

The System of Prior Admission of Guilt: A Study in Light of Law No. 25-14 Introducing the Algerian Code of Criminal Procedure

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Abstract:

Through the renewal of the criminal procedural system, the Algerian legislator introduced the system of prior admission of guilt as an alternative to public prosecution, seeking thereby to enhance the effectiveness of criminal justice in view of the accumulation of judicial cases before the courts, with the time limits for adjudication extending to unacceptable periods. The legislator therefore surrounded this system with a set of procedural safeguards in accordance with the legal provisions regulating it and the conditions required for resorting to it, with the aim of preserving the purpose for which it was established, namely simplifying procedures and expediting the adjudication of cases, while taking into consideration the rights and guarantees of the parties to the public prosecution. This is achieved by attempting to strike a balance between society's right to punish offenders and the victim's right to claim compensation and redress for the resulting harm, on the one hand, and the guarantees of a fair criminal trial for the accused, on the other, through precisely defining the powers of the prosecuting authority and the adjudicating authority.

Introduction:

The development witnessed by the world has affected the general principles of a fair trial, which are considered among the most important pillars of the rule of law. In light of this reality, judicial authorities have found themselves facing an increasing burden represented by the accumulation of cases, the lengthy periods required to adjudicate cases, and the complexity of prosecution and trial procedures, which may undermine the effectiveness and efficiency of criminal justice. This growing pressure on judicial authorities has also resulted in practical problems related to the slowness of procedures, the increasing costs of litigation, and the depletion of human and material resources. This necessitated adapting the justice system to the changes occurring in crime and, consequently, searching for alternative or complementary procedural mechanisms to the traditional procedural system of criminal trials and methods for initiating and conducting public prosecutions that would be faster, more efficient, and more effective. This is the approach adopted by the Algerian legislator through the renewal of the criminal procedural system. In this context, the Algerian legislator enacted Law No. 25-14 containing the new Code of Criminal Procedure. [1]

Among the most important of these developments is prior admission of guilt as a new procedural mechanism compatible with the requirements of efficiency and speed in adjudicating various cases and reducing the burden on judicial authorities. It is surrounded by

a set of procedural safeguards intended to prevent any infringement upon the essence of justice. This procedure, derived from the Anglo-Saxon system and adopted by various international legislations despite their different legal foundations, has nevertheless raised, following its incorporation into the criminal procedural system of Algerian legislation, despite its theoretical advantages, a number of legal issues from a practical perspective, as well as doctrinal and judicial debate primarily concerning the extent of its compatibility with constitutional principles and the fundamental guarantees of a fair criminal trial, such as the presumption of innocence and freedom of will in making an admission, in addition to the freedom of the criminal judge in forming his conviction and his role in verifying the validity of this admission.

Through this study, we seek to answer the following problem:

How has the Algerian criminal legislator regulated the procedure of prior admission of guilt between the effectiveness of justice and the guarantees of a fair trial for the parties to the public prosecution?

To answer this problem, we have divided this research paper into two sections. The first addresses the concept of prior admission of guilt, while the second deals with the procedural modalities of the system of prior admission of guilt.

Chapter One: The Nature of Prior Admission of Guilt

Prior admission of guilt is a new procedure adopted by the Algerian legislator, following the example of numerous comparative legislations, particularly French legislation, which follows the same approach as Algerian legislation with regard to this newly introduced procedural system. Although it is derived from the Anglo-Saxon system, which is distant from and different from the Latin system under which Algerian legislation falls, it nevertheless remains an important approach in view of the role it plays in simplifying and expediting procedures and reducing the burden on courts. Therefore, it is necessary to address its conceptual framework. It should be noted that this system represents a transformation in the philosophy of criminal justice, from complete reliance on a full trial with all its traditional stages, from initiating the public prosecution to investigating it and adjudicating it, to adopting a simplified and concise approach based on an agreement between the parties to the criminal dispute, namely the representative of the public prosecution, the holder of the public right, namely the Public Prosecutor, and the accused. To understand this procedure accurately, it is necessary to examine the concept of prior admission of guilt by defining it and identifying its characteristics that distinguish it from similar procedural systems, as well as its significance and legal nature.

Section One: The Concept of the System of Prior Admission of Guilt

As is well known, defining a particular term is not ordinarily among the functions of the legislator except in certain cases. This is what we observe in the subject of our study, where the legislator has left the matter open to legal doctrine and the judiciary to define the system of prior admission of guilt. Some have considered it an agreement between the accused and the prosecuting authority, while others view it as a consensual contract between the public prosecution and the accused, and others have regarded it as a form of settlement. Therefore, we will proceed gradually in presenting a definition of this procedure.

Subsection One: Definition of the System of Prior Admission of Guilt

In defining the system of prior admission of guilt, we wish to address its linguistic and terminological definitions.

