The Expedited Adjudication Procedure (*Seri Muhakeme Usulü*) in Turkish Criminal Procedure[1]

O procedimento de julgamento expedito (seri muhakeme usulü) no processo penal turco

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Abstract: In 2019, the Turkish legislature introduced a negotiated justice scheme for non-serious offences, which resembles to some extent the Italian *patteggiamento* and the *French plaider coupable* procedures, which in turn have been inspired by the guilty plea procedure of common law jurisdictions. This novel institution is called expedited trial procedure (*seri muhakeme usulü*), which primarily takes place at the investigation stage, culminating towards an official offer that needs to be sealed off by a judge at the trial stage. It has started to gain practical relevance since at least 2021. The present article shall explore this negotiated justice mechanism by putting it briefly into the European context and providing a bird's-eye view of the existing alternative case disposition mechanisms in the Turkish criminal procedure. The article shall then focus on matters relating to the requirements for applying the procedure and the procedural guarantees foreseen by the legislature. The work will also analyse the role of the prosecutor and the judge, which has been enhanced by a Constitutional Court Judgment in 2021 that resulted in an amendment of the existing legislation to expand the possibilities of

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the judge for reviewing the sentence proposal made by the public prosecutor. Finally, the article provides statistics regarding the institution's application in practice.

Keywords: Plea Bargaining; Negotiated Justice; Expedited Adjudication Procedure (*Seri Muhakeme Usulü*); procedural rights; Turkish Criminal Procedure.

Resumo: *Em 2019, o legislador turco introduziu um regime de justiça negociada aplicável a infrações de menor gravidade, o qual guarda certa semelhança com o patteggiamento italiano e com o procedimento francês de plaider coupable, ambos inspirados, por sua vez, no guilty plea dos ordenamentos de common law. Essa nova instituição denomina-se procedimento de julgamento expedito (seri muhakeme usulü), que se desenvolve predominantemente na fase de investigação, culminando em uma proposta oficial que deve ser homologada por um juiz na fase judicial. O instituto passou a adquirir relevância prática ao menos desde 2021. O presente artigo tem por objetivo examinar esse mecanismo de justiça negociada, situando-o brevemente no contexto europeu e oferecendo uma visão panorâmica dos mecanismos alternativos de resolução de casos existentes no processo penal turco. Em seguida, o artigo concentra-se nos requisitos de aplicação do procedimento e nas garantias processuais previstas pelo legislador. A pesquisa analisa, ainda, o papel do Ministério Público e do juiz, o qual foi reforçado por decisão da Corte Constitucional em 2021 que resultou na alteração da legislação para ampliar a possibilidade de controle judicial da proposta de pena apresentada pelo Ministério Público. Por fim, o artigo apresenta dados estatísticos sobre a aplicação prática do instituto.*

Palavras-chave: *Plea bargaining; Justiça negociada; Procedimento de julgamento expedito (Seri Muhakeme Usulü); direitos processuais; Processo Penal Turco.*

1. Introduction: Background and Context

In 2019, the Turkish legislator introduced two novel institutions into the criminal justice system. The first of these institutions is the "abbreviated procedure" (*basit yargılama*). This procedure is based upon a trial on the basis of the investigative file, according to which the defendant

waives his right to a full-fledged trial, and in return, the defendant is, taking into account the particular circumstances, given a one-quarter reduction of sentence. Initiation of this procedure is under the judge's discretionary powers, and it may be applied, as a rule, for all crimes with a maximum prison sentence of two years or less. This process is akin to the Italian *giudizio abbreviato*, which is initiated by the defendant.[3] In this new type of procedure, the judgment is rendered based upon the written dossier, and in return, the sentence will be reduced by one-third.

The other procedure introduced with the abbreviated trials was the expedited adjudication procedure (*seri muhakeme usulü*), which is the subject of the present inquiry. This procedure takes place at the investigation stage and is initiated by the public prosecutor. This procedure shall be applicable solely for an exclusive list of offences. If the suspects agree to the initiation of proceedings, the public prosecutor shall reduce the sentence by one-half, and once the judge seals off the judgment, it will become final.

