



Pre-trial guilty plea procedure: Balancing Expedited Trial Proceedings with Ensuring the Rights of the Defendant

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ABSTRACT:

A pre-trial guilty plea is a new mechanism introduced by the Algerian legislature under Law No. 25-14. It enables certain minor criminal cases to be resolved quickly, provided the defendant clearly and unequivocally admits to the acts attributed to them. The aim is to reduce the burden on the judiciary, accelerate adjudication and achieve negotiated justice between the prosecution and the defendant.

For the pre-trial guilty plea procedure to be applied, several conditions must be met: the act must constitute a misdemeanour; it must not be one of the misdemeanours excluded under Article 540; and the defendant must make a clear and explicit admission of the facts. Furthermore, this admission must be made in the presence of the public prosecutor (agent du procureur/procureur de la République).

The pre-trial guilty plea procedure does not apply in certain situations, including when the potential penalty exceeds five years. It is also not applicable to certain crimes specified in particular provisions of the Penal Code, such as serious offences against the state and offences against persons where the victim is a child or vulnerable person.

In practice, the public prosecutor proposes an appropriate penalty to the defendant. If the defendant accepts, a special record containing all the required details, such as identity information, the facts, legal characterisation and the penalty, is drawn up. If the defendant rejects the proposal, the case returns to the ordinary course of action, either towards trial or investigation depending on the procedural stage.

The defendant's case is then brought before the court, where the judge verifies that all procedural requirements have been met. The judge either endorses the record, in which case it becomes an enforceable criminal and civil instrument, or refuses to endorse it. In the latter case, the file is returned to the prosecution to proceed under normal procedures.

Keywords: pre-trial guilty plea, defendant, public prosecutor, record of admission.

Introduction

Modern judicial systems have witnessed a significant development towards the adoption of rapid and simplified procedures for resolving disputes, particularly in criminal matters, where delays have



negative consequences for both individuals' rights and the functioning of the judicial system. One of the most notable features of this development in Algerian legislation is introduced by the new Criminal Procedure Code (Law No. 25-14). Enacted by the legislator on 3 August 2025, this law is commonly referred to as the procedure of pre-acknowledgment of guilt. The mechanism is primarily designed to reduce time and procedural steps in cases where there is no substantial dispute regarding the facts. This procedure is regulated within Articles 544 to 548 of the Criminal Procedure Code, forming an integrated procedural system with both advantages and disadvantages. The topic of assessing procedures related to the pre-acknowledgement of guilt raises a central problem, expressed in the following question: To what extent has the Algerian legislator succeeded in reducing delays in proceedings and safeguarding the rights of the accused by adopting this procedure?

To answer this question, we will examine the pre-acknowledgment of guilt procedure in three sections. The first section will address the theoretical framework of the procedure, the second will discuss the legal guarantees it provides, and the third will evaluate the procedure.

In terms of the methodologies we relied upon, we employed the descriptive method to identify the definitions of certain legal terms, and the analytical method to analyse the legal provisions contained in the new Criminal Procedure Code (Law No. 25-14), which is the subject of our study. Our study is limited to Articles 539 to 548, comprising approximately ten provisions.

Section One: Theoretical Framework and Legal Procedures for Pre-acknowledgement of Guilt

In this section, we first address the concept of acknowledgement, then distinguish between the formal and substantive conditions, and finally explain how the acknowledgement procedure is approved, since such approval is a prerequisite for the procedure's validity.

Requirement One: The Concept of Pre-acknowledgement of Guilt

The Algerian legislator adopted a system based on pre-acknowledgement of guilt in Law No. 25-14, thereby aligning with contemporary criminal policy mechanisms. The system aims to accelerate the adjudication of cases and reduce the number of cases heard by the misdemeanour divisions of courts of first instance. This approach was first adopted in Anglo-Saxon countries and later by the French legislator in 2004. (Al-Hayy, 2025, p. 712).

The Algerian legislator did not define the procedure relating to pre-acknowledgement of guilt in Law No. 25-14 of the Criminal Procedure Code. Instead, Article 539 provides that the Public Prosecutor may resort to this procedure either automatically or upon the request of the accused or their lawyer, provided that the person concerned has acknowledged the criminal facts attributed to them in a sound and unambiguous manner. (Criminal Procedure, 2025, Article 539).

