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**The system of appearance based on prior admission of guilt as a newly
mechanism for settling public cases – between effectiveness and safeguards –**

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Abstract :

In recent years, Algerian legislators have introduced alternative methods for dispute resolution in both civil and criminal law. Their main goals are to reduce case backlogs and speed up procedures. New criminal policies now offer alternatives to traditional trials, often called restorative or negotiated justice.

In this context, the system of appearance based on prior admission of guilt was introduced by the Algerian legislature, following the example of other legislators in many Anglo-Saxon and Latin countries, through the Code of Criminal Procedure No. 25-14 of 3 August 2025, which devotes a special section to it in Articles 539 to 548.

This research paper examines the plea bargain system, based on a prior admission of guilt, as a mechanism for settling criminal proceedings, addressing its concept, characteristics, and legal nature, and reviewing the procedural stages it entails. The paper also seeks to address the challenge of striking a balance between adopting this system to ensure the speed and effectiveness of the administration of justice and preserving the rights and guarantees established for the accused in the context of a fair trial.

Keywords: *guilty plea, plea bargaining, plea agreement, negotiated justice, rights of the accused, fair trial.*

Introduction:

Criminal legislation seeks swift justice and aims to balance public interests in detecting crimes with protecting human rights from law enforcement. Since the mid-20th century, criminal policy has taken two paths: a substantive approach, which reduces criminalisation and punishment, and a procedural approach, which applies varied measures in criminal proceedings to address crises in justice. Negotiation has also been added to summary procedures to fairly balance swift justice with the rights of the accused. This led to the emergence of negotiated justice. The plea bargain system, based on prior admission of guilt, is a key form of negotiated justice. It originated in the United States in the early 19th century, after the Civil War, and was recognized by the US Supreme Court in 1970 as effective in administering justice.

In the same context, Algerian lawmakers have continued to strive for speed and efficiency in criminal proceedings to address the seriousness of crime and to reduce the backlog of cases weighing down the judiciary. They have taken the initiative to adopt negotiated justice by adopting the criminal mediation system introduced by the Algerian legislature under Law 15-12 on the protection of children. This was followed by its adoption in the context of adult crimes pursuant to the amendment of the Code of Criminal Procedure under Decree No. 15-02, as well as the adoption of the immediate appearance system, which replaced the *flagrante delicto* procedure. His efforts have recently culminated in the establishment of the appearance system based on prior admission of guilt under the new Code of Criminal Procedure No. 25-14 of 3 August 2025, which devotes a special section to it in Articles 539 to 548. This system is a new alternative to criminal proceedings.

The adoption of this system raises many legal issues, most notably the risk of violating the presumption of innocence and the possibility of confessions obtained in circumstances that may not fully reflect the accused's free will. This system also raises concerns about the decline of the judge's supervisory role in favour of the public prosecutor's dominance throughout the proceedings, thereby undermining the balance of adversaries and equality before the law. This leads us to pose the following question: **Has the legislator, by enshrining the system of appearance based on prior admission of guilt in Law 25-14, succeeded in establishing a procedural framework that balances the considerations of reducing pressure on the judiciary and preserving the legal guarantees of the parties to criminal proceedings?**

The study adopted a critical **analytical approach**, extrapolating and analysing the legal texts governing the system of appearance based on prior admission of guilt in light of the developments in Law No. 25-14. A **comparative approach** was also used to compare foreign legislation, particularly Anglo-Saxon and Latin

legislation, to gauge the extent to which the Algerian legislature has moved closer to modern models of negotiated justice.

Accordingly, and based on the above, the research plan is as follows:

First section: The concept of the plea bargaining system based on prior admission of guilt.

First section: Definition of the plea bargaining system based on prior admission of guilt and its legal nature.

Second requirement: Conditions for applying the plea bargaining system based on prior admission of guilt

Section II: Provisions of the plea bargain system based on prior admission of guilt.

Requirement 1: Procedural process of the plea bargain system based on prior admission of guilt

Requirement 2: Guarantees of the plea bargain system based on prior admission of guilt

First section: Concept of the plea bargain system based on prior admission of guilt.

The plea bargain system based on prior admission of guilt is one of the most important procedural amendments introduced by the Code of Criminal Procedure No. 25-[1] 14, as the legislator felt the urgent need to address developments in criminal mentality, court backlogs, the difficulty of proving cases, and the importance of time in achieving justice and striking a balance between the rights of the offender, the victim, and society. This makes it necessary to understand its nature and conditions of application in order to study its role as a mechanism for settling criminal cases in light of Law No. 25-14, which we seek to detail in the following sections:

First claim: Definition of the plea bargaining system based on prior admission of guilt and its legal nature.

The plea bargain system based on prior admission of guilt emerged alongside a number of other systems as a means of shortening traditional trial procedures, which are characterised by slowness that is incompatible with the principle of the right to a speedy trial. However, it surpasses other systems in terms of its simplicity and effectiveness.