As Turkey belongs the Continental European tradition of the mixed criminal procedure system which consists mainly of an inquisitorially driven investigative and an accusatorial trial phase, which is marked by the principles of orality and public trial.[4] It is the trial phase where in accord with the principle of immediacy the truth finding function meant to be exercised by judges. It is therefore no surprise that the creation of such a negotiated justice mechanism, which transfers some significant judicial functions to the investigative phase, put more concretely, to the prosecutor, has met with criticism, and the institution has been regarded at times as incompatible with the basic tenets of the Turkish criminal procedure. That said, despite having been applied only since 2020, both institutions are well-received by the public prosecutors and judges. Indeed, according to the statistics of the Ministry of Justice, since 2020, 986.739 cases have been resolved through the abbreviated procedure, and 472.183

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[3] DI AMATO, Astolfo, FUCITO, Federica. *Criminal Law in Italy*. Alphen ann den Rijin: Wolters Kluwer, Fourth Edition, 2020, p. 186 ff.

[4] GÖLCÜKLÜ, Feyyaz. *The Turkish Code of Criminal Procedure*. London: Sweet & Maxwell, 1962, p. 1 ff; YENISEY, Feridun. *Criminal Law in Turkey*. Alphen aan den Rijn: Wolters Kluwer, Second Edition, 2021, p. 173.

cases have been resolved through the expedited procedure.[5] Furthermore, each year, the use of these procedures steadily increases[6], which, among others, is a strong sign that such procedures are here to stay.

Moreover, the expedited adjudication procedure is applicable in cases with more or less clear and straightforward, which would be indicted without much investigative effort, and by excluding serious offences from the institution's scope, the Turkish legislator has sought not to impair the truth-finding aspect concerning serious offences. Resembling the Italian *patteggiamento* and the French *plaider coupable*[7], this new institution has been introduced, as it were, as a pilot scheme, the scope of which would be expanded as the French and Italians did for their corresponding institutions along the way.[8] Those well-versed in the aforementioned negotiated justice mechanisms shall detect similarities among these institutions without much effort. It needs to be emphasised, however, that the French institution, which is marked by its detailed regulation and its emphasis on the preservation of the essential requirements of fair process within the margins of a negotiated justice mechanism, is more visible if one ventures to compare the Turkish expedited adjudication procedure and the French *plaider coupable*. By choosing primarily the French model of negotiated justice, the Turkish legislator has favoured a prosecutor-centred model,[9] which is at its core inspired by the US-style plea bargaining but a restrained form of guilty plea

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[5] The Turkish Ministry of Justice, https://www.adalet.gov.tr/seri-muhakeme-ve-basit-yargilama-usulleri-basariyla-uygulaniyor_109682#:~:text=Seri%20muhakeme%20usul%C3%BC%20kapsam%C4%B1na%20giren,ertelenmesine%20karar%20verilmedi%C4%9Fi%20takdirde%20uygulan%C4%B1yor; accessed on 14 September 2025.

[6] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. Ankara: Seçkin, 2025, p. 687.

[7] For a through comparative analysis of such procedures see DELLA TORRE, Jacopo. *La Giustizia Penale Negoziata in Europa*. Milano: Cedam, 2019, passim.

[8] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü.* op. cit. p. 509.

[9] YILMAZ, Yeşim. *Ceza Muhakemesinde Pazarlık Yöntemleri ve Kovuşturmaya Alternatif Bir Yöntem Olarak Seri Muhakeme Usulü*. İstanbul: Der, 2022, p. 472; CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 731; YETIMOGLU, Melike Ezgi. "Türk ve Fransız Ceza Muhakemesi Hukuklarında Seri Muhakeme Usulüne Karşılaştırmalı Bakış". *Maltepe Üniversitesi Hukuk Fakültesi Dergisi*, 2019, n. 1, p. 15-56, p. 53.

procedures that has been adapted to the particularities and legal systems of the continental criminal procedural culture and primarily marked by a superior rights protection compared to its US counterpart.