First: The Linguistic Definition of Prior Admission of Guilt:

The subject of our study focuses on the term “**admission**”, which we will examine as follows:

1- It is said: “**i'tarafa**” means that a person submitted and surrendered; “**arafa**” his guilt “**irfan**” and “**i'tarafa**” means that he acknowledged it; “**arafa lahu**” means that he acknowledged it. Hence, admission of guilt means acknowledging it against oneself, that is, the accused's explicit acknowledgment of the truth of the facts attributed to him. [2]

2- Prior: It derives from “**precedence**”, the verbal noun of “**precede**”, with the plural forms “**precedences**” and “**previous instances.**” It is said “**he precedes him**”, meaning that he comes before him. [3]

3- Guilt: It means sin, crime, and disobedience. Its plural forms are “**dhunub**” and “**dhunubat.**” It is said: “**the man committed a sin.**” [4]

Accordingly, from a linguistic perspective, prior admission of guilt means: “**the accused's acknowledgment of the previously stated criminal acts attributed to him.**”

Second: The Terminological Definition of Prior Admission of Guilt:

In the terminological definition of prior admission of guilt, we will address the legal definition and then the doctrinal definition.

1- Legal Definition of Prior Admission of Guilt:

The Algerian legislator did not define the system of prior admission of guilt within Law No. 25-14 containing the Code of Criminal Procedure. Rather, it confined itself to establishing a purely procedural framework for the system in terms of its conditions, stages, time limits, safeguards governing it, and procedures for its application. Article 539 of the same Law provides that: “**The Public Prosecutor may, in misdemeanor matters, resort automatically or upon the request of the person concerned or his lawyer to appearance proceedings based on prior admission of guilt if the person concerned expressly and unequivocally admits the criminal acts attributed to him.**” [5]

With regard to the Algerian legislator, it has made this a procedure that may be resorted to in misdemeanor matters when the accused expressly and unequivocally admits the criminal acts attributed to him. The Public Prosecutor proposes a penalty to him, which is subject to the accused's approval and judicial review. The procedure may be initiated by the Public Prosecutor or by the accused or his lawyer.

This issue raises numerous potential problems in practical application, as the accused may incriminate himself on behalf of another person or in order to achieve another purpose.

2- Doctrinal Definition of Prior Admission of Guilt:

At the level of criminal legal doctrine, scholars have based their definitions of prior admission of guilt on the legislative provisions governing this procedure. It has been defined as: “**the authority of the public prosecution to shorten trial procedures with regard to specified offenses, either on its own initiative or upon a request by the person concerned or his lawyer, provided that the latter accepts the procedure and admits the acts attributed to him, in return for benefiting from a reduction in the sentence imposed.**” [6]

Prior admission of guilt has also been defined as: “**a form of consensual justice concerning the adjudication of criminal proceedings at the pre-trial stage through the full will of the accused. The person’s admission of the offense attributed to him, as a condition for applying this system, must be made voluntarily and out of conviction, away from all forms of threat or coercion. This brings it closer to some newly introduced systems, such as the plea-bargaining system and the criminal settlement system.**” [7]

Based on the foregoing, prior admission of guilt may be defined as a procedure derived from the Anglo-Saxon system that grants the representative of the public prosecution, as the holder of the public right, the power to propose to the accused, in specifically enumerated misdemeanor cases, reduced penalties on condition that he expressly and unequivocally admits the criminal acts attributed to him, with this admission being recorded in an official legal report that is subsequently submitted to the competent judicial authority.

Footnotes

[1] Law No. 25-14 dated 09 Safar 1447, corresponding to 03 August 2025, **containing the Code of Criminal Procedure**, Official Gazette No. 54 dated 19 Safar 1447, corresponding to 13 August 2025.

[2] Abu al-Fadl Jamal al-Din Muhammad ibn Mukarram Ibn Manzur, **Lisan al-Arab**, Dar Sader, 3rd ed., Vol. 9, Letter Fa, Lebanon, 1994, p. 239.

[3] Ibid., Vol. 10, Letters Q–K, p. 151.

[4] Ibid., Vol. 1, Letters A–B, p. 389.

[5] Article 539 of Law No. 25-14, previously cited source, p. 70.

[6] Jean-Christophe Croq, *Le Guide des Infractions; Le Guide Pénal*, 6th ed., Dalloz, Paris, 2015, p. 390.

[7] Quoted from Ya'rab Fajr Al-Sarhan, **The Role of the Public Prosecution in Protecting Human Rights during the Stages of Criminal Proceedings**, Dar Al-Masriya for Publishing and Distribution, Egypt, 2019, p. 15.

Subsection Two: Characteristics of the System of Prior Admission of Guilt

Based on the aforementioned definitions, the characteristics of prior admission of guilt can be identified as follows:

First: Prior admission of guilt is a discretionary procedure: It may be initiated by the Public Prosecutor on his own initiative, or at the request of the person concerned or his lawyer.

Second: Prior admission of guilt is one of the newly introduced alternatives aimed at reducing delays in criminal proceedings: It is a legal procedure intended to accelerate judicial proceedings and save time and effort by dispensing with the ordinary trial procedures and the discussions they require during the hearing.[1]

Third: The scope of application of prior admission of guilt is limited to misdemeanors and does not extend to contraventions and felonies: Appearance based on prior admission of guilt cannot be applied to minor contraventions, nor to felonies requiring special investigative procedures, that is, cases in which an investigation is mandatory. This is provided for in Article 540 of Law No. 25-14,[2] which excludes the application of the prior admission of guilt procedure to misdemeanors for which the maximum penalty prescribed exceeds five years.