Therefore, establishing this system requires first defining its meaning (Section I) and then defining its legal nature (Section II).

Section I: Definition of the plea bargaining system based on prior admission of guilt.

In fact, there are many jurisprudential definitions of this system, which reflect radical developments in criminal justice. Some jurists have defined it as "negotiations between the prosecuting authority, the accused and his defence counsel, under an agreement between the parties, whereby the accused obtains a promise of a reduced sentence in exchange for informing, within the framework of the negotiations, on those involved in the crime, whether they were perpetrators or accomplices."¹

Others have defined it as "the power of the public prosecutor to shorten the trial proceedings for specific crimes, either on his own initiative or at the request of the accused or his lawyer, provided that the accused accepts the procedure and confesses to the acts attributed to him, in exchange for reduced penalties instead of the original penalties prescribed"².

It is also defined as "the possibility for the accused to negotiate with the prosecution to admit his guilt in exchange for certain benefits, such as a less severe legal description, a request for a reduced sentence, or other benefits that may accrue to the accused for his contribution to the proper administration of justice"³.

This system, therefore, presupposes an explicit and clear confession by the defendant of the crime attributed to him, in addition to the consensual nature of the procedure, which may be initiated by the prosecuting authority, the defendant, or his lawyer.

At the legislative level, unlike Arab legislation, the Italian legislature was the first Latin legislature to adopt this system in 1989, in Article 444 of the Code of Criminal Procedure[5]. It then spread to other European countries, with France being the last to adopt it under Law No. 204-2004 of 9 March 2004 on the promotion of criminal justice, amending and supplementing the Code of Criminal Procedure in Articles 495-7 to 495-15 of the latter under the title "**Appearance based on prior admission of guilt**" (Comparution sur reconnaissance préalable de culpabilité).⁴

The Algerian legislator included this system in the Code of Criminal Procedure No. 25-14, specifying its framework and conditions in detail. The inclusion of this system for the first time constitutes a real revolution in traditional procedural principles. Article 539 states that: **In cases of misdemeanours, the public prosecutor may, either automatically or at the request of the person concerned or their lawyer, resort to proceedings based on prior admission of guilt, if the person concerned admits the criminal acts attributed to them in an explicit and unambiguous manner.**"

Based on this, the new procedure provided for in the above article is based on a mechanism that differs from the traditional concept of confession, which is made

without a deal and does not change the punitive status of the accused except in the certainty of his conviction. The system of appearance based on prior admission of guilt is only implemented in exchange for and after negotiation⁵ between the accused and the prosecuting authority. and it also changes his punitive status for the better.

Based on this, plea bargaining based on prior admission of guilt can be defined as a system in which a judicial settlement is reached between the accused and the public prosecutor, satisfying both parties, subject to the court's approval. In exchange for shortening the proceedings, the accused receives benefits, such as a reduced sentence for contributing to the proper administration of criminal justice."

Section II: The legal nature of the plea bargaining system based on prior admission of guilt.

The question of determining the legal nature of the plea bargain system based on prior admission of guilt is a subject of widespread debate in comparative jurisprudence, given the novel procedures involved in this process, through which a proposal for a reduced sentence is presented. Opinions are divided on this issue. Some consider it similar to reconciliation, as long as both parties are the prosecution and the accused, while others view this system as contractual, based on two free wills that converge on a specific agreement between the public prosecutor and the accused.

First: The system of appearing in court based on a prior admission of guilt is a form of criminal reconciliation.

Another school of thought argues that the system of appearance based on prior admission of guilt is similar to criminal reconciliation, The latter is based on the management of public proceedings in a specific manner, which is determined by the payment of a sum of money to the state or compensation to the victim, or the acceptance of other measures in exchange for the termination of public proceedings, in order to simplify procedures and achieve flexibility in the management of public proceedings, as both are based on the principle of consent. The defendant's consent is required for reconciliation to take place, and in some cases, the consent of both the offender and the victim is required, as in the criminal mediation system. Reconciliation in economic and financial crimes requires the consent of the administrative authority and the public prosecutor's office.⁶

However, they differ in that the criminal reconciliation system is, in principle, only applicable in exchange for a payment made by the offender to the competent authority or the victim, and this payment is considered a prerequisite for reconciliation. In addition, criminal reconciliation terminates the public prosecution without a criminal judgment being issued⁷, whereas prior admission

of guilt results only in a reduction of the penalty or the issuance of a suspended sentence.⁸

Second: The contractual nature of the system of appearance based on prior admission of guilt.