Furthermore, the Algerian legislator excluded the application of this procedure to misdemeanours whose maximum penalty exceeds five years, as well as to misdemeanours provided for in Chapters Two, Three and Four of Part One of Book Three, and in Parts One and Three of Chapter One of Part Two of Book Three of the Penal Code.



Upon examining the misdemeanours referred to in Article 540, we find that the Algerian legislator excluded the following misdemeanours:

Branch One: Misdemeanours provided for in Chapters One, Two, Three and Four of Part One

These misdemeanours concern offences against the public interest and include offences such as unlawful assembly and acts of violence against the State. Negotiation is not permitted regarding these crimes due to the danger they pose to public interest as a whole and not to specific individuals.

Branch Two: Misdemeanours stated in Article 85, paragraph 4

These concern crimes involving transnational organised crime, as well as crimes related to information and communication technology, money laundering, exchange regulation offences, and corruption. (People's Assembly/Official Text, 2025, Article 85, paragraph 4).

Branch Three: Crimes committed against children, as well as misdemeanours committed against a victim belonging to a vulnerable class

This applies where the victim is vulnerable due to physical or health disabilities, young age, or apparent or known pregnancy to the perpetrator. The legislator seeks to protect this category given their lack of capacity to protect themselves. In addition, Algeria is party to international conventions regarding such protection.

Branch Four: Misdemeanours subject to special follow-up procedures

In these cases, prosecution is restricted such that it may only proceed on the basis of a prior complaint, request or authorisation.

This procedure aims to achieve 'economy in litigation' by giving the accused the option of ending the case immediately and decisively in exchange for a typically reduced penalty, thereby reducing the burden on the criminal courts. It also represents a consensual formula — a settlement arrangement — between the prosecuting authority, represented by the public prosecution, and the accused.

Requirement Two: Formal and Substantive Conditions

For this procedure to be valid, the law requires strict formal conditions to be met. If these conditions are not met, the procedure will be void. These conditions are:

Branch One: Granting the accused an opportunity to reflect and respond within five days.

In accordance with Article 542 of the Criminal Procedure Code, the accused must be granted an adjournment of up to five days to reflect and respond. During this period, the accused may also request that a term of imprisonment be replaced with an alternative penalty, subject to the conditions provided for in the Penal Code. (Criminal Procedure, 2025, Article 542).

The Public Prosecutor plays an active role in promoting the pre-acknowledgement of guilt procedure, overseeing it from beginning to end and initiating it either automatically or upon the request of the accused or their lawyer.

Branch Two: Recording acceptance in a written record

The procedure must be documented in an official record (minutes) and signed by the accused, who must express their free and voluntary agreement, and the Public Prosecutor. The Public Prosecutor



proposes the appropriate penalty, provided it complies with the limits set out in Article 541 of the Criminal Procedure Code.

In addition, the court clerk (officer of the registry) must also sign the record. The clerk acts as a witness to the validity and formal correctness of the procedure, and without their signature, the record is not valid from a formal standpoint. (Ayman, 2025, pp. 507–522).

Branch Three: The pre-acknowledgement of guilt record must contain specific information.

Article 544 of the Criminal Procedure Code requires the record to include specific data, most notably:

- The accurate identification of the accused;
- The precise description of the facts of the offence;
- The circumstances in which the offence was committed;
- And an express acknowledgement by the accused.

This express acknowledgement is considered a necessary condition to prevent any future denial by the accused.

Additionally, the record must provide the correct legal characterisation of the facts attributed to the accused, meaning the determination of the charge and the relevant provision in the Penal Code or its supplementary laws under which the act is punishable. Finally, the record must state the penalty proposed by the Public Prosecutor and the accused's explicit acceptance of that penalty.

Requirement Three: Oversight and approval of the pre-acknowledgement procedure

The law is not limited to an agreement between the prosecution authority and the accused. Instead, it requires the case file to be presented to the trial judge, who acts as guardian of legality and guarantor of a fair trial. First, the judge must verify the correctness and integrity of the procedures, and then hear the accused (and their lawyer, if present) and the victim during a public hearing.