Fourth: Expansion of the powers of the Public Prosecution by granting it some of the powers of the trial judge: The Public Prosecutor proposes an agreement to the accused whereby the latter admits guilt in exchange for a reduced sentence.

Section Two: Importance of the System of Prior Admission of Guilt and Its Legal Nature

There is no doubt that the Algerian legislator's introduction of the system of prior admission of guilt into the specific provisions of the Code of Criminal Procedure was prompted by several reasons of great importance, foremost among them the large number of cases accumulated before the courts, which is incompatible with the principle of adjudication within a reasonable time. Therefore, the purpose of introducing this new procedure was to accelerate adjudication and reduce the burden on the courts, among other objectives it seeks to achieve. Furthermore, despite the particularity and simplicity of the procedure that characterize this system, it is surrounded by ambiguity concerning its legal nature, which must be clarified.

Subsection One: Importance of Prior Admission of Guilt

The importance of the system of prior admission of guilt lies, on the one hand, in reducing the burden on the courts, which have come to suffer from the enormous number of disputes and cases continuously brought before them,[3] thereby requiring speedy adjudication, given that the traditional course of criminal proceedings is highly complex until a final judgment is reached. This procedure can reduce such complex proceedings. It also reduces the cases of pre-trial detention of accused persons awaiting trial, and spares the public treasury the costs of adjudicating cases, particularly those in which the proceedings end with an acquittal.[4]

On the other hand, this system contributes to encouraging cooperation with justice and reducing the sentence.[5] Its core consists of the proposal made by the prosecuting authority to the accused concerning the sentence; if the accused accepts it, there is a correspondence between offer and acceptance that may encourage restorative justice in exchange for obtaining certain advantages. As a summary procedure, it also serves the particular interests of the victim, as the person harmed by the criminal act. On the one hand, it enables the victim to obtain compensation for the harm resulting from the crime, given that the public and civil actions are joined as ancillary proceedings. Thus, this procedure guarantees the victim the right to obtain compensation for the harm within the shortest possible time. In addition, it enables the victim to avoid the consequences of delays in judicial proceedings, thereby achieving justice through the accused obtaining what he sought while simultaneously guaranteeing the rights of the State and the victim. This benefits and enhances the effectiveness of procedural work and consequently contributes to the proper administration of justice.[6]

Furthermore, prior admission of guilt contributes to creating cooperation between the judiciary and the accused, who may provide highly important information concerning the commission of the crime, including its causes and circumstances, and may even reveal the location of evidence that had not yet been discovered.

Subsection Two: Legal Nature of Prior Admission of Guilt

Legal scholarship has differed regarding the determination of the legal nature of the system of prior admission of guilt according to the procedural legislation that has adopted it. Some have considered it similar to bargaining contracts in their commercial sense, whereas others have regarded it as a legal act similar to contracts of adhesion.

First: The System of Prior Admission of Guilt Is Similar to Bargaining Contracts: This view in legal scholarship is based on the model applied in the United States of America as well as in Italy, where genuine bargaining between the parties can be observed through the exchange of proposals. After the accused, together with his lawyer, submits his proposal to the representative of the public prosecution, the latter in turn submits his proposals to him, and so on until an agreement is reached between them. In reality, this constitutes genuine and actual negotiation within the Anglo-Saxon system, which differs from what is applied in Algeria.[7]

Second: Prior Admission of Guilt Is Similar to Contracts of Adhesion: This view in legal scholarship is based on the model applied in France. Unlike what is practiced in the United States of America and Italy, an agreement is reached without prior substantive discussion, whereby the representative of the public authority proposes the sentence to the accused, leaving the latter only to accept or reject it. He has no ability to negotiate the duration of the sentence, nor is he entitled to submit a different proposal from that presented by the representative of the public prosecution. Thus, there is no bargaining of the kind that particularly characterizes the model applied in the United States. On this basis, the jurist **Jean Pradel** considers that the French legislator actually adopted the theory of the contract of adhesion when enacting the procedures followed for implementing the system of appearance based on prior admission of guilt.[8]

However, the Algerian legislator adopted the procedure of appearance based on prior admission of guilt provided for in Articles 539 to 548 of Law No. 25-14 containing the Code of Criminal Procedure,[9] as a means of referring cases to the Misdemeanor Court pursuant to the provisions of Article 472[10] of the same Law, without determining its legal nature, namely whether it constitutes an ordinary means of initiating public prosecution or one of the alternatives to public prosecution.

Therefore, the legal nature of the system of prior admission of guilt can be inferred by examining how the Algerian legislator addressed the ordinary means of initiating public prosecution before the Misdemeanor Court through the provisions of Section One, entitled “**Bringing the Action,**” from Article 473 to Article 476,[11] and the provisions of Section Two, entitled “**Immediate Summons before the Court,**” from Article 477 to Article 488 of the Code of Criminal Procedure.[12] The legislator then addresses the composition of the Misdemeanor Court and the principles governing the conduct of the hearing, before subsequently addressing other means of initiating public prosecution before the Misdemeanor Court, namely the order for payment procedure under Section Seven, from Article 531 to Article 538,[13] followed by the procedure of appearance based on prior admission of guilt under Section Eight, from Article 539 to Article 548 of the same Law.