This aspect of jurisprudence is based on the existence of a genuine bargain between the parties, the accused on the one hand and the representative of the public prosecution on the other, which is the model applied in the United States of America and Italy, where the accused, accompanied by his lawyer, submits his proposal to the representative of the public prosecution, who in turn submits his proposals to him, and so on until an agreement is reached between them. This system is based on the principle of consensual justice, which is based on the voluntary admission by the accused of committing the crime attributed to him, without being subjected to any form of pressure or coercion, and with his free consent to the negotiation procedures and the prescribed penalty.⁹ It is therefore a genuine and effective negotiation, which, according to jurist Jean Pradel, is somewhat similar to the negotiation between merchants and their customers when concluding contracts.¹⁰

However, the criticism of this view is that the accused cannot enter into negotiations, as is the case in Anglo-Saxon systems, to drop some charges or negotiate the penalty, etc. Rather, it is a matter of accepting or rejecting the proposal, with only a reduction in the penalty. Furthermore, the source of the agreement is not the contract, but the law and the mandatory rules it contains.¹¹

Third: The position of the Algerian legislator on the legal nature of the plea bargain system based on prior admission of guilt.

After reviewing the different jurisprudential opinions and clarifying the differences between the system of appearance based on prior admission of guilt and other alternatives to criminal proceedings, we come to determine the position of the Algerian legislator on the legal nature of this procedure, as we can clearly discern the legal nature of this procedure from the text of Article 547 of the Code of Criminal Procedure (): **The judgment or decision ratifying the minutes shall be deemed a conviction and an enforceable document in both criminal and civil matters.**" The Algerian legislature has thus conferred on the ratification decision the status of a judicial judgment, like other judgments, as it acquires the force of a conviction and has all its legal effects, even if it is based on special procedures. Accordingly, the ratification order in the appearance system based on prior admission of guilt has the effects of a conviction and is not merely a formal approval of a procedural agreement, but rather a judicial act that creates all the effects of a criminal judgment in terms of authority and enforcement, as it has the authority of a final judgment and the force of an enforceable document in both its criminal and civil aspects.

Second requirement: Conditions for applying the appearance system based on prior admission of guilt.

The plea bargaining system based on prior admission of guilt is one of the most prominent manifestations of negotiated criminal justice, as it strikes a balance between speeding up the adjudication of cases to ease the burden on the judiciary and preserving the guarantees of a fair trial. However, the importance of this system does not mean that it can be implemented without restrictions. The application of the plea bargaining system based on prior admission of guilt requires a set of conditions that regulate its scope and specify the crimes to which it can be applied and the persons who are parties to this system.

Therefore, examining the conditions for applying the plea bargain system based on prior admission of guilt requires consideration of the conditions relating to the nature of the crime (Section I) and the conditions relating to the accused (Section II).

Section I: Conditions relating to the nature of the crime.

The plea-bargain system is a general procedure that applies to all misdemeanours, regardless of the penalty. However, the legislator did not leave this matter entirely open, as it excluded certain misdemeanours either because of their nature, because the legislator had codified a special system for prosecuting them, or because of the severity of the penalties imposed for them.

In Article 540 of the Code of Criminal Procedure, the Algerian legislator addressed the crimes excluded from the system of appearance based on prior admission of guilt, which are misdemeanours for which the maximum penalty exceeds five years, as well as felonies and misdemeanours that affect state security, such as treason and espionage, and other crimes against national defence and the national economy. crimes of assembly, crimes and misdemeanours against the constitution, crimes and misdemeanours against public safety, embezzlement, treachery, bribery, abuse of influence, and abuse of power. The legislator also excluded the offences listed in Article 85, paragraph 4, of the Code of Criminal Procedure, namely: drug trafficking, transnational crime, crimes related to information and communication technologies, money laundering, terrorism, crimes related to exchange legislation, and corruption offences.

The wisdom behind excluding this category of crimes, characterised by their complexity and difficulty, is clear: it is incompatible with the speed at which the system is designed to operate and aims to achieve through prior admission of guilt. This is in addition to offences committed against children or offences that are facilitated by the vulnerability of the victim due to their age, illness, disability, physical or mental incapacity, or pregnancy that is apparent or known to the

perpetrator. Furthermore, the legislator has excluded all offences that are subject to special follow-up procedures.

The French legislator, on the other hand, prohibits the use of summary proceedings based on prior admission of guilt in all felonies, limiting them to misdemeanours and offences that are not serious and punishable by a fine or imprisonment for a term not exceeding five years. It has explicitly excluded its application to juvenile offences, repeat offences, press offences, manslaughter, political offences, or offences for which the proceedings are regulated by special law.¹²

Section II: Conditions relating to the accused.