Remarkably, the prosecutor-centred model, according to which plea agreements are entered into by the prosecution and the defendant and subsequently reviewed by a court, is probably the prevalent form of plea bargaining across Europe, including but not limited to France and Switzerland.[10]

In this article, we shall first provide a brief history of the legislation of these institutions and provide a brief background information regarding overall framework concerning trial waivers mechanisms. Afterwards, we shall provide a brief overview of the existing types of prosecutorial decisions and, above all, alternatives to trial. After setting the stage, we shall examine the conditions and process of applying the expedited adjudication procedure, and finally provide statistics regarding the institution's application in practice.

Including and implementing such procedures into the Turkish legal system in a very cautious and modest fashion aligns with the Continental European tradition regarding the negotiated justice mechanisms, like that of guilty plea procedures. Self-restraint of the legislator vis-à-vis negotiated justice mechanisms and the choice of models from the European experience, which, like the French *plaider coupable* marked by detailed regulation and restraint, appears to be a product of a wise evaluation process. Interestingly, the 2021 Judgment of the Turkish Constitutional Court helped to improve the quality of the institution by emphasising the role of the judge in proceedings.

2. Legislative History

Increasing backlog of cases has, as elsewhere, led the Turkish legislature to adopt new procedures which would shorten the trial process

[10] For a comparative analysis of the prosecutor-centred, the judge-centred and the law-centred models of plea bargaining see BOZBAYINDIR, Ali Emrah. The role of the judge in the European plea bargaining procedures: Three models compared. *The International Journal of Evidence & Proof*, v. 28, n. 3, p. 203-235, 2024.

and the expand the scope of already existing institutions which purported to be designed for this very purpose. In this vein, in 2016 the Ministry of Justice established an alternative dispute resolution unit the objective of which was envisaging new types of procedure as an alternative to full-blown trial, including negotiated justice mechanisms.

Despite the fact that the 2005 Criminal Procedure Code already included institutions like offender victim-mediation, suspension of prosecution or a very modest scheme of penal order by the public prosecutor, a review of the existing institutions and creation of new ones has become a priority. Thus, the legislator has expanded the scope the penal order and the suspension of prosecution of procedure.

In 2019, the legislator after emphasising the need for the creation of exceptions to the principle of mandatory prosecution and full-blown trial, has adopted the expedited adjudication procedure along with the abbreviated procedure. The legislator has emphasised its goal of shortening the trial process for minor offences by the creation of the expedited procedure and has made the following observations: "*similar prosecution tools are used in many Council of Europe member countries, particularly Germany and Italy, which embrace the mandatory prosecution principle, and France, which adheres to the opportunity principle. These procedures serve not only to alleviate the workload that strains the justice system, but also restore disrupted public order by providing a swift and effective response to minor crimes*."[11] The legislator then explicitly referred to the similar procedures in comparative criminal procedures:

> In German law, where the opportunity principle (prosecutorial discretion) began to be used more extensively with the radical changes in the 1960s and 1970s, there is currently a trial procedure applied if the defendant admits guilt under the name of "agreement between the court and the subjects of the trial" as stated in *Article 257c* of the German Code of Criminal Procedure. This institution is also present in Italy and France, which are in the Continental European legal system. *In France, where the institution in question is included in Articles 495-7 to 495-16 of the Code of Criminal Procedure,*

[11] 7188 sayılı Kanun Gerekçesi, https://www5.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d27/c018/ tbmm27018004ss0105.pdf, p. 8, accessed on: 7.9.2025.

> *under the name of "hearing upon preliminary acceptance of guilt", the suspect who admits to having committed the act in question and accepts the application of the procedure is usually brought to court on the same day and faces a lower sanction compared to the minimum sentence he would likely receive in the event of a traditional trial* [...]

The Turkish legislator, as it would have been seen above, in line with its long tradition instead of looking or borrowing directly from the US style plea bargaining, has meticulously analysed and inspired by functional equivalents of the guilty plea procedures in Continental Europe.[12] By adopting a prosecutor centred and imposing limitations on types of cases and on sentence benefits, the Turkish legislator has taken a cautionary step into realm of negotiated justice.[13]

3. A Brief Overview of the Types of Prosecutorial Decisions

Before delving into the specifics of the expedited procedure, it would be appropriate to provide a brief overview of the types of prosecutorial decisions in the Turkish criminal procedure. In general, the Turkish system has favoured a gradual model, which means that the prosecutor does not have the discretion to choose the type of procedure as he prefers. In order to prevent overlaps among different procedures, the system seeks to delineate each institution's precise scope. In other words, to apply the expedited procedure, the prosecutor should first consider the applicability of the suspension of prosecution in a given case.

