

Deferred Prosecution as an Alternative Mechanism to Criminal Proceedings for legal Persons under the Provisions of Law 25/14

إرجاء المتابعة كآلية بديلة للمتابعة الجزائية للشخص المعنوي وفق أحكام القانون 14/25

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Abstract:

The deferred prosecution system is one of the most significant provisions introduced by the new Code of Criminal Procedure No. 25-14, which forms part of the restorative justice approach that the Algerian legislature has begun to adopt in line with comparable legislation, given the results it has achieved in comparison with traditional justice.

Under this system, the prosecution of legal persons may be subject deferral in respect of certain specified misdemeanours of an economic or financial nature, provided that the funds, property and proceeds disposed of or transferred outside the national territory—or their equivalent value—are returned, and all sums due to the public treasury are paid in full.

In this study, we shall attempt to shed light on the provisions of deferred prosecution system as a new measure introduced by Law 25/14, its procedures and the consequences thereof.

Keywords

Legal person, criminal prosecution, Public Prosecutor's Office, agreement.

الملخص:

يعد نظام إرجاء المتابعة من أهم المكاسب التي جاء بها قانون الإجراءات الجزائية الجديد 14-25، والذي يدخل في إطار العدالة التصالحية التي بدأ ينتهجها المشرع الجزائري مواكبة للتشريعات المقارنة نظراً لما حققته من نتائج مقارنة مع العدالة التقليدية.

ويسمح هذا النظام بموجبه إرجاء متابعة الشخص المعنوي جزائياً في بعض الجنح المحددة حصراً وذات الطبيعة الاقتصادية أو المالية مقابل ارجاع الأموال والممتلكات والعائدات المتصرف فيها أو المحولة إلى خارج التراب الوطني أو ما يمثل قيمتها ودفع كامل المبالغ المستحقة للخزينة العمومية.

وسنحاول من خلال هذه الدراسة تسليط الضوء على أحكام نظام إرجاء المتابعة الجزائية كإجراء مستحدث جاء به القانون 14/25 وإجراءاته والآثار المترتبة عنه.

الكلمات المفتاحية

الشخص المعنوي، المتابعة الجزائية، النيابة العامة، اتفاقية.

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Introduction

The proliferation of private legal persons in various spheres of economic and social life—given that they are a fundamental pillar of national development, and in view of the risks they pose, which have made them a source of disruption to the economic system—has led to the issue of their accountability becoming the subject of much debate in legal scholarship. This has led modern legislation to establish criminal liability for these entities, ranging from establishing it as a general rule and adopting the ‘principle of generality’—as in Dutch and French law post-2005—to other legislation adopting the principle of specificity for many, though not all, offences, whilst other legislation has adopted criminal liability on an exceptional basis, such as Egyptian law.

As for the Algerian legislator, it explicitly enshrined this liability when amending the Penal Code in (Law No. 04-15 containing the Law amending the Penal Code dated 10 November 2004, Journal No. 71 dated 30 December 2004.)2004 by Law No. 04-15, and Article 51 defined the scope of this liability as applying only to legal persons governed by private law and in cases provided for by law, whilst stipulating that their criminal liability is established only if the crime is committed by one of their organs or one of their legal representatives, with the addition of those holding ‘delegated powers’ following the amendment of the Penal Code on 24 June (Law No. 24-06 dated 28 April 2024, containing the Penal Code, Journal No. 30..)

As part of a new approach aimed at achieving a swift and effective resolution of criminal cases involving legal persons, the Algerian legislature has, for the first time, introduced new provisions through Law No. 25/14 (Law 25/14 of 3 August 2025 containing the Code of Criminal Procedure, Journal No. 54, dated 13 August 2005), establishing a mechanism of the deferred prosecution for legal persons as an alternative to criminal proceedings

Hence the importance of studying the subject of the “**mechanism of deferred prosecution for legal persons**”, given that it constitutes an effective and swift method of avoiding lengthy trials, thereby allowing justice to be upheld and the rights of the public treasury to be protected on the one hand, whilst enabling these entities to continue their economic activities and preserve their reputation on the other.

In this regard, the following questions may be raised: What are the provisions of deferred prosecution system against legal persons set out in Law 25/14, which incorporates the Code of Criminal Procedure?