The Algerian legislator has set out the provisions relating to the system of appearing with a prior admission of guilt in Articles 539 to 548 of the Code of Criminal Procedure, where he has limited himself to referring to the term "person" or "accused", as in Article 539: In cases of misdemeanours, the public prosecutor may resort to this procedure automatically or at the request of the person." This refers to natural persons, not legal persons, unlike the French legislator, who stated in a circular issued on 2 September 2004 that it applies to natural and legal persons under the conditions specified by law.¹³

Furthermore, the legislator did not stipulate in the text of the article that the accused or the person must be an adult, and therefore did not refer to minors in the texts governing appearance based on prior admission of guilt, unlike the French legislator, who explicitly stated in Article 495-16 that: The provisions of this section shall not apply to juveniles under the age of 18." The French National Assembly explained that, with regard to juveniles, their personalities and family and social environments should be carefully studied to determine the most appropriate punishment. It is also legally difficult to obtain the consent of minors who lack legal capacity to take this action, thereby waiving many of their rights, even if the child's guardian acts on their behalf when deciding to enter into a plea bargain based on a prior admission of guilt. Furthermore, this admission may bind the child beyond his or her childhood, such as in the case of a 17-year-old offender who has been placed in a care and rehabilitation institution, whose sentence may extend beyond the age of 18, and who may be transferred to correctional and rehabilitation prisons with criminals and ex-convicts.¹⁴

Section II: Rules for implementing appearance procedures based on prior admission of guilt.

Appearance based on prior admission of guilt is one of the most important systems aimed at simplifying and streamlining criminal proceedings, thereby reducing the negative effects of lengthy trials and achieving justice for the parties by fulfilling their rights within specific time frames, without delay or procrastination. It also

ensures a balance between achieving swift justice and protecting the rights of the accused and the victim, because reliance on this system confirms the effectiveness of procedural work, but the effectiveness of criminal justice will not be acceptable if it comes at the expense of the guarantees of the accused and the victim.

In light of the above, we divide this discussion into two sections. In the first, we examine the procedural path of the plea-bargain system based on a prior admission of guilt, while in the second, we examine the guarantees granted to the accused and the victim.

First section: The procedural process of the plea bargaining system based on prior admission of guilt.

The procedures for appearing in court based on a prior admission of guilt are among the most important guarantees of a fair trial, which is based on the requirement that a set of procedures be followed in a manner that ensures the rights and dignity of the accused. The plea bargaining procedure is one of the most important procedural developments adopted by the Algerian legislature in Articles 539 to 548 of the Code of Criminal Procedure, which seeks to strike a balance between judicial efficiency and the rights of the accused.

In this section, we will discuss the procedures for appearing in court based on a prior admission of guilt, the role of the parties to the public prosecution, and the implications of each stage, as follows:

Section I: The negotiation stage.

First: The initiative to request a plea bargain.

Since appearing in court based on a prior admission of guilt is a procedure that allows the public prosecutor to propose a penalty or a number of penalties for the accused who has explicitly admitted to the facts attributed to him, the public prosecutor is competent at this stage to propose the penalty for the accused, whether it is original or supplementary. It is clear that both Algerian and French legislation agree that the offer to resort to a prior admission of guilt should be made either automatically by the public prosecutor as the representative of the public prosecutor's office before the court, embodying the power of prosecution on behalf of society, or it may be proposed by the person or their lawyer, subject to the restrictions set out in Article 541 of the Code of Criminal Procedure, which states¹⁵ :

- ✓ The penalty shall not exceed half the maximum penalty if it is imprisonment or imprisonment and a fine.
- ✓ It shall not be less than two-thirds of the maximum penalty if the proposed penalty is a fine for an offence punishable by imprisonment.

- ✓ The possibility of proposing a prison sentence and/or fine that is suspended in whole or in part.
- ✓ The possibility of replacing imprisonment with an alternative penalty in accordance with the provisions of the Penal Code.

It should be noted that the Algerian legislature has adopted the penalty proposal system, as in French legislation, unlike other European countries, which have adopted the negotiation system, as in American legislation. According to Article 498-05 of the French Code of Criminal Procedure, when the prescribed penalty is imprisonment, the public prosecutor may propose a penalty not exceeding three years' imprisonment and in any case not exceeding half the penalty prescribed for the offence. When the proposed penalty is a fine, its amount may not exceed the maximum penalty prescribed by law, and it may not be included in the criminal record under Articles 1775-1 and 1777-1 of the French Code of Criminal Procedure.

It should also be noted that the Algerian legislature has imposed restrictions on the public prosecutor to limit his absolute power and prevent any abuse thereof. These restrictions reflect a precautionary legislative approach that ensures proportionality between the crime and the penalty.

Second: Issuance of the accused's decision

Based on the proposal of the public prosecutor, the accused has three options: to request a period of reflection, to accept the proposal, or to reject the proposal.