Accordingly, the Algerian legislator placed the prior admission of guilt procedure immediately after the order for payment procedure, which constitutes one of the alternatives to public prosecution, and separated both from the other procedures for initiating public prosecution. This conclusively indicates that its legal nature consists in being one of the alternatives to public prosecution. Evidence of this is found in the method adopted by the Algerian legislator in arranging the procedures for initiating public prosecution before the Misdemeanor Court.

This matter is derived literally from French legislation, which established a specific classification for the procedures of the fixed-penalty procedure, the criminal order, and appearance based on prior admission of guilt under the heading “**de la procédure simplifiée,**” meaning simplified procedures.[14]

However, in our own view, it remains a form of bargaining proposed by the prosecuting authority to the accused, transforming its role from a positive role in rebutting the presumption of innocence and establishing the accused's guilt into a negative role in which it awaits the accused's admission in order to refer him directly to the trial judge and have the prescribed sentence pronounced.

Chapter Two: Procedural Provisions Governing the Prior Admission of Guilt Procedure

The system of prior admission of guilt constitutes a newly introduced procedural mechanism adopted by the Algerian legislator within the framework of updating the criminal procedural system under Law No. 25-14 containing the Code of Criminal Procedure, in Articles 539 to 548, as an alternative to public prosecution. It aims to simplify procedures and accelerate adjudication in crimes classified exclusively as misdemeanors. This requires examining the procedural conditions and modalities governing its activation and practical application. The effectiveness of this procedure does not depend merely on recognizing it as a principle; rather, it is primarily embodied in the rules and procedures regulating its stages, determining the conditions for resorting to it, identifying the authorities competent to activate it, and establishing the accompanying safeguards.

The importance of this aspect is also manifested in the fact that it reflects the central role played by both the Public Prosecution and the adjudicating authority in administering this procedure, in terms of proposing it, verifying its validity, and monitoring or approving it, in addition to determining the scope of the discretionary power granted to each party.[15]

Therefore, through this chapter, we will attempt to examine the procedural framework of prior admission of guilt in Algerian legislation, in accordance with the provisions of Articles 539 to 548 of the aforementioned Law No. 25-14.

Section One: Procedures Followed for Prior Admission of Guilt before the Prosecuting Authority

Footnotes

[1] Youssef Hajji Al-Mutairi, **Plea Bargaining: A Study in American Law**, Journal of Law, Vol. 45, No. 5, p. 469.

[2] Article 540 of Law No. 25-14, previously cited source, p. 70.

[3] Ben Djebel Al-Aid, **Plea Bargaining**, Journal of Legal Studies and Research, University of M'Sila, Vol. 3, No. 1, 2018, pp. 178–179.

[4] Chateri Abdelkader, **Appearance Based on Prior Admission of Guilt as a New Trend in Criminal Policy: A Comparative Study between Algerian and French Legislation**, Eliza Journal of Research and Studies, Vol. 10, No. 01, 2025, Algeria, pp. 465–466.

[5] Hatem Abdelrahman Mansour Al-Shahat, **Prior Admission of Guilt**, Journal of Law, Kuwait University, Vol. 32, No. 04, p. 265.

- [6] Sherif Sayed Kamel, **The Right to Speedy Criminal Proceedings: A Comparative Study**, Dar Al-Nahda Al-Arabiya, Egypt, 2005, p. 35.
- [7] Ben Goulah Leila, **The System of Appearance with Prior Admission of the Crime: A Comparative Study**, Al-Ustadh Al-Bahith Journal of Legal and Political Studies, Vol. 07, No. 01, 2022, Algeria, p. 1720.
- [8] Ibid., p. 1721.
- [9] Articles 539–548 of Law No. 25-14, previously cited source, pp. 70–71.
- [10] Article 472, same source, p. 64.
- [11] Articles 473–476 of the same source, p. 64.
- [12] Articles 477–488 of Law No. 25-14, previously cited, pp. 64–65.
- [13] Articles 531–538 of the same source, p. 69.
- [14] Hiba Hamza, **The Legal Study of the Procedure of Appearance Based on Prior Admission of Guilt in Light of Algerian and French Legislation**, Journal of Human Rights and Public Freedoms, Vol. 10, No. 02, Algeria, 2025, p. 589.
- [15] Mohamed Abdelhay, **Prior Admission of Guilt under the Code of Criminal Procedure 2-14**, Algerian Journal of Human Security, Vol. 11, No. 01, Algeria, 2025, p. 721.

Section One: Procedures Followed for Prior Admission of Guilt before the Prosecuting Authority

The Algerian legislator has introduced, for the Public Prosecution, as an original party to the criminal proceedings and the holder of the right of public prosecution, under the new Code of Criminal Procedure No. 25-14, a new competence that represents a qualitative shift from the Latin system to the Anglo-Saxon system, namely the authority to propose the prior admission of guilt procedure to the accused.