- What are the provisions of deferred prosecution system against legal persons set out in Law 24/14, which incorporates the Code of Criminal Procedure?

To answer these questions, we have adopted a descriptive approach using analytical tools, specifically by analysing the legal texts relating to this system.

We have chosen to divide this study into the substantive provisions governing the deferred prosecution system by clarifying its concept and conditions, followed by its procedural provisions by clarifying its procedures and the consequences arising there from.

1. Substantive Provisions Governing the Deferred Prosecution System for Legal Persons

The system of deferred prosecution is one of the most significant advances introduced by Law 24/15, which represents a paradigm shift in Algerian criminal policy from a punitive legislative model to a conciliatory model that prioritises the public interest and self-correction. The legislator has codified the provisions of this system in Articles 105–115 of Law 25/14.

To understand the substantive provisions of this system, it is first and foremost necessary to establish a precise definition of it, particularly given that most legislation refrains from defining it, as well as the need to clarify the conditions for its application.

1.1- The Concept of the deferred prosecution system

The recognition of criminal liability for legal persons, and the consequent initiation of criminal proceedings against them, and with the expansion of the scope of legal persons and

their impact on the national economy, as well as the damage caused by criminal convictions, particularly with regard to their reputation, has led to the extension of the scope of restorative or negotiated justice to include the latter, particularly in the United States of America, as negotiated justice is a fundamental pillar of the American procedural identity, which has subsequently been adopted by numerous legislations, including Algerian legislation through Law No. 25-14 containing the Code of Criminal Procedure, the provisions of which are set out in Articles 105–113 thereof.

Accordingly, in this subsection we shall attempt to address the concept of this system and explain its importance as follows:

Definition of deferred prosecution system

The deferred prosecution system is an alternative to criminal proceedings for legal persons, whereby criminal proceedings against them may be deferred in certain crimes of a financial or economic nature, specified exclusively in return for the return of funds, property and proceeds that have been disposed of or transferred outside the national territory, or the payment of their equivalent value and the full sums to the public treasury. (Article 105 of Law 25/14.)

The decision to defer prosecution forms part of the concept of restorative justice, through exceptional prosecution measures that facilitate reconciliation and agreements between the authorities and companies or institutions implicated in corruption or the transfer of funds abroad, thereby contributing to the recovery of funds through the settlement of criminal cases involving legal persons, rather than protracted trials, in the public interest and for the rehabilitation of the legal person. (Hazit, 2025, p. 202)

The deferred prosecution system originated in the United States, which began using it officially in 1997 as a form of negotiated criminal justice and an alternative to criminal proceedings for corporate crimes under the name of the Deferred Prosecution Agreement, It allows the US Attorney's Office to defer the commencement of criminal proceedings against a company in exchange for the latter's compliance with the following obligations under the negotiation process. (Hazit, 2025, p. 202)

The French legislature also adopted the system of the Judicial Agreement in the Public Interest under the Law on Transparency, Anti-Corruption and the Modernisation of Economic Life of 9 December 2016, known as Sapin 2, as an alternative to criminal proceedings specifically for legal persons on a broad scale, including commercial companies, associations and local authorities, under the name (CJIP)

This procedure in French law allows the Public Prosecutor's Office, pursuant to Article 41, to propose to a legal person implicated in one of a limited number of specific crimes– for example, through its legal representatives, who remain liable as natural persons – the conclusion of a judicial agreement in the public interest obliging it to fulfil one or more commitments and resulting in the payment of a fine to the public treasury not exceeding 3 % of the company's annual turnover and the implementation of a compliance programme focused on combating corruption or on redressing the harm caused to victims. Following approval, the public prosecutor notifies the president of the court by means of a petition requesting ratification of the agreement. (Zaghloul, 2022, p. 1599)

It may therefore be said that the deferred prosecution of a legal person is an alternative to bringing a public prosecution, through which the Public Prosecutor's Office may conclude an agreement with a legal person governed by private law, the substance of which is that the latter shall not be prosecuted for specific crimes, provided that the legal person agrees to the agreement and commits to its terms regarding the restitution of criminal proceeds and the payment of sums due to the public treasury and the injured parties, as well as its participation in an internal reform programme.