- The accused or their lawyer, if present, may request a period of no more than five days to respond to the proposal for punishment or punishments submitted by the public prosecutor, who shall decide whether to keep the accused in custody or to bring him before the president of the judicial authority or the judge acting on his behalf in order to subject him to judicial supervision measures or to place him in temporary detention for a period not exceeding twenty days if the penalty includes effective imprisonment, which is a guarantee that the accused will not flee or escape justice if he decides to reject the prosecutor's proposal¹⁶.
- If the accused expressly rejects the proposals of the public prosecutor or fails to respond within the prescribed period, appropriate action shall be taken against him. If the accused is in provisional detention, he must be brought before the judicial authorities or the investigating judge before the expiry of the detention period. If the case is referred to the court and the court decides to postpone it, the temporary detention shall remain in effect until the case is

decided, unless the court decides to release the accused. If the case is presented to the investigating judge, he or she has the authority to decide whether to keep the accused in temporary detention or to subject him or her to other procedural measures, such as judicial supervision.¹⁷

- If the accused accepts the penalty proposed by the public prosecutor within the five-day period granted to him, this acceptance shall be recorded in a report signed by the accused, the public prosecutor, and the court clerk, and the accused shall be immediately brought before the court to request the judge's approval of the report. The victim shall be notified of the date of the hearing in accordance with the provisions of Article 544 of Law No. 25-14.

Section II: Stage of deciding on the request for approval of the minutes of acceptance.

Judicial approval of a prior admission of guilt is a decisive step in the proceedings, as it confers final legal character on the proceedings and has direct consequences for both public and civil proceedings. This approval refers to the judicial consent required by law for certain decisions that involve exercising oversight of both legality and appropriateness, such that the approval decision confers the same enforceability as a judicial ruling.¹⁸

In light of this, when the accused is referred to the court, the judge shall hold a public hearing to hear the parties, including the victim, and shall verify the legal description of the facts attributed to the accused and the legality of the penalties proposed by the public prosecutor.¹⁹ The judge shall then decide whether to approve or reject the minutes.

First: Approval of the report

If the judge approves the minutes, he is obliged to hear the civil party, the accused, and his lawyer, if any. The approval decision entails the dismissal of the civil case, if any, as the judge rules on both the public and civil cases in a single appealable judgment. The ruling or decision approving the confession minutes is considered a conviction ruling. If it is not appealed, it has executive effects in both criminal and civil matters, and the ruling thus acquires the force of *res judicata*.

This is the same ruling as that issued by the French legislator in Article 495-11, with the requirement to give reasons for the approval ruling, i.e. the proposed penalties and the subject of their approval must be justified in light of the circumstances of the crime and the personality of the offender, as the reasons are a guarantee for the accused and are linked to their right to appeal.²⁰

For the sake of efficiency and in view of the convicted person's prior agreement to the proposed and approved penalty or penalties, the French legislature has

stipulated that the approval order must be enforced immediately, regardless of the possibility of appealing the approval order itself.

Second: Refusal to ratify the minutes.

If the court decides to refuse to ratify the preliminary confession report, it orders the case files to be referred to the public prosecutor's office for appropriate action, in accordance with the provisions of Article 545 of Law No. 25-14. In this case, the minutes shall be withdrawn from the case file and kept with the court clerk, and their use in deriving elements or charges against the accused shall be prohibited, under penalty of nullity.²¹ The reason for this legislative restriction is to ensure that the confessions made by the accused during the proceedings cannot subsequently interfere with his right to defence. Furthermore, the retention of these minutes by the trial court may render the judgment voidable on the grounds of a violation of the rights of the defence.²²

The influential role of the public prosecutor in the outcome of public proceedings is clear, transforming them from an accusatory, principle-based approach to the initiation of public proceedings to a consensual, speed-and-efficiency-based approach [25]. Thus, due to the existence of a system of prior admission of guilt, the prosecuting authority views the procedures related to the crime as a deal they are keen to complete at the expense of achieving criminal justice.²³

Section III: Appeal against the order of confirmation.

Both the accused and the public prosecutor have the right to appeal the judge's decision to approve the plea bargain based on the prior admission of guilt, thereby allowing the case to be reviewed again before the judicial council in matters relating to the validity of the accused's explicit admission of the facts attributed to him and their criminal description, and the legality of the penalties proposed by the public prosecutor.²⁴ This mechanism may seem illogical, since the approval order is based on the defendant's prior confession and his acceptance of the penalty or penalties approved. Perhaps the wisdom behind this is to give the person the right to withdraw from the proceedings on the one hand, and on the other hand, in accordance with the provisions of Article 1/7 of the Code of Criminal Procedure, which states: **Every person who has been convicted has the right to have their case reviewed by a higher judicial authority.**" However, in practice, this is difficult to imagine, as it is rare for defendants to resort to this appeal, and it is considered more of a theoretical right than a practical one.

As for the Public Prosecution, it can only appeal after the convicted person has appealed, and the Public Prosecutor's appeal cannot be original but rather an incidental appeal, as it is difficult from a legal point of view to imagine the Public Prosecutor being able to exercise the right of appeal in an original manner, given that it is the body that initiates the proposal for a prior confession and the proposal

for the penalty to be ratified. Perhaps the wisdom behind this is to limit the appeals filed by defendants without fear of harsher penalties.²⁵

With regard to appeal procedures, the Algerian legislature has set a deadline of no more than 2 months from the date of the appeal for the Judicial Council to rule on appeals when the defendant is in custody. If the ruling approving the minutes is overturned, or the ruling rejecting the approval is upheld, the court must decide whether to keep the defendant in custody or release him. The file must be referred to the public prosecutor's office for appropriate action within a maximum period of twenty days; otherwise, the defendant must be released.²⁶

Second requirement: Guarantees of the plea bargain system based on prior admission of guilt.