The judge must also confirm that the accused's acknowledgement is genuine and corresponds to the facts for which the accused is being prosecuted. The judge then reviews the legal characterisation of those facts. Finally, the judge verifies the legality of the penalty proposed by the Public Prosecutor and assesses whether it is appropriate for the offence committed by the accused.

Based on this, the judge will either:

approve the record, in which case it becomes an enforceable instrument; or

- Refuse to approve it. In this case, the file is returned to the prosecution as though the procedure had not been carried out from the outset.

If the judge approves the record, they verify the soundness of the procedures, hear the accused and their lawyer (if applicable), and then hear the victim. After that, the judge rules on both the public and civil claims by means of a single judgment that is subject to appeal. The French legislator adopted this approach as well; however, French law differs from Algerian legislation in that it requires the judgment to be reasoned, taking into account the circumstances of the offence and the accused's personal situation. (Chattri, 2025, pp. 460–479).

If the judge refuses to approve the record because it becomes apparent that the accused's acknowledgement is invalid or the penalty proposed by the Public Prosecutor is unlawful, then pursuant to Article 545 of the Criminal Procedure Code, the case file is returned to the Public



Prosecution, the authority responsible for prosecution, to take whatever measures it deems appropriate in accordance with the law. In such a situation, the detention order remains effective until the time limits for appeal expire. If no appeal is lodged, the Public Prosecutor must act on the file within five days; otherwise, the accused must be released. (Criminal Procedure, 2025, Article 545).

Section Two: Legal Effects and Guarantees Associated with the Procedure

In this section, we will address the legal effects of approving the immediate appearance (pre-acknowledgement) procedure and then discuss the legal guarantees afforded to the accused.

Requirement One: Legal Effects of Approval

The Algerian legislator introduced the system of immediate appearance, which, according to the researcher, resembles the previously known system of plea bargaining/conciliation in criminal procedure to a significant extent. The purpose of this system is to promote consensual justice and speed up the resolution of public criminal cases. However, a judicial decision confirming these steps is still required.

This is reflected in Article 547 of the Criminal Procedure Code, which states that: ‘The judgment or decision approving the record constitutes a judgment or decision of conviction and an enforceable instrument in both its civil and criminal aspects’.

This judgment therefore concludes the public criminal case and resolves the civil claim concerning compensation for the victim in the same way as a normal judgment. Consequently, it saves time and effort compared to ordinary trial procedures and helps reduce the backlog of cases at the misdemeanour division of courts of first instance. (Criminal Procedure, 2025, Article 547).

The immediate appearance system encourages cooperation with the justice system. In return, the accused obtains certain advantages, most importantly a reduced penalty. Conversely, the state secures its right to impose a criminal sanction and the victim obtains the right to civil compensation within a short period through simplified procedures.

Requirement Two: Legal Guarantees for the Accused

The legislator was keen to clarify important guarantees safeguarding the rights of the accused. The most significant of these are the guarantee of appeal and the guarantee against retracting the acknowledgement in the event that the trial judge refuses to approve it.

Branch One: The Guarantee of Appeal

The accused, the Public Prosecutor (the prosecuting authority) and the civil party may all appeal the decision to approve the record or refuse approval. The Court of Appeal (Council of Judicature/Majlis al-Qada’) must rule on the appeal within two months of its registration, provided the accused is detained.

If the Court of Appeal cancels the decision to approve the record or confirms the decision to refuse approval, it must then decide whether to detain or release the accused.

Second Subsection: Guarantee against retraction of the confession in case of rejection

This is a fundamental guarantee. If the judge refuses to approve the agreement containing the prior admission of guilt, the record is withdrawn from the file and cannot be used for any subsequent charges against the accused. The aim is to encourage the accused to use this procedure without fear



of admitting guilt only for the approval to be refused, resulting in the confession being used against them. This is what Article 548 provides. (Criminal, 2025, Article 548).

Third Subsection: Separation between the authority to order detention and the authority to try the case

The judge who ordered pretrial detention cannot rule on the approval itself. This is intended to ensure the judge's impartiality and the integrity of the trial. (Criminal, 2025, Article 542).