As for the legislator, it addressed the concept of deferred prosecution in Article 105, which states: " The Public Prosecutor may, prior to instituting public proceedings, conclude

an agreement with a person subject to private law who is involved in or an accomplice to one or more of the crimes set out in Article 106 below, providing for the deferred prosecution against them in exchange for the return of funds, property and proceeds that have been disposed of or transferred outside the national territory, or the equivalent value thereof, and the payment in full of the amounts due to the public treasury and to the public parties harmed by the alleged crimes (Article 105 of Law 25/14).

Based on an analysis of Article 105 above, the characteristics of this procedure become apparent and can be summarised as follows:

- The deferred prosecution is an alternative to bringing a public prosecution, as this procedure takes place prior to the initiation of public prosecution; furthermore, the implementation of the agreement constitutes one of the grounds for the termination of the public prosecution.

- This procedure is the exclusive jurisdiction of the Public Prosecutor's Office, contrary to the approach of the French legislature, which made such agreements subject to the approval of the President of the Court, and the US legislature, which requires a judge's ratification for the agreement to take effect.

- This is a negotiated procedure based on negotiations, such that the legal person must accept it and there is no coercion involved.

1.2- The Importance of the Deferred Prosecution System

The intensifying war on international corporate corruption by the US Department of Justice has encouraged the emergence of negotiated criminal justice procedures for companies, which have been codified in numerous legal systems that have taken the American model as a guide. This is likely due to the advantages of the new procedures, which safeguard corporate economic activity and protect the rights of employees, shareholders and third parties, whilst obliging the companies concerned to pay fines that ensure the recovery of proceeds from the crime, in addition to subjecting companies to a robust compliance programme that ensures their proper conduct. This mechanism also responds to the urgent legislative desire to alleviate the burden on the courts. (Zaghloul, 2022, p. 1606)

This system is also of particular importance for the recovery of funds whilst at the same time avoiding the imposition of penalties on legal entities, particularly as criminal and financial penalties would inevitably lead to their bankruptcy and the end of their existence, which would negatively impact the national economy that grows through the presence of such entities and their role in economic development. (Beloul, 2025, p. 47)

Accordingly, this measure aims to strike a balance between the payment of financial obligations incumbent upon such entities and ensuring the continuation of their economic and commercial activities, which forms part of the State's approach to encouraging investment. (Beloul, 2025, p. 585)

The technical aspects of this new mechanism allow for benefits to be realised for the parties to the criminal proceedings, the victim and society, by shortening the process of searching for and investigating evidence. It also serves the public interest by replenishing the state treasury, ensures the rehabilitation of the legal person through the imposed compliance programme, and allows it to continue its business activities and preserve its reputation. (Zaghloul, 2022, p. 1589)

The aim of this alternative system to criminal prosecution under the Code of Criminal Procedure is also, in relation to the legal person responsible—be it a company or an institution—to encourage it to cooperate with investigations and negotiate with the judicial authorities to avoid lengthy trials and the resulting negative impact on its economic situation, along with the risk of additional penalties upon conviction, such as a ruling to dissolve or the closure of the institution, or exclusion from public contracts by barring it; however, at the same time, this procedure does not protect the managers of the legal person, whose criminal

liability is that of a natural person, and who are subject to criminal proceedings. (Hazit, 2025, p. 204)

2. Procedural Provisions Governing the Deferred Prosecution System of Legal Persons

Law No. 14/25, which comprises the Code of Criminal Procedure, sets out the provisions governing the deferred prosecution system in Articles 105 to 113, specifying the conditions for resorting to this system, its procedures, and the consequences thereof. This is what we shall clarify in this section:

2.1- Conditions for the application of deferred prosecution System

Given the seriousness of the offences committed by legal persons, recourse to the deferred prosecution system is only possible if a set of conditions are met, followed by specific procedures culminating in the conclusion of a deferred prosecution agreement.