The system of appearance based on prior admission of guilt raises issues concerning the extent to which the defendant's guarantees are respected, particularly those relating to his free will and the effects of the admission on his legal status. In addition to the right of the civil party (the victim) to obtain compensation for the damage caused. To this end, the Algerian legislator, through Law No. 25-14 containing the Code of Criminal Procedure, was keen to provide as many guarantees as possible, Therefore, this system is surrounded by a set of legal controls and guarantees that must be observed for such an agreement to be valid, which aim, in general, to guarantee the rights of the parties to the criminal proceedings, and in particular the defendant, as the weakest link.

Therefore, examining the safeguards of the plea bargaining system based on prior admission of guilt requires consideration of the rights and safeguards of the accused (Section I) and the rights of the civil party (Section II).

Section I: Rights and guarantees of the accused.

The defendant is the cornerstone of the plea-bargaining process, as he is the focus and subject of the criminal proceedings. Therefore, it was necessary to provide the accused with the maximum guarantees and rights due to the seriousness of this procedure, in which the accused waives all the guarantees established in the traditional form of criminal proceedings, and in order to achieve a balance between effectiveness and ensuring the guarantees of the accused, particularly with regard to the defendant's freedom to accept the plea bargain based on a prior admission of guilt. as the prosecution can only apply this procedure after obtaining a prior and explicit confession from the accused, given of his own free will, agreeing to conclude a plea bargain and admit to the facts attributed to him, without any coercion, intimidation or even inducement being exercised on the accused. Nor was it the result of misrepresentation or deception on the part of the prosecution, given that plea agreements are conducted with transparency and clarity.²⁷ To reinforce this concept, the law grants the defendant the right to accept

or reject the penalties proposed by theTo reinforce this concept, the law grants the defendant the right to accept or reject the penalties proposed by the public prosecutor within a period not exceeding 5 days for a response. penalty once it has been ratified by the judge, which makes the defendant in dire need of legal assistance, the legislator has therefore given the accused the possibility of seeking the assistance of a lawyer during the plea bargaining procedure. The lawyer must therefore be allowed to examine the case file in advance and to meet with the accused in private.²⁸

However, it should be noted that the Algerian legislator did not make the presence of a lawyer mandatory during the plea bargaining process, but rather made it optional.²⁹ This is contrary to what the French legislature has established in Article 495-8 of the French Code of Criminal Procedure, which stipulates that the presence of a lawyer is mandatory and that the accused may not waive his right to have his lawyer present during the proceedings, especially during the stage of proposing and agreeing on the sentence to be imposed on the accused, and when he finally admits to the crime, in order to preserve the free will of the accused and, given its importance for the accused, enable him to benefit from his instructions and ensure the principle of the right to defence is upheld.³⁰

As for the defendant's right to appeal, the law allows the defendant to appeal the judge's ruling, whether by approving the minutes or rejecting the public prosecutor's proposals, despite the existence of a prior agreement or understanding on these proposals, as a way to uphold the right to two levels of litigation.³¹

Section II: Rights of the civil party.

One of the main questions raised by the legalisation of the plea bargain procedure based on prior admission of guilt was the position of the civil party or victim, given the speed of the proceedings. Therefore, the Algerian legislator was keen to protect the victim's right to compensation for the damage caused by the crime to which the procedure of appearance based on prior admission of guilt applies, as this system does not exclude the civil party or detract from his rights. In this regard, the Algerian legislator has indicated in Article 545(2) of the Code of Criminal Procedure that, in cases where the judge decides to approve the report containing the proposed penalty for the accused, he or she shall hear both the public and civil cases after hearing the requests of the civil claimant, the accused, and his or her lawyer. When the judge approves the report, he or she will hear the civil case and award compensation to the civil claimant.

The legislative text stipulates that the civil party must be notified of the date of the hearing so that they can attend the hearing before the certifying judge at the same time as the defendant, in order to be able to bring a civil claim and claim

compensation for the damage they have suffered. This avoids the victim having to bring a separate civil action, thereby striking a balance between the speed of criminal proceedings and the protection of victims' rights, which is in line with the modern philosophy of criminal justice that gives victims priority in litigation. The French legislature has limited the civil party's presence to the approval stage before the certifying judge, without allowing them to attend sentencing hearings before the public prosecutor.³²

Conclusion:

In conclusion, we find that the plea bargaining system based on prior admission of guilt is one of the most important forms of negotiated justice, as it embodies the principle of speedy adjudication in the face of the crisis in criminal justice and the inadequacy of public prosecution alternatives, which have proven to be limited in addressing crime. It also embodies one aspect of consensual justice, as its application is based on the accused's consent and their prior admission of the acts attributed to them. Therefore, various countries have rushed to adopt it within their legislative systems. Faced with calls for simplifying procedures, the Algerian legislature has intervened to keep pace with developments in comparative legislation and benefit from them. The Algerian legislature introduced the procedure of appearance based on prior admission of guilt under Law No. 25-14, which includes the Code of Criminal Procedure, as an alternative to public prosecution. This is an important step towards keeping pace with modern trends in criminal thought and contemporary challenges to the phenomenon of crime.