This is applicable when it becomes apparent to the Public Prosecutor that the nature of the offense under prosecution falls within the misdemeanors for which this procedure may be applied, in accordance with the discretionary power of appropriateness legally granted to him as one of the characteristics of initiating public prosecution.[1]

Accordingly, in this section, we will examine the conditions that must be met for the application of the prior admission of guilt procedure, and then address the stage of proposing the sentence to the accused by the Public Prosecution and the resulting possible situations, through the following subsections:

Subsection One: Conditions Required for the Application of the Prior Admission of Guilt Procedure

Pursuant to the provisions of Article 539 of the Code of Criminal Procedure, the Public Prosecutor has the authority to resort to the prior admission of guilt procedure, either on his own initiative or at the request of the accused or his lawyer. This procedure is applied according to specific conditions and procedures, as follows:

First: The offense must not be a misdemeanor for which the maximum penalty exceeds five years, which means that this procedure is limited to less serious offenses.

Second: The misdemeanor must not fall among the offenses legally excluded from the procedure, as it must belong to one of the following categories:

1- Offenses provided for in the Penal Code;

- 2- Misdemeanors and felonies against State security provided for in the Penal Code;
- 3- The offense of unlawful assembly provided for in the Penal Code;
- 4- Felonies and misdemeanors against the Constitution, as specified by the Penal Code;
- 5- Felonies and misdemeanors against public safety under the Penal Code;
- 6- Offenses against persons addressed by the Penal Code, limited to the following:
 - A- Murder, other major felonies, and intentional acts of violence;
 - B- Involuntary manslaughter, unintentional injury, and endangering the life or physical safety of others;
 - C- Misdemeanors provided for in the Code of Criminal Procedure relating to drug trafficking offenses, transnational organized crime, offenses connected with information and communication technologies, money-laundering and terrorism offenses, and offenses relating to public legislation, foreign exchange, and corruption;
 - D- Misdemeanors committed against children, or those whose commission is facilitated by the victim's vulnerability resulting from age, illness, disability, physical or mental incapacity, or from a state of pregnancy that is apparent or known to the perpetrator;
 - E- Misdemeanors subject to special prosecution procedures.[2]

Subsection Two: Proposal of the Sentence to the Accused for the Application of the Prior Admission of Guilt Procedure

At this stage, the Public Prosecutor proposes to the accused appearing before him the execution of one or more principal or supplementary penalties, taking into consideration the following:

First: When the proposed penalty is imprisonment, or imprisonment and a fine, the term of imprisonment or the amount of the fine must not exceed half of the maximum penalty prescribed by law.

Second: When the proposed penalty consists solely of a fine and the offense is also punishable by imprisonment, the amount of the fine must not be less than two-thirds of the maximum fine prescribed by law.

Third: The Public Prosecutor may also propose a sentence of imprisonment or a fine with suspension of execution. The Public Prosecutor may likewise propose replacing an effective term of imprisonment with an alternative penalty in accordance with the conditions stipulated in the Penal Code.[3]

In accordance with the procedural safeguards established by the Algerian legislator, the stage of proposing the sentence may result in three possibilities, as follows:

1- First possibility: This consists of the accused refusing the proposal made by the Public Prosecutor. In this case, the Public Prosecutor takes the remaining prosecution measures in accordance with the general rules, whether:

- A- Prosecuting the accused under the procedure of immediate appearance before the court;
- B- Prosecuting the accused under the procedure of direct summons;
- C- Prosecuting the accused under the procedure of flagrante delicto or by an initiating application for an investigation.[4]

2- Second possibility: This consists of the accused accepting the Public Prosecutor's proposed sentence within the prescribed five-day period. Such acceptance is recorded in official minutes

signed by the accused, the Public Prosecutor, and the court clerk. Under penalty of nullity, the minutes must contain the following information:

A- The identity of the perpetrator of the criminal acts;

B- An accurate description of the facts attributed to him, including the place, date, and circumstances in which they occurred, as well as his explicit and unequivocal admission that he committed them;

C- The legal classification of the acts attributed to him;

D- The amount of the penalty or penalties proposed by the Public Prosecutor, the accused's acceptance of the proposed penalty, and his immediate execution thereof.[5]

The Public Prosecutor then immediately refers the accused before the court, requesting approval of the minutes, and notifies the victim of the date of the hearing.

3- Third possibility: This consists of the accused or his lawyer requesting a period within which to respond to the proposed sentence submitted by the Public Prosecutor, pursuant to Article 542 of the Code of Criminal Procedure. The accused or his lawyer may request a period not exceeding five days to respond to the Public Prosecutor's proposal concerning the penalty or penalties submitted by him. In this case, the latter either keeps the accused at liberty or presents him before the president of the judicial authority or the judge acting on his behalf if the proposed penalty includes effective imprisonment. The latter, by an order not subject to appeal, after hearing the accused or his lawyer, if any, may:

A- Keep him at liberty;

B- Subject him to judicial supervision measures;

C- Place him in temporary detention for a period not exceeding twenty (20) days;

D- Place a copy of the case file at the disposal of the lawyer, who may communicate freely and privately with the accused concerned in a place prepared for this purpose.[6]

Under this third possibility, there are two situations according to the provisions of Article 543 of the Code of Criminal Procedure:

*** First situation:** If the accused rejects the proposal of the Public Prosecutor within the period granted to him, or fails to express his acceptance thereof within the prescribed period, the Public Prosecutor shall take whatever procedure he deems appropriate with regard to him. If the accused is detained, his appearance before the adjudicating authority or the investigating judge must be guaranteed before the expiry of the effect of the temporary detention order referred to in Article 542 of the Code of Criminal Procedure. If the case is referred to the court and the court decides to adjourn the case, the aforementioned detention order shall remain effective until the case is decided, unless the court orders his release. However, if the case is brought before the investigating judge, the latter must decide whether the accused is to remain detained, be released, or be subjected to judicial supervision obligations. It should be noted that, pursuant to the final paragraph of Article 543, the judge who ordered the temporary detention under Article 542 of the Code of Criminal Procedure may not adjudicate the case.

*** Second situation:** If, within the five-day period granted to him, the accused expresses his acceptance of the penalty or penalties proposed by the Public Prosecutor, this shall be recorded in minutes signed by the accused, the Public Prosecutor, and the court clerk and containing the same information referred to above. The Public Prosecutor then immediately refers the accused

before the court, requesting approval of the minutes, and notifies the victim of the date of the hearing.[7]

Section Two: Procedures Followed in the Prior Admission of Guilt Procedure before the Adjudicating Authorities

This procedural stage is considered complementary to the procedures followed before the prosecuting authority, although it likewise involves several substantive procedures, which we will address through the procedures followed before the court as provided for in Article 545 of the Code of Criminal Procedure. The judgment issued by the court may also be appealed, in which case the matter falls within the jurisdiction of the Judicial Council, which in turn follows the procedures provided for in Article 546 of the Code of Criminal Procedure.

Subsection One: Procedures Followed in the Prior Admission of Guilt Procedure before the Court

When the Public Prosecutor refers the accused before the Misdemeanor Court under this procedure, the judge hears the accused and his lawyer, if any, and verifies the validity of his admission of the facts, their legal classification, and the legality of the proposed penalties. This takes place at an ordinary hearing in which all the guarantees of a fair trial are available.[8] Thereafter, pursuant to Article 545 of Law No. 25-14, the judge has two options: either to approve the minutes or to refuse to approve them by means of a judicial judgment issued publicly by the trial judge. This will be examined in detail as follows:

First: If the judge decides to approve the minutes:

1- Acceptance of the case for adjudication: The court examines the public prosecution and adjudicates the civil action, if any, after hearing the claims of the civil party and the accused and/or his lawyer. The judge renders a single judgment, appealable in both the criminal and civil actions.

2- In the event of an appeal against the judgment: If the judgment is appealed, adjudication of the case falls within the jurisdiction of the Misdemeanor Chamber of the Judicial Council.

3- In the event that the judgment is not appealed: If no appeal is lodged within the prescribed time limits, the judgment rendered becomes equivalent to a conviction and constitutes an enforceable instrument in both its criminal and civil aspects.

Second: If the court decides to refuse approval of the minutes:

1- Referral of the documents to the Public Prosecution: This consists of an order by the judge of the Misdemeanor Court hearing the merits of the case to refer the case documents to the Public Prosecution to take whatever action it deems appropriate in accordance with the law. The detention order remains effective, where the accused is detained, until the expiry of the appeal period, as though the temporary detention had been extended.

2- In the event that no appeal is lodged against the Misdemeanor Court's refusal to approve the minutes: In this case, the Public Prosecutor must take action on the procedural file within a maximum period of five days; otherwise, the accused must be released.[9]

Footnotes

[1] Mansour Nora, **Appearance Based on Prior Admission of Guilt as a Newly Introduced Consensual Punitive System in Algerian Legislation: A Reading of Law No. 25-14**

Containing the Code of Criminal Procedure, Eliza Journal of Research and Studies, Vol. 10, No. 1, 2025, p. 452.

[2] Article 540 of Law No. 25-14, previously cited source, p. 70.

[3] Article 541 of Law No. 25-14, previously cited source, p. 70.

[4] Article 543 of the same source, p. 70.

[5] Article 544 of the same source, p. 70.

[6] Article 542 of Law No. 25-14, previously cited source, p. 70.

[7] Article 543 of the same source, p. 70.

[8] Abdelrahmane Khalfi, **Criminal Procedures in Algerian Legislation**, Dar Al-Huda, Algeria, p. 312.

[9] Article 545 of Law No. 25-14, previously cited source, pp. 70–71.

Based on the provisions of the aforementioned Article 345, we observe that the system of admission of guilt falls outside the scope of the procedure and returns to its original form as direct evidence of proof, namely the admission itself, which is assessed by the trial judge at the Misdemeanor Court and remains subject to his discretion as to whether or not to rely upon it. However, the issue of discretionary power in determining the sentence has been eliminated and replaced by the legislator's determination requiring compliance with the penalties it has prescribed. The judge also rules on the damage resulting from the unlawful act within the ancillary civil action.

We should also point out that the issue of appeal opens the way to safeguarding rights against arbitrariness by allowing reconsideration of the validity of the proceedings and the proper application of the law.