These conditions are set out in Articles 105 to 107 of the Code of Criminal Procedure (See Articles 105–107 of Law No. 25/14, which contains the Code of Criminal Procedure), whereby Article 105 grants the Public Prosecutor the authority to decide on the application of the deferred system, and permits him, prior to the initiation of public proceedings, to conclude with the legal person governed by private law who is involved in or an accomplice to one or more of the crimes set out in Article 106 an agreement providing for the deferred prosecution against them, in exchange for the return of the funds, property and proceeds disposed of or transferred outside the national territory, or their equivalent value, and the payment in full of the sums due to the Treasury and the public authorities harmed by the crimes attributed to them, and if certain conditions are met, which must be verified to enable the Public Prosecutor to resort to criminal prosecution, some of which relate to the nature of the crime committed and the findings of the investigation conducted in respect thereof, and others to the legal person governed by private law concerned with benefiting from these procedures.

Some relate to the obligations to which the person concerned must submit, in addition to other conditions, which we explain below:

Conditions relating to the crime committed and the findings of the preliminary investigation:

These consist of a set of conditions laid down by the legislature, some of which relate to the nature of the crime committed and others to the findings of the preliminary investigation:

2.1.1- Conditions relating to the crimes committed:

Pursuant to Article 106 of the Code of Criminal Procedure, the legislator has permitted the deferral of criminal proceedings only in respect of certain offences of an economic or financial nature, which are exhaustively listed below:

The misdemeanours provided for in Articles 119 bis (This concerns the crime of theft, embezzlement, misappropriation and destruction of public or private funds or items of equivalent value, committed intentionally by a public official, as provided for under Law 24/06 amending the Penal Code), 418 and 419 of the Penal Code (This concerns acts and practices aimed at obstructing investment in bad faith, with the intention of harming the national economy, as provided for in the newly introduced Chapter II entitled ‘Infringement of Investment’ in Law 24/06 amending the Penal Code).

* Misdemeanours provided for in the law on the prevention and combating of corruption, with the exception of bribery offences (Article 55 of Law 06/01 of 24 February 2006 on the prevention and combating of corruption)

* Misdemeanours provided for in the law on the suppression of violations of legislation and regulations relating to foreign exchange and the movement of capital to and from abroad (Article 05 of Decree 96/22, as amended and supplemented, containing legislation on foreign exchange, which establishes the criminal liability of legal persons.)

* Misdemeanours provided for in the legislation on combating smuggling (Article 24 of Decree 06/05 on combating smuggling, dated 23 August 1995, as amended and supplemented)

* Misdemeanours provided for in the legislation in force relating to invoicing.

* Misdemeanours provided for in the Monetary and Banking Law (Law 04-02 on the rules applicable to commercial practices.)

* Misdemeanours provided for in the legislation relating to the stock exchange (Legislative Decree No. 93-10, amended by Law 03-04 and Article 95 of the Finance Act of 2018; referring to Article 6 of the same Act, we find that this activity is exclusive to commercial companies, banks and financial institutions, hence the criminal lia)

* Misdemeanours provided for in the Customs Code. (Article 312 bis of Law No. 07-79 of 21 July 1979, containing the Customs Code, which also recognises the criminal liability of legal persons)

* Misdemeanours of tax evasion and fraud provided for in tax and financial legislation. (These crimes are distributed across several laws, the most important of which is the Law on Direct Taxes and Similar Duties, Article 303-9, which recognises the criminal liability of legal persons.) Consequently, the Public Prosecutor may not initiate criminal prosecution procedures for misdemeanours other than those mentioned above.

It should be noted that, with regard to the first paragraph of Article 106 of the Code of Criminal Procedure, concerning the offences set out in Article 119 bis, as well as Articles 418, 419 of the Penal Code, it is observed that the legislator has not expressly provided for the criminal liability of legal persons; nevertheless, Article 51 bis of the same Code stipulates that for such liability to arise, there must be an express legal provision recognising it.

Referring to Articles 418 and 419 in the section on investment, it is evident that there is no provision recognising the liability of legal persons, contrary to the provisions in the section on fraud in the sale of goods and deception in food and medical products, where Article 435 bis explicitly provides for the liability of legal persons for these crimes (Article 435 bis of the Penal Code provides that: “A legal person shall be criminally liable for the crimes defined in this chapter, in accordance with the conditions set out in Article 51 bis of this Code...”.)