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[12] For an overview of the US style plea bargaining see SLOBOGIN, Christopher. *Advanced Introduction to U.S. Criminal Procedure*. Edward Elgar: Chetenham, 2020, p. 179 ff.

[13] This approach is also akin to, for instance, the Italian approach, which Vicoli aptly describes as follows: " [...] It can be said that the Italian attitude toward 'negotiated justice' should not be one of complete rejection or uncritical acceptance; it should depend on the achievement of a balance between the demands for greater judicial efficiency and respect for constitutional principles." VICOLI, Daniele. Critical Aspects on the Italian Features Concerning "Negotiated Justice". In: CAIANIELLO, Michele, HODGSON, Jacqueline S. *Discretionary Criminal Justice in a Comparative Context*. Durham, North Carolina: Carolina Academic Press, 2015. p. 151.

Accordingly, the prosecutor has several alternatives, such as dropping the prosecution and issuing an indictment. The public prosecutor may drop a prosecution where he finds out that the act in question is not an offence or there is insufficient evidence. Otherwise, he should, as a rule, issue an indictment if he considers that there is sufficient evidence to support the prosecution; he shall issue an indictment after completing the investigation.

The exceptions to the rule of mandatory prosecution are regulated in the criminal procedure code, except for the penal order of the public prosecutor. Literally translated, pre-payment of a fine (*önödeme*) enables the public prosecutor to issue a penal order. The sanction issued by the prosecutor can solely be a fine. In this procedure, the court is not involved; the prosecutor is responsible for imposing the fine, thereby ending the case. According to Article 75 of the Turkish Penal Code, if the punishment for an offence is a fine or imprisonment for no more than six months, or the offence in question is one of those listed in the article, the public prosecutor proposes a fine to the suspect and sends him a payment order. If the suspect makes the payment, the case shall be dropped, and if the suspect refuses to make the payment, usual trial proceedings shall proceed further. It must be highlighted that the penal order procedures are not applicable if the case pertains to an offence subject to victim-offender mediation.[14] Recently, a rule concerning recidivism has been inserted into the ambit of the institution. That is, if the offender commits another offence which falls under the scope of the pre-payment, his fine shall be increased by one-half. However, re-committing certain offences within five years shall bar the prosecutor from applying to the institution.[15]

Remarkably, the Turkish legislator has created, as it were, a domain reserve for non-serious offences prosecuted upon the aggrieved party's complaint, that is, the institution of mediation, typical cases for this institution are minor bodily injury or defamation. Yet, defamation has recently been removed from the institution's scope and it is now treated within the ambit of the pre-payment. Mediation was first introduced into

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[14] YENISEY, Feridun. *Criminal Law in Turkey*. op. cit. p. 193-194.

[15] See the Turkish Penal Code, article 75 para. 6; YENISEY, Feridun. *Criminal Law in Turkey*. op. cit. p. 194.

the Turkish legal system around 2002 and has found its place in the new criminal procedure code. It rests on the idea that a neutral mediator seeks to reconcile the aggrieved party and the suspect or defendant during the negotiations. The agreement between the parties in most cases takes the form of payment of a sum of money to the aggrieved party to compensate for his damage. The public prosecutor's office has taken on the task of conducting this procedure, and if the proceedings were concluded successfully, he would drop the prosecution.[16]

Another alternative to prosecution, which is also a precondition for the application of the expedited criminal procedure, is the suspension of the prosecution. The public prosecutor, if the conditions are met, shall suspend prosecution for five years, and if the suspect refrains from intentional criminal offending during this probation period, the investigation shall be dismissed without any criminal record. Absentation from further intentional offending is the sole condition of the institution and if the conditions are met the prosecution will be dropped. This procedure is only available to those with no criminal record for an intentional offence. To be suspended, the offence under investigation should require a penalty longer than three years. The losses of the victim or society may also be requested to be recovered by the suspect to the full extent as well.[17] Furthermore, crimes against sexual integrity, crimes against state officials and military offences are exempted from the scope of the procedure. At this juncture, a functionally equivalent institution to the suspension of the prosecution needs to be mentioned, which belongs to the trial phase, that is, the delayed announcement of the judgment. In cases where, at the end of the trial, the accused is sentenced to imprisonment of two years or less, or a fine, the court may decide to delay the pronouncement of the judgment.[18] This institution was the primary alternative case disposition mechanism until the creation of the expedited and simplified trial procedures. Nevertheless, the main caveat of this institution is that it can be implemented only when the full trial