With regard to returning the case file to the representative of the Public Prosecution, namely the Public Prosecutor, when the Misdemeanor Court refuses to approve the minutes of prior admission of guilt, this constitutes a restoration of the positive role enjoyed by the Public Prosecution as an original party to the proceedings and its endeavor to establish the accused's guilt, particularly since the legislator emphasized compliance with the time limits within which the Public Prosecutor must act on the prior admission of guilt proceedings; otherwise, the accused must be released. This confirms the presumption of innocence that the accused is innocent until proven guilty.

Subsection Two: Procedures Followed in the Prior Admission of Guilt Procedure before the Appellate Authority

Before addressing the procedures, it should merely be noted that an appeal may concern only the matters provided for in the first paragraph of the aforementioned Article 545. If the judgment approving the minutes or the judgment refusing to approve them is appealed before the Misdemeanor Chamber of the Judicial Council, and the latter finds that the appeal has been lodged in accordance with the prescribed formalities and within the statutory time limits, it examines the case in accordance with the general rules applicable. However, it does not have the authority to modify the sentence proposed by the Public Prosecutor. Rather, it examines only the validity of the matters referred to in the first paragraph of the aforementioned Article 545, namely, verifying the validity of the accused's admission of the facts attributed to him

before the Public Prosecutor, their legal classification, and the legality of the proposed sentence. In this regard, pursuant to Article 546 of Law No. 25-14, two points must be distinguished.

First: If the accused is detained: According to the provisions of the article, the Judicial Council must adjudicate the case within a maximum period of two months from the date of the appeal. If this period is exceeded, the accused must be released.

Second: If the Judicial Council rules to annul the judgment approving the minutes or upholds the judgment refusing to approve them: It must decide whether the accused is to remain detained or be released, and must refer the case file once again to the Public Prosecution to take whatever action it deems appropriate within a maximum period of twenty (20) days; otherwise, the accused must be released.[1]

From what we have stated concerning the procedures followed before the appellate authority, it is confirmed that the role of the Misdemeanor Chamber is to examine compliance with the time limits and application of the law, without reconsidering the sentence approved in the minutes of admission of guilt. This is consistent with what was previously mentioned: the operative conviction is that of the legislator, rather than that of the judge.

It should also be noted that when the minutes of prior admission of guilt are not approved, pursuant to Article 548 of Law No. 25-14, the minutes are withdrawn from the case file and kept at the registry of the court of first instance or at the Misdemeanor Chamber of the Judicial Council. Reference to them for the purpose of deriving evidence or charges is prohibited under penalty of nullity.[2]

This confirms that the system of prior admission of guilt is a temporary procedure, treated as evidence of proof for the purpose of approving the agreement minutes signed by the accused and the Public Prosecutor. If the minutes are not approved, they are annulled and become as though they had never existed, and all records relating to their adoption are preserved but may never be relied upon.

We should also point out that the legislator overlooked the issue of calculating the period of temporary detention when the accused is detained, namely whether that period is to be counted toward the agreed sentence or not. In practice, this is an issue whose application by judges remains ambiguous.

CONCLUSION

In this research paper, we examined the system of prior admission of guilt in Algerian legislation as one of the most significant developments introduced by Law No. 25-14 of 2025 containing the Algerian Code of Criminal Procedure, within the framework of the Algerian legislator's policy of renewing the criminal procedural system, aimed at achieving effectiveness, simplifying procedures, and reducing the burden on judicial bodies by ensuring the speedy adjudication of pending cases. This reflects the transformations taking place in various comparative procedural legal systems in order to protect fundamental rights and public freedoms.

We conclude that, through the renewal of the criminal procedural system, the Algerian legislator introduced the system of prior admission of guilt as one of the alternatives to public prosecution. However, in practice and application, it may have effects that affect some of the traditional fundamental guarantees of a fair criminal trial. We find that the Algerian legislator

departed from the general rules governing criminal justice, creating a form of exception inherent in this procedure through the simplification and reduction of the procedures governing public prosecution into two principal stages. The first takes place before the prosecuting authority and involves granting the Public Prosecutor a set of new powers and competences. The second takes place before the adjudicating authority and entails restricting the freedom of the criminal judge with regard to conducting the hearing, investigation, and presentation of evidence, as well as the principle of personal judicial conviction. These exceptions cause some fundamental principles of a fair criminal trial to acquire a different meaning during the application of the prior admission of guilt procedure, particularly with regard to the manner in which criminal hearings are conducted, including the abolition of the principle of free proof and discussion of evidence, weakening the principle of confrontation between the parties, restricting the judge's freedom of conviction, shifting the burden of accusation and its rebuttal, dispensing with the principle of giving reasons for judgments, and treating the minutes of prior admission of guilt as sufficient evidence both for conviction and for determining the sentence, while preserving the right of appeal.