There are other articles in the Penal Code or in special laws that confirm the same approach; and although Article 119 is included in the Penal Code, it is originally derived from the Law on the Prevention and Combating of Corruption. Upon referring to the latter law, we find that the liability of legal persons is excluded, which points to problems in practical application, particularly in light of respect for the principles of criminal legality and security guaranteed by the Constitution.

It is evident from the scope of the crimes covered by the provisions set out in Article 106 that the legislator has confined this mechanism to economic, financial, fiscal and customs misdemeanours, as specifically defined (as previously stated). This indicates that the legislator primarily targets crimes in which the damage is essentially material and can be remedied financially and administratively

Conditions relating to the findings of the preliminary investigation conducted into these crimes

The agreement is only granted in specific cases where strict conditions are met, including those set out in the first paragraph of Article 105, which requires that the preliminary investigation into the crime or crimes committed must have established sufficient evidence to make the conviction of the legal person highly probable should proceedings be brought against it (Article 105(2) of Law No. 25-14).

2.1.2- The Conditions Required for a Legal Person to Benefit from the Deferred Prosecution System

These conditions are also set out in Article 105 above and are as follows:

A- The legal person has demonstrated cooperation towards putting an end to the crime

Particularly as the legal person's vulnerable position and its desire to avoid going to trial, coupled with the confidentiality surrounding the conclusion of the agreement, make it more cooperative with the prosecution.

The legal person contributes to curbing crime through its cooperation with the competent authorities; in France, the criteria for such cooperation have been defined by the instructions of the French General Directorate of Finance, and include a range of situations in which the legal person's actions are considered evidence of its good faith. One of the most prominent forms of this cooperation is the organisation's voluntary disclosure of the facts to the Public Prosecutor's Office, which reflects an intention to contribute to uncovering the truth through an internal investigation aimed at establishing the facts and identifying those responsible, as well as revealing shortcomings in the compliance system that may have led to the violation. (Article 17, Law No. 2016-1691 of 9 December 2016 (Sapin II), relating to transparency and the fight against corruption, as well as the mechanism of the judicial agreement in the public interest (CJIP))

B- The legal person adopts disciplinary measures against the natural person who committed the crime in its name or on its behalf and notifies the judicial authorities thereof

The legislator acted wisely in including these cases within the conditions of the deferred prosecution system; otherwise, without setting criteria or circumstances to limit this procedure, the Public Prosecutor's Office would be left to decide at its discretion whom to apply it to and whom not to.

Accordingly, in principle, whenever these conditions are met, the Public Prosecutor is entitled to take this measure; however, in the same article, the legislator prohibits him from concluding the agreement if:

- * it transpires that the legal person was established for fraudulent or criminal purposes;
- * The legal person has a prior conviction for one of the crimes specified in the aforementioned Article 106 (The final paragraph of Article 106 of the Code of Criminal Procedure.)

C. The requirement of public interest and the recovery of the Treasury's rights and those of the injured parties being more effective than other sanctions imposed on the legal person

In other words, the option to defer prosecution achieves the desired outcome of the trial by providing the time required for the judicial investigation (Paragraph 2 of Article 105 of Law No. 25-14, comprising the Code of Criminal Procedure.)

In addition to the fact that the public interest and the recovery of the rights of the public treasury and the aggrieved parties are more expedient than other penalties that may be imposed on the legal person. (Paragraph 4 of Article 105 of Law No. 25-14.)

d. The possibility to assess all damages arising from the crime in relation to the public treasury and public bodies

e. Conditions of subjection to obligations

The deferred prosecution shall be subject to the legal person complying with the following obligations:

A.1- Payment of a fine to the public treasury

the amount of which may not exceed 30 per cent of the average annual turnover for the last three years. In calculating this fine, account shall be taken of the damage caused to the public treasury, the undue benefits obtained from the offence, or the turnover resulting from the contract or transaction linked to the criminal acts. (Paragraphs 5 and 1 of Article 105 of Law No. 25-14.)

A.2- Payment of compensation to the injured party

where applicable under the agreement, and the Public Prosecutor may call upon one or more experts to assess the amount of the fine due to the Treasury or the compensation. The fine and/or compensation shall be paid. (Paragraphs 06 and 02 of Article 105 of Law 25-14.)