[16] For an overview of the procedure see YENISEY, Feridun. *Criminal Law in Turkey* op. cit. p. 195 ff.

[17] YENISEY, Feridun. *Criminal Law in Turkey*. op. cit. p. 193.

[18] YENISEY, Feridun. *Criminal Law in Turkey*. op. cit. p. 265-267.

has been completed and the judge arrives at the conclusion that a guilty verdict is required. Thus, the creation of the expedited adjudication procedure would also be regarded as an adjustment of the division of labour between the prosecution and the judicial bodies, which to be sure involves a transfer of powers from the judge to the prosecutor.

Accordingly, the public prosecutor, first, must exhaust the question of the applicability of the suspension of the prosecution procedure, for the apparent reason that it is more favourable to the suspect. In case the procedure is non-applicable, the prosecutor shall examine whether the conditions for applying the expedited procedure have been met.

4. Conditions

The expedited adjudication procedure is extensively regulated under Article 250 of the Criminal Procedure Code, and its details were specified in the Expedited Trial Regulation, which has been subject to amendments since its introduction due to two Constitutional Court judgments regarding the institution. The extensive regulation of the procedure requires that a whole host of conditions to be met in order the procedure be applied. Only when all the statutory conditions have been fulfilled the public prosecutor may initiate the procedure.

First condition or precondition is, as shown above, that the public prosecutor must have determined that the suspension of prosecution would not be applicable in the concrete case. It would not be possible, for instance, suspending prosecution if the suspect was previously sentenced to imprisonment for an intentional offence or the public prosecutor has come to the conclusion that suspending the prosecution would not result in desistance of the suspect, he may proceed with the expedited trial procedure instead. Aside from the suspension of the prosecution institution the public prosecutor must have paid due consideration to the applicability prepayment or mediation to act under investigation. If the offence under question was within the ambit of these institutions, even though, these procedures have been commenced, but did not yield to settlement, this alone constitute a bar to the application of the expedited adjudication procedure.

In cases where the public prosecutor decides for not suspending the prosecution, he then must consider the applicability of the expedited trial procedure and probably he would first check whether the act in question would fall within the ambit of one the offences that have exhaustively enumerated in Article of 250 of the Criminal Procedure Code. In France, after the 2011 amendment, the scope of the *plaider coupable* was extended by the French legislator to offences punishable by up to ten years of imprisonment, which was previously five years.[19] That said, in some cases the institution shall not be applied, that is, under Article 495-16 of the French Criminal Procedure Code, the mechanism shall not be applicable "to minors under eighteen years of age, nor in matters of press offences, offences of involuntary homicide, political offences or offences for which the prosecution procedure is provided for by a special law"; the institution also not applicable, under Article 495-11 of the Criminal Procedure Code, to persons referred to the criminal court by the investigating judge. In Italy, within the scope of the application of the mechanism sentencing at the parties' request, the penalty to be applied would not exceed five years, even after the sentence reduction is applied.[20]

The catalogue of offences in Turkish Criminal Procedure Code read as follows:

1. Trespass (Art. 154, second and third paragraph);
2. Endangering public safety intentionally (Art. 170),
3. Endangering the safety of the road traffic (Art. 179, second and third paragraph),
4. Causing Noise (Art. 183),
5. Forgery of money (Art. 197, second and third paragraph),
6. Breaking the seal (Art. 203),
7. False declaration during issuance of an official document (Art. 206),

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[19] GILLIERON, Gwladys. Comparing plea bargaining and abbreviated trial procedures. In: BROWN, Darryl, TURNER, Jenia and WEISSER, Bettina. *The Oxford Handbook of Criminal Process*. Oxford: Oxford University Press, 2019. p. 703-727, p. 714.