Findings

Through this study, we reached a number of findings, which may be summarized as follows:

- From a conceptual perspective, we encountered a terminological issue. The Algerian legislator uses the term **“prior admission of guilt,”** based on a direct translation from French, which serves as a reference for this procedure, **“Aveu préalable de culpabilité,”** and even from English, **“Prior admission of guilt.”** The term is closer to the notion of guilt. However, given that the Arabic language has the capacity to convey terminological meanings with a high degree of precision, we find that the term **“guilt”** carries a religious and moral connotation more than a legal one, and therefore does not always meet the requirements of criminal-law precision. Guilt does not necessarily entail a worldly legal sanction; it may concern the relationship between a human being and his Creator, such as a sin expiated through repentance, and judicial authority may not intervene to impose a sanction. Here, however, we are dealing with a social offense requiring judicial intervention to convict the perpetrator, impose punishment, compensate the victim, and redress the harm suffered. Therefore, the term **“offense”** reflects the objective and rights-based dimension and is also consistent from both the legal and terminological perspectives. Accordingly, the expression **“prior admission of the offense”** appears conceptually and terminologically more accurate, as it reflects the existence of a criminalized material act, an established criminal responsibility, and an infringement of a legally protected right. It is also consistent with the rights of the victim and the requirements of criminal justice, without affecting the essence or purpose of the procedure.
- Likewise, through examining, analyzing, and comparing the legal provisions addressing prior admission of guilt, we find that despite all the safeguards established by the Algerian legislator, certain stages overlook the **full right of defense** of the accused and make his presence optional rather than mandatory at highly important stages of this procedure.

- From a practical perspective, this procedure cannot be considered entirely compatible and consistent with the principles of a fair criminal trial, because a conviction based on prior admission may weaken certain fundamental guarantees, such as the presumption of innocence, the criminal judge's freedom of conviction, the right of confrontation, the legality of conviction and fairness of punishment, and even the role played by the victim in the conduct of public prosecution.
- Furthermore, the current procedural safeguards do not provide sufficient detail regarding how the judge should monitor the validity of the admission without investigating the truthfulness of the facts and their conformity with the truth, which would eliminate the scope of doubt that is always interpreted in favor of the accused as an established principle. This may open the door to different judicial interpretations. The study also demonstrated that certain comparative legislations, particularly French legislation, have supplemented and strengthened procedural safeguards with a set of additional guarantees capable of ensuring the effectiveness of the procedure, which the Algerian legislator has not adopted despite relying on French procedural references in the procedure generally.
- Nevertheless, this procedure has produced several legal effects, including:
- **Strengthening the role of the Public Prosecution** in proposing and executing the sentence, within the framework of expanding the powers of the Public Prosecutor.
- **Restricting the authority of the criminal judge** to approving or refusing to approve the minutes without pronouncing the sentence.
- **Encouraging accused persons to admit the facts they have committed** in exchange for benefiting from reduced sentences.
- **Establishing the legal framework for the prior admission of guilt procedure** within the criminal legislative system, given its importance in reducing the caseload of criminal judicial authorities, in addition to its importance in the reintegration of detainees, since the sentence imposed was based on the consent and acceptance of the convicted person.

However, despite all these effects, certain practical difficulties remain, which sometimes conflict with the fundamental principles underlying fair-trial guarantees. Therefore, in order for this procedure to achieve the purpose for which it was established and to produce a positive effect in ensuring the guarantees of a fair criminal trial, we believe that it must be reinforced by additional procedures regulating its implementation and achieving the greatest possible level of protection and safeguarding of these principles. These may be summarized in the following proposals:

Proposals

- The scope of application of the prior admission of guilt procedure should be expanded to include excluded misdemeanors where the applicable penalty does not exceed five years.
- The accused's right to be assisted by a lawyer during the stage of proposing the sentence before the Public Prosecutor should be expressly guaranteed as a mandatory requirement.

- An independent judge should participate in the stage of proposing the sentence in order to reduce the judicial pressure that may be exerted by the Public Prosecutor, who is an original party to the proceedings, upon the accused. The participating judge should be required to recuse himself if the appearance procedure based on prior admission of guilt fails and the case proceeds to ordinary trial proceedings.
- The Public Prosecutor should be granted the authority to propose immediate execution of the sentence without waiting for the expiry of the appeal period.
- A position of **Judge of Liberties** should be established to decide matters concerning the accused's liberty, rather than assigning this power to the president of the judicial authority, who has the power to appoint the judge responsible for cases involving appearance based on prior admission of guilt.
- The minutes should be given evidentiary force, and the accused should not be permitted to retract his admission during the hearing as long as the admission is explicit and unequivocal.
- The judge should be required to give reasons for the decision or judgment refusing to approve the minutes containing the penalty or penalties proposed on the basis of prior admission of guilt.
- When an appeal is lodged, it is proposed that the appellate authority reconsider the case anew and not be bound by the previously proposed sentence. It may uphold, modify, or annul the judgment.
- The accused should be granted the right to challenge the validity of the admission of guilt, as well as the judgment rendered.
- The Public Prosecutor should be required to give reasons for the proposed sentence, thereby enabling the judge to exercise oversight over compliance with the principle of proportionality, particularly since the legislator has authorized the Public Prosecutor to make the proposed sentence suspended, while expanding the judge's supervisory role.

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Footnotes

[1] Article 546 of Law No. 25-14, previously cited source, p. 71.

[2] Article 548, same source, p. 71.