Chapter Three: Evaluation of the System of Prior Admission of Guilt

In this chapter, we evaluate the procedure for the prior admission of guilt by first examining its advantages (the first requirement) and then its disadvantages (the second requirement).

First Requirement: Advantages of the System of Prior Admission of Guilt

In the researcher's view, the most important advantages of the system of prior admission of guilt can be summarised as follows:

- Reduction of the period of detention: It prevents the accused from remaining in pretrial detention for extended periods while awaiting trial.
- Reinforcement of the rights of the defence: it ensures the right of the accused to retain counsel and communicate with their lawyer, and allows time to prepare their defence. It also guarantees the right to discuss the charges and confront the evidence directly.
- The possibility of trying the accused while at liberty: in certain cases, the judge may keep the accused in a state of release during the trial rather than placing them in a penal institution.
- Mitigating the negative effects of the offence: Rapid resolution of offences restores reassurance to society and reduces the danger posed by the crime committed.

Strengthening the role of the judiciary

This gives sentencing judges broader authority to restrict liberty or pronounce an acquittal based on the circumstances of the offence. Therefore, it is impossible to deny the essential role of the judge in ensuring the legality of the procedure through their approval of the record, which gives the approval direct enforceability. However, the judge does not have the power to amend the contents of the record.

- Faster compensation for material damages: This procedure enables victims to obtain their civil rights and possible compensation without prolonging the dispute.

Second Requirement: Disadvantages and limitations of the system of prior admission of guilt

- Risk of convicting the innocent: An innocent defendant may feel compelled to plead guilty due to threats of a harsher penalty if they are found not guilty, particularly if they lack the financial means to afford an effective defence.
- Coercion and pressure: Investigative authorities may threaten to impose the maximum sentence to pressure the accused into admitting guilt.
- Transparency and fairness: The system may lack transparency as settlements are made behind closed doors, which can lead to inconsistent judgements in similar cases.

The procedure focuses on concluding the case and closing files rather than fully uncovering the truth.

Conclusion



The procedure of prior admission of guilt is a modern and effective legal mechanism for expediting the resolution of cases. It constitutes an alternative to the ordinary trial procedures in minor offenses; however, it remains a double-edged instrument. While it achieves a significant level of efficiency, it also entails real risks to the guarantees of a fair trial if the safeguards associated with it are not strictly respected.

From this study, we have reached the following conclusions:

- The judge's discretionary authority: the sentencing judge plays an important role in approving the record of prior admission of guilt. This approval gives the record enforceable force, similar to that of an ordinary judgement.
- Granting time to reflect: providing the accused with at least 24 to 48 hours to consider the public prosecution's offer before giving final consent.
- The presence of counsel: Requiring the accused to be represented by a lawyer before signing the record of admission of guilt, to ensure they understand the effects of this procedure. We consider this to be a practical implementation in the field.
- Voluntariness of the admission: requiring the public prosecutor and the trial judge to verify that the admission is made expressly and of the accused's own free will, without any pressure or coercion.
- Confidentiality of refused procedures: if the judge does not approve the record of admission, it must be withdrawn immediately and treated as if it had never existed. Moreover, it may not be used as evidence against the accused in an ordinary trial.
- Legal awareness: Launching awareness campaigns for litigants to explain how the system works and its advantages, to prevent exploitation arising from a lack of knowledge of legal procedures.
- Mechanism for challenging decisions under this system: This safeguard is important in limiting the potential for injustice or arbitrariness by the court of first instance. Accordingly, a second degree of appeal should be available at the level of the Appellate Judicial Council.

Recommendations:

- Preliminary consultation: enable the accused to meet their lawyer freely and receive sufficient legal advice before the trial begins.
- Preparation period: Granting the judge the authority to automatically adjourn the hearing if the defence requests time to prepare their case, to prevent any violation of the right to a fair trial due to the speed of the procedure. The lawyer's role in these proceedings should be activated and the accused encouraged to seek counsel before signing any record.
- Legal awareness of litigants: informing litigants of their full rights under this procedure, particularly the safeguard guaranteeing that the admission cannot be retracted.
- Strengthening the lawyer's role: Activating and reinforcing the lawyer's role in these proceedings, and encouraging the accused to consult counsel before signing any record.

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