The effectiveness of the plea-bargaining system based on prior admission of guilt remains subject to the accumulation of judicial practice, as its practical application is not without legal and ethical risks. Therefore, it is necessary to make some suggestions that we consider necessary for the optimal application of this procedure and to ensure fair and accurate results:

- To strengthen the rights of the defence, we propose explicitly stipulating that a lawyer must be present at all stages of the plea bargaining procedure, by amending Articles 539-545.
- To ensure the effectiveness of this measure and its balanced application, which guarantees the rights of all parties, we propose training public prosecutors and judges in modern criminal policy approaches.

- To activate judicial oversight, we propose that public prosecutors be required to justify their proposed penalties, verify the validity of confessions and ensure they were not obtained under duress, and enable judges to exercise oversight of compliance with the principle of proportionality.
- With regard to the scope of application of this procedure, we propose excluding minors, in line with other comparable legislation, and taking into account the specific nature of their legal and social situation.
- Review the criteria for excluding certain offences, adopting objective criteria that take into account the seriousness of the act itself and not merely its legal description.

Bibliography List:

1. Laws:

- Law No. 25-14, dated 9 Safar 1447, corresponding to 3 August 2005, containing the Code of Criminal Procedure, J.R.J.G. 54.
- Law No. 2004-204 of 9 March 2004 on adapting the justice system to developments in crime.

2. Books in Arabic:

- Omar Salem, Towards the Facilitation of Criminal Procedures, A Comparative Study, 1st edition, Dar Al-Nahda Al-Arabiya, 1997.
- Mohammed Hakim Hussein Al-Hakim, The General Theory of Reconciliation and its Applications in Criminal Matters, A Comparative Study, Dar Shatat Publishing and Distribution, Egypt, 2009.

3. Articles:

- Hatem Abdul Rahman Mansour, Advance Admission of Guilt, Al-Haq Magazine, Kuwait University, Issue 4, December 2008, p. 261.
- Abdul Baqi Mustafa and Marizig Lama, Negotiating Confessions: Reality in Legal Systems and Application in Palestine and Qatar, A Comparative Analytical Study, International Law Journal, Volume 11, Issue 2, 2022
- Shatri, Abdelkader, Appearance on the Basis of Prior Admission of Guilt as a New Approach in Criminal Policy: A Comparative Study between Algerian and

French Legislation, Eliza Journal of Research and Studies, Vol. 10, No. 01, 2025

- Tarek Ahmed Maher Zaghloul, Appearance based on prior admission of guilt and its role in achieving criminal justice – An analytical study of French law, Journal of Economic and Legal Sciences, Issue 2, Part 1, July 2019
- Mohammed Bouat, The system of appearing in court based on prior admission of guilt in accordance with Law No. 25-14 containing the Code of Criminal Procedure, Journal of Comparative Legal Studies, Volume 11, Issue 2, 2025
- Yassin Ayman, The system of appearance based on prior admission of guilt in Algerian legislation between effectiveness and guarantees of a fair trial, International Journal of Legal and Political Research, Volume 09, Issue 03, December 2025.
- Youssef Hajji Al-Mutairi, Plea Bargaining: A Study in American Law, Law Journal, Special Edition, June 2021
 - Mashari Khalifa Al-Aifan, Plea Bargaining Agreements in the United States of America: A Study on the Feasibility of Their Application in Kuwait and the United Arab Emirates, Sharia and Law Journal, Faculty of Law, Kuwait University, Year 31, Issue 69, 2017
 - Hatem Abdul Rahman Mansour Al-Shahat, Law Journal, 2007
 - Mohammed Fathi Al-Jalawi, Criminal Settlement Systems in French Law, Faculty of Law for Graduate Studies, Menoufia University, Egypt, 2022.

4. Books in foreign languages:

- Jean-Christophe CROCQ, Le guide des infractions; Le guide pénal,- 6^èÉd, Dalloz, Paris, 2015,
- Serge GUINCHARD, Jacques BUISSON, Criminal Procedure, 9th ed., Lexis Nexis, Paris, 2013.
- Jean Pradel, General Criminal Law, 16th edition, CUJAS, Paris, 2006
- Jean Pradel; Pleading Guilty: A Comparison of American, Italian and French Law, Revue internationale de droit comparé, volume 53, No. 2, Paris, 2005.