In accordance with a schedule determined by the public prosecutor, taking into account the amount of the fine or compensation as well as the financial situation of the legal person, provided that this does not exceed four (4) years. (Paragraph 07 of Article 107 of the Code of Criminal Procedure.)

A.3- Participation in an internal reform programme:

This condition has a preventive and proactive purpose, aimed at preventing reoffending. The programme shall be drawn up and its implementation monitored by the expert(s) or body appointed by the Public Prosecutor (Paragraph 03 of Article 107 of the Code of Criminal Procedure.), and the legal person shall bear the costs arising from this task entrusted to the expert(s). (Paragraph 08 of Article 107 of the Code of Criminal Procedure.).

A.4- Compliance with any other obligation deemed appropriate by the Public Prosecutor

2.2- Procedures for the conclusion of deferred prosecution agreement and the consequences thereof

If the Public Prosecutor determines that the conditions for applying the deferred prosecution system are met and decides to resort to this alternative mechanism to criminal prosecution for crimes that were the subject of a preliminary investigation, he shall undertake a series of procedures in accordance with the provisions of Article 108 of the Code of Criminal Procedure, which entail a series of consequences set out in Article 109 of the same Code, which we shall set out below:

2.2.1- Procedures for the conclusion of a deferred prosecution agreement

This document contains a set of obligations to which the legal person is subject in exchange for the public prosecution not being brought against them and for them not being prosecuted.

If the Public Prosecutor finds that the conditions for applying the system of deferral of criminal proceedings are met and decides to resort to this new settlement mechanism, they shall carry out the following procedures:

1. Notify the Treasury's legal representative and the affected public party, if any, of the agreement to be concluded with the legal person; through this procedure, the Public Prosecutor shall invite them to submit a statement setting out the damage suffered by them, relevant documents, and any useful observations. (Paragraph 02 of Article 108 of the Code of Criminal Procedure.)

2. Summoning the legal representative of the legal person: who must not have been personally involved in the commission of the crime attributed to the legal person as a perpetrator, accomplice or instigator, to present the proposal to conclude the agreement to them, and to inform them of the possibility of seeking the assistance of a lawyer or expert, and of the need to respond in writing to the proposal to conclude the agreement within one month of the date of notification. (Paragraphs 01 and 03 of Article 108 of the Code of Criminal Procedure.)

3. The draft agreement shall be delivered to the legal representative of the legal person by the Public Prosecutor and shall include the following: (Paragraph 04 of Article 108 of the Code of Criminal Procedure.)

* The identity of the legal representative of the legal person signing the agreement.

* A detailed account of the facts, the time and place of their commission, and the legal classification of the crime.

* The measures taken under judicial supervision.

* The steps taken by the legal person to put an end to the offence or identify its perpetrators, and the measures taken against them.

* The amount of the fine payable to the public treasury, and the methods and deadlines for its payment.

* The compensation payable to the injured party, and the methods and deadlines for its payment.

* The costs associated with the implementation of the agreement.

4. Conclusion of the agreement: If the legal person agrees to the agreement, the Public Prosecutor shall summon the representative of the Treasury and the injured party and inform them of the agreement's contents; they must submit their observations within a maximum of five days, and a record of this shall be drawn up. (Paragraph 01 of Article 109 of the Code of Criminal Procedure.)

This agreement shall be authenticated in its enforceable form and shall be deemed an enforceable instrument in accordance with the provisions of the Code of Civil and Administrative Procedure (Paragraph 03 of Article 109 of the Code of Criminal Procedure.), provided that the legal person concerned shall fulfil the obligations incumbent upon it and specified in the agreement voluntarily and within the specified time limit, without the need to resort to enforcement proceedings. (Hazit, 2025, p. 208)

The provisions of the Code of Criminal Procedure relating to the confidentiality of inquiries and investigations shall apply to the agreement. (Paragraph 04 of Article 109 of the Code of Criminal Procedure). It is worth noting that the legislator, through the provisions of Articles 108 and 109, has provided a set of procedural safeguards to ensure the integrity of the agreement, thereby ensuring the balance of this mechanism through important safeguards, foremost among which is the exclusion of the legal representative personally involved in the crime from the negotiation, as well as the notification and involvement of the aggrieved parties.

