows:

Firstly, the adoption of specific provisions dedicated to the prevention and combating of neighbourhood gang offences demonstrates the legislator's concern and commitment to preserving the security and stability of society as a whole by maintaining security within residential neighbourhoods.

The substantive provisions relating to neighbourhood gangs were initially rigorously enforced and were intended to deter such gangs. However, their application was temporary, as strict enforcement gradually declined after initially attracting considerable attention. This contributed to the increased spread of these gangs and the development of their criminal activities.

Neighbourhood gang offences are formal offences, the commission of which is established even where no criminal result has occurred and no harm has been caused. This is demonstrated by the criminalisation of establishing, organising, or joining a neighbourhood gang, or participating in one with knowledge of its purpose.

The legislator has broadened the scope of criminalization by not limiting liability to the failure to notify the competent authorities of the occurrence of a neighbourhood gang offence. Rather, the legislator has also criminalized being aware of an attempt to

commit such an offence and failing to notify the authorities thereof. This reflects a clear intention on the part of the legislator to prevent offenders from escaping punishment.

The legislator has aggravated the penalties prescribed for neighbourhood gang offences, assigning particularly severe penalties to certain forms of these offences, including penalties applicable to felonies, while nevertheless classifying the offences themselves as misdemeanors.

Based on these findings, the following recommendations can be made:

The provisions of Order No. 20-03 should be applied with the same strictness as at the time of its initial enactment to ensure they are effective in combating this type of criminality.

The legal classification of neighbourhood gang offences should change from misdemeanours to felonies. Given that the legislator has provided for severe penalties extending to life imprisonment, there are grounds for considering these offences as felonies.

Neighbourhood gang offences committed by a transnational organised criminal group should be included among the aggravating circumstances set out in Article 29 of the same Order.

Penalties for neighbourhood gang offences should be increased when any of the aggravating circumstances set out in Article 29 of the same Order are present, so that the penalty is life imprisonment rather than merely doubling the minimum term of imprisonment. The latter penalty may not provide sufficient deterrence given the increased seriousness of the offence when accompanied by one of these aggravating circumstances. Accordingly, Article 29 of the Order should be reconsidered, particularly since the legislator has increased the penalty for the misdemeanour of a brawl, riot or gathering resulting in the death of someone not belonging to the gang to life imprisonment.

List of Sources and References:

First: sources

Orders:

- Order No. 20-03, dated 11 Muharram 1442 AH (corresponding to 30 August 2020), concerning the prevention and combating of neighbourhood gangs. Published in the Official Gazette No. 51, dated 12 Muharram 1442 AH (corresponding to 31 August 2020).

Laws:

- Law No. 04-15 dated 10 November 2004 amending and supplementing Order No. 66-156 dated 8 June 1966 containing the Penal Code (Official Gazette No. 71 issued on 10 November 2004).
- Law No. 06-23 dated 20 December 2006 amending the Penal Code (Official Gazette No. 84 issued on 24 December 2006).

Second: Books and Other Publications

Articles

- Riyad Barakat and Msiika Mohammed El-Saghir, ‘Mechanisms for the Prevention and Combating of Neighbourhood Gangs: A Reading of Presidential Order No. 20-03 of 30 August 2020’, Journal of Legal and Social Sciences, Ziane Achour, University of Djelfa, Algeria, Vol. 6, No. 2, June 2021, pp. 38–48.
- Salim Mezhoud, ‘The Concept of the Phenomenon of Neighbourhood Gangs in Algeria: Factors of Presence and Approaches to Addressing Them’, Haqaiq Journal for Psychological and Social Studies, Vol. 6, No. 2, 2021, pp. 10–24.
- Azzedine Ritab, ‘Analysis of the phenomenon of crime in new residential communities in Algeria’, Al-Riwaq Journal, Vol. 1, No. 2, University of Ghilizane, 5 December 2015, pp. 103–116.
- Mohamed Abdelkader Akbaoui, ‘Deterring neighbourhood gangs pursuant to Law No. 20-03 of 30 August 2020 concerning the prevention and combating of neighbourhood gangs: An Analytical Study’, Journal of Jurisprudence for Legal and Economic Studies, Vol. 11, No. 2, 2022, pp. 87–110.
- F. Kharchaf, ‘Efforts to Combat Neighbourhood Gangs in Algeria: A Study of Law No. 20-03’, Journal of Legal Studies, Vol. 8, No. 1, January 2022, pp. 802–818.
- 6. Fouzia Hamel, ‘Neighbourhood Gangs under Order No. 20-03’, Journal of Legal and Political Thought, Vol. 6, No. 1, 2022, pp. 1114–1129.
- 7. Nasser Wakkas, ‘A Reading of the Legislation on the Prevention and Combating of Neighbourhood Gangs in Algeria’, Journal of Global Politics, Vol. 5, No. 3, 2021, pp. 727–740.