[20] VICOLI, Daniele. Critical Aspects on the Italian Features Concerning "Negotiated Justice". op. cit. p. 145.

8. Providing a place or opportunity for gambling (Art. 228, first paragraph),
9. Utilising the identity or identity information of another person (Art. 268);
10. The crimes regulated under third paragraph of Art. 13 and first, second and third paragraphs of Art. 15 of the Code on Firearms, Knives and Other Tools dated 10.07.1953 and numbered 6136;
11. The crime regulated under first paragraph of Art. 93 of the Forestry Law dated 31.08.1956 and numbered 6831;
12. The crime regulated under of Art. 2 of the Code on Roulette, PinbalI, Table Football and Similar Tools and Machines for Games dated 13.12.1968 and numbered 1072;
13. The crime regulated under of subparagraph (1) of the first paragraph of Additional Art. 2 of the Code of Cooperatives dated 24.04.1969 and numbered 1163.

This list of offences contains several mass offences like drunk driving or carrying firearms and they are tried by court of assizes. Indeed, as it will be illustrated by the recent statistics above, the legislator appears to be chosen mass crimes in which guilty is rarely contested and in which there are in most cases no aggrieved party exists. Furthermore, if one peruses the abstract sentences foreseen by the offences maximum sentences varies between 1 to 5 years, which may also demonstrate the high level of abstract sentences. In general, the abstract sentences in Turkish criminal law are relatively higher than its Continental European counterparts.

The legislator preferred to subject predominantly the offences against the public where the victim is not a specific person and, in such cases, it is generally possible to complete the investigation with a report or a quick expert witness report without a detailed evidence search[21] which would also ease the job of the judge who would approve the prosecutorial offer based primarily upon the written dossier. This is a significant aspect

[21] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 508; YAVUZ, Hakan A. *Ceza Muhakemesinde Kovuşturmaya Alternatif Yöntemler*. Ankara: Adalet, 2020, p. 252

of the catalogue offences, for in order to proceed further the collected evidence should constitute sufficient suspicion to file an indictment regarding the offence in question. Thus, the public prosecutor has to initiate an investigation for a catalogue offence, and the collected evidence should constitute sufficient suspicion to make an indictment. There is an explicit rule on that matter in article 8 of the regulation which underlines that initiation of the expedited procedure does not absolve the prosecutor from investigating the material truth.

Even though the crime in question would be one of the offences on the list, the procedure still may not be applied if the suspect is a minor or mentally ill. In the original form of the article deafness and muteness was also a reason for the non-applicability of the institution. The legislator had equated them, in line with the penal code's regulations, to minors and mentally ill. Yet, the Turkish Constitutional Court in a recent judgment annulled the phrase "deafness and muteness" based upon the equality before the law arguments.[22] Accordingly, the institution as of today solely excludes minors and the mentally ill, which is a sound amendment on the ground that deaf and mute citizens shall possess the capacity to give consent to such a procedure, after a certain age at least. Thus, based on the principle of equality, this favourable institution is also available to those groups of suspects.

There are other restrictions with respect to the applicability of the institution, which further restricts the scope of application of the procedure. If, for example, there are other crimes in question which are outside the scope of the institution or if the crime has been committed jointly all suspects must have agreed to the application of the expedited procedure. Be it the suspect a co-perpetrator, an instigator or merely an aider or abettor, unless all the suspects agree to the application of the procedure into their case, the expedited procedure may not be initiated. Rationale for this limitation would be preventing an adverse effect on the institution's aspired practicality and preventing a possible sentence disparity among the offenders of the same crime. Likewise in accord with

[22] The Turkish Constitutional Court, Judgment published on 10 March 2025 in the Official Gazette (E: 2024/66 K: 2024/188 T. 5/11/2024 R.G.Tarih-Sayı: 10/3/2025-32837).

article 250 para. 11 of the Code of Criminal Procedure the expedited adjudication procedure does not apply if a crime falling within this scope is committed together with another crime that is not one of the offences within the ambit of the institution.

Likewise, article 250 of the criminal procedure code forbids