The legislator has also ensured respect for the right of defence by notifying the legal person of their right to engage an expert, not to mention the nature of the agreement, which does not constitute an admission of guilt provided its conditions are met.

2.2.2- The effects arising from the application of the deferred prosecution system

The conclusion of the agreement gives rise to the following consequences, as set out in Articles 110 to 113, which may be divided into:

A. Positive effect:

The conclusion of the agreement results in the suspension of the limitation periods for public prosecution against him during the period of its implementation (Paragraphs 02 and 04 of Article 110 of the Code of Criminal Procedure.), whilst this has no effect on his manager or managers against whom there is sufficient evidence to indicate that they committed the offence or contributed to its commission; consequently, they remain subject to criminal prosecution.

Public prosecution is also terminated upon the legal person's fulfilment of all obligations incumbent upon it under the agreement to defer prosecution. However, the termination of the proceedings does not prevent the parties harmed by the crime from pursuing their civil rights before the civil judiciary.

B. Positive effect: (Termination of the agreement)

If the legal person fails to fulfil its obligations, the agreement is terminated and criminal prosecution resume from the point at which they were suspended (Article 113 of the Code of Criminal Procedure.). The Public Prosecutor shall notify the legal representative of the termination, and this shall take effect immediately upon notification to the legal representative of the legal person (Article 112 of the Code of Criminal Procedure.). An important safeguard is provided, namely that statements made by the legal representative before the investigating

authorities or the court may not be used unless the Public Prosecutor's Office has prior knowledge of them (Paragraph 02 of Article 113 of the Code of Criminal Procedure.). This is to protect the confidentiality of negotiations and the principle of good faith.

The court must also take into account what has been partially implemented by the legal person prior to the suspension of the agreement. (Paragraph 03 of Article 113 of the Code of Criminal Procedure.)

It is worth noting that the legislator has added Article 111 bis: where the crime that is the subject of the agreement is of an international nature or is transnational and has been notified by a foreign judicial authority, the Public Prosecution Service, through the Ministry of Justice and in consultation with that authority, This is to serve the intended purpose of this procedure, which is, on the one hand, to recover funds and, on the other, to provide protection to the legal person so that it is not punished for the same acts in that country, within the framework of relevant international agreements; otherwise, the procedure would become futile.

Conclusion

Through this study, we have concluded that the system of deferred prosecution for legal persons, as a new approach to settlement, represents a significant step forward in aligning national legislation with international standards for combating serious and complex economic and financial crimes.

Through this measure, the legislator aims to maintain the continuity of economic activity, ensure the effective recovery of the Treasury's rights, and compensate the public authorities, not to mention encouraging the legal person's self-reform to prevent a return to crime.

Although the 'deferred prosecution' mechanism is the most significant gain introduced by Law 25-14, which incorporates the Code of Criminal Procedure, the effectiveness of this mechanism depends on its proper practical application by the Public Prosecutor's Office, particularly as it involves negotiation with the legal person, which is the essence of this mechanism, as well as its ability to strike a delicate balance between the need for criminal deterrence and the preservation of the continuity of economic entities, whilst respecting the guarantees of a fair trial.

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Paragraph 04 of Article 109 of the Code of Criminal Procedure. (s.d.).

Paragraph 07 of Article 107 of the Code of Criminal Procedure. (s.d.).

Paragraph 2 of Article 105 of Law No. 25-14, comprising the Code of Criminal Procedure. (s.d.).

Paragraph 4 of Article 105 of Law No. 25-14. (s.d.).

Paragraphs 01 and 03 of Article 108 of the Code of Criminal Procedure. (s.d.).

Paragraphs 02 and 04 of Article 110 of the Code of Criminal Procedure. (s.d.).

Paragraphs 06 and 02 of Article 105 of Law 25-14. (s.d.).

Paragraphs 5 and 1 of Article 105 of Law No. 25-14. (s.d.).

See Articles 105–107 of Law No. 25/14, which contains the Code of Criminal Procedure. (s.d.).

The final paragraph of Article 106 of the Code of Criminal Procedure. (s.d.).

These crimes are distributed across several laws, the most important of which is the Law on Direct Taxes and Similar Duties, Article 303-9, which recognises the criminal liability of legal persons. (s.d.).

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