Books:

- Ahcen Bousakia, Concise Treatise on General Criminal Law (7th edition), Houma Publishing House, Algeria, 2008.
- Ahmed Fathi Sorour, Fundamentals of Criminal Policy, 1st edition, Dar Al-Nahda Al-Arabiya, Cairo, 1972.
- Akram Nashaat Ibrahim, Criminal Policy: A Comparative Study, 1st edition, Dar Al-Thaqafa, Amman, 2008

- Djamel Ibrahim al-Haidari, Al-Wafi in the Explanation of the General Provisions of the Penal Code, 1^(st) ed., Al-Sanhouri Library, Baghdad, 2012.
- Suleiman Abdel Moneim, The General Theory of Criminal Law (edition not specified), New University House, Cairo, 2000.
- Abdullah Suleiman, ‘Commentary on the Algerian Penal Code: General Part, Volume One (The Crime), no edition specified, Office of University Publications, Algeria, 2002.
- Ali Abdelkader Al-Qahwaji, ‘Commentary on the Penal Code: General Part, no edition specified, Al-Halabi Legal Publications, Lebanon, 2008.
- Mahmoud Najib Hosni, ‘Commentary on the Penal Code: General Part, Vol. 1, 3rd edition, Al-Halabi Legal Publications, Lebanon, publication year not specified.

Notes

[1] - For further details on the analysis of neighbourhood gangs, see: Azzedine Ritab, 'Analysis of the Phenomenon of Crime in New Residential Communities in Algeria', Al-Riwaq Journal, Vol. 1, No. 2, University of Relizane, 5 December 2015, pp. 103–116. See also: Salim Mazhood, 'The Concept of the Phenomenon of Neighbourhood Gangs in Algeria: Factors of Presence and Methods of Dealing with It', Haqa'iq Journal for Psychological and Social Studies, Vol. 6, No. 2, 2021, pp. 19–20, 10–24.

[2] - Criminal jurisprudence has differed regarding the constituent elements of a crime. Some scholars require both material and mental elements, while others require the additional "legal element", in addition to the material and mental elements. The legal element refers to the statutory provision that gives criminal character to the conduct; without such a provision, no conduct can be regarded as a crime. It constitutes the criterion for determining whether conduct amounts to a crime. However, this view has been criticised on the grounds that an element is part of a crime and it is inconceivable for a statutory provision to be part of a crime or its constituent elements; rather, the statutory provision creates the crime and defines its elements. For further discussion, see: Suleiman Abdel Moneim, The General Theory of Criminal Law (edition not stated), New University House, Cairo, 2000, p. 321 et seq. See also: Jamal Ibrahim Al-Haidari, Al-Wafi Commentary on the General Provisions of the Penal Code, 1^(st) ed., Al-Sanhouri Library, Baghdad, 2012, p. 257.

[3] - Article 1 provides: 'There shall be no crime, punishment, or security measure except by law.'

[4] - Ordinance No. 20-03 of 11 Muharram 1442 AH (corresponding to 30 August 2020) relating to the prevention of and fight against neighbourhood gangs. See Official Gazette No. 51 dated 12 Muharram 1442 AH (corresponding to 31 August 2020), p. 5.

[5] - “Neighborhood gangs” means any group, regardless of the name under which it operates, consisting of two (2) or more persons belonging to one or more residential neighborhoods, which commits one or more acts with the aim of creating an atmosphere of insecurity within residential neighborhoods or in any other geographical area, or with the aim of imposing control over them, through psychological or physical assaults against others, exposing their lives, liberty, or security to danger, or infringing upon their property, while carrying or using visible or concealed bladed weapons.

[6] - Psychological assault includes any verbal assault likely to cause fear or terror in others, such as threats, insults, verbal abuse, defamation, intimidation, or deprivation of a right.