5. Case law:

- Cass. Crim. 30 Nov. 2010, no. 10-80.460, Bull. crim. No. 190.

¹ Omar Salem, Towards the Facilitation of Criminal Procedures, A Comparative Study, 1st edition, Dar Al-Nahda Al-Arabiya, 1997, p. 144

² Jean-Christophe CROCQ, Le guide des infractions; Le guide pénal, 6th ed., Dalloz, Paris, 2015, p. 390

³ Hatem Abdel Rahman Mansour, Advance Admission of Guilt, Law Journal, Kuwait University, Issue 4, December 2008, p. 261.

⁴ Law No. 2004-204 of 9 March 2004 adapting the justice system to developments in crime.

⁵ American jurisprudence distinguishes between three types of plea bargaining agreements. The first is known as bargaining charge, whereby the legal description of the crime is changed, for example, reclassifying armed robbery as simple theft. The second type is called count bargaining, whereby the prosecution waives some charges in exchange for the defendant's confession to the offence. The third type is sentence bargaining, whereby the defendant confesses to the offence attributed to him in exchange for a promise from the prosecution to reduce the sentence.

⁶ Mohammed Hakim Hussein Al-Hakim, *The General Theory of Reconciliation and Its Applications in Criminal Matters, A Comparative Study*, Dar Shatat Publishing and Distribution, Egypt, 2009, p. 45.

⁷ Article 09 of Law No. 25-14, op. cit.

⁸ Article 541, ibid.

⁹ Abdelbaki Mostafa and Marizig Lama, *Negotiating Confessions: Reality in Legal Systems and Application in Palestine and Qatar, A Comparative Analytical Study*, International Law Journal, Volume 11, Issue 2, 2022, p. 139.

¹⁰ Jean Pradel; *Pleading Guilty: A Comparison of American, Italian and French Law*, International Review of Comparative Law, Volume 53, No. 2, Paris, 2005; p. 480.

¹¹ Serge Guinchard, 2013, Jacques Buisson, *Criminal Procedure*, 9th edition, Lexis Nexis, Paris, France, p. 1006.

¹² Jean-Christophe CROCQ, op cit, p. 394.

¹³ Chatri Abdelkader, *Appearance based on prior admission of guilt as a new approach in criminal policy – A comparative study between Algerian and French legislation – Eliza Journal of Research and Studies*, Volume 10, Issue 01, 2025, p. 470.

¹⁴ Tarek Ahmed Maher Zaghloul, *Appearance based on prior admission of guilt and its role in achieving criminal justice – An analytical study of French law*, Journal of Economic and Legal Sciences, Issue 2, Part 1, July 2019, p. 117.

¹⁵ Article 541 of Law No. 25-14, op. cit.

¹⁶ Mohammed Bouat, *The system of appearance based on prior admission of guilt in accordance with Law No. 25-14 containing the Code of Criminal Procedure*, Journal of Comparative Legal Studies, Volume 11, Issue 2, 2025, p. 59.

¹⁷ Article 543 of Law No. 25-14, op. cit.

¹⁸ Tarek Ahmed Maher Zaghloul, op. cit., p. 116.

¹⁹ Article 545 of Law No. 25-14, op. cit.

²⁰ Shatri Abdelkader, op. cit., p. 475.

²¹ Article 548 of Law No. 25-14, op. cit.

²² The French Court of Cassation overturned the conviction of the defendant during a hearing before the public prosecutor in accordance with the procedures for appearing on the basis of a prior confession to the crime. See:

Cass. Crim. 30 Nov. 2010, no. 10-80.460, Bull. crim. No. 190.

²³ Youssef Hajji Al-Mutairi, *Plea Bargaining: A Study in American Law*, Law Journal, Special Edition, June 2021, p. 472.

²⁴ Articles 545(5) and 546(1) of the Code of Criminal Procedure No. 25-14, op. cit.

²⁵ Mohamed Bouatt, op. cit., p. 61.

²⁶ Article 546(2) of Law No. 25-14, op. cit.

²⁷ Mashari Khalifa Al-Aifan, Agreements on Prior Admission of Guilt in the United States of America: A Study of Their Applicability in Kuwait and the United Arab Emirates, Sharia and Law Journal, Faculty of Law, Kuwait University, Year 31, Issue 69, 2017, p. 420.

²⁸ Hatem Abdul Rahman Mansour Al-Shahat, Law Journal, 2007, p. 332.

²⁹ Article 542(3) and Article 545(1) of the Code of Criminal Procedure No. 25-14, op. cit.

³⁰ Mohammed Fathi Al-Jalawi, Criminal Settlement Systems in French Law, Faculty of Law for Graduate Studies, Menoufia University, Egypt, 2022, p. 27.

³¹ Article 1 of the Code of Criminal Procedure No. 25-14, op. cit.

³² Mohammed Bouat, op. cit., p. 64.