[7] - “Bladed weapon” means all cutting, piercing, or striking machines, instruments, and devices, as well as all objects capable of causing harm or injury to the human body or constituting a threat to public security, as defined by the legislation and regulations governing weapons currently in force. For further details on the prevention of crimes committed by neighborhood gangs, see: Riyad Barakat and Msiika Mohamed Al-Saghir, “Mechanisms for Preventing and Combating Neighborhood Gangs: A Reading of Presidential Ordinance No. 20-03 of 30 August 2020,” Journal of Legal and Social Sciences, Ziane Achour University of Djelfa, Algeria, Vol. 6, No. 2, June 2021, pp. 41–44; pp. 38–48. See also: Nasser Waqas, “A Reading of the Legislation on the Prevention of and Fight against Neighborhood Gangs in Algeria,” Global Politics Journal, Vol. 5, No. 3, 2021, pp. 729–734; pp. 727–740. See also: Fatima Kharchaf, “Efforts to Combat Neighborhood Gangs in Algeria: A Study of Law No. 20-03,” Journal of Legal Studies, Vol. 8, No. 1, January 2022, pp. 807–813; pp. 802–818.

[8] - Fouzia Hamel, 'Neighbourhood Gangs under Ordinance No. 20-03', Journal of Legal and Political Thought, Vol. 6, No. 1, 2022, pp. 1124–1126, 1114–1129. See also: Akbaoui, M. A., 'Deterring neighbourhood gangs pursuant to Law No. 20-03 of 30 August 2020 on the prevention of and fight against neighbourhood gangs: An Analytical Study', Ijtihad Journal for Legal and Economic Studies, Vol. 11, No. 2, 2022, pp. 101–102, 87–110.

[9] - Ahmed Fathi Sorour, The Foundations of Criminal Policy, 1st edn, Dar Al-Nahda Al-Arabiya, Cairo, 1972, p. 16. Akram Nash’at Ibrahim, Criminal Policy: A Comparative Study, 1^(st) edn, Dar Al-Thaqafa, Amman, 2008, p. 39.

[10] - Mahmoud Naguib Hosni, 'Commentary on the Penal Code: General Part, Vol. 1, 3rd edn, Al-Halabi Legal Publications, Lebanon (publication year not stated), p. 517.

[11] - Ahsan Bouskia, The Concise Treatise on General Criminal Law, 7th edition, Dar Houma, Algeria, 2008, p. 106. Ali Abdelkader Al-Qahwaji, 'Commentary on the Penal Code: General Part, edition not stated, Al-Halabi Legal Publications, Lebanon, 2008, p. 396.

[12] - Abdullah Suleiman, 'Commentary on the Algerian Penal Code: General Part, Part One: The Crime, edition not stated, University Publications Office, Algeria, 2002, p. 250.

[13] - These provisions were added pursuant to Law No. 06-23 of 20 December 2006 amending the Penal Code (Official Gazette No. 84, 24 December 2006).

[14] - Article 60 bis was added pursuant to Law No. 06-23 of 20 December 2006 amending and supplementing the Penal Code (Official Gazette No. 84, 24 December 2006).

[15] - The expression 'or its equivalent in value' was added pursuant to the Penal Code amendment by Law No. 06-23 of 20 December 2006. Accordingly, the amendment put an end to the controversy surrounding the penalty of confiscation where the object itself is not confiscated or cannot be produced.

[16] - Paragraph 2 of Article 15 of the Penal Code specifies what cannot be confiscated: 'The dwelling necessary to accommodate the spouse and first-degree ascendants and descendants of the convicted person, provided that they occupy it when the crime is established and that the dwelling was not acquired through unlawful means; the assets referred to in paragraphs 2, 3, 4, 5, 6, 7 and 8 of Article 378 of the Code of Civil Procedure; and the income necessary for the livelihood of the convicted person’s spouse and children, as well as any ascendants in their care.'

[17] - Article 15 bis 2 of the Penal Code defines a third party acting in good faith as follows: 'A third party shall be considered to be acting in good faith where that person has not personally been subject to prosecution or conviction for the acts giving rise to the confiscation, and possesses a valid and lawful title of ownership or possession over the objects liable to confiscation.'

[18] - Law No. 04-15, issued on 10 November 2004 in the Official Gazette No. 71, amends and supplements Ordinance No. 66-156 of 8 June 1966 containing the Penal Code.

[19] - Following the amendment of the Penal Code pursuant to Law No. 06-23, the legislature reclassified what had previously been described as 'other penalties' in paragraph 2 of Article 18 bis as 'supplementary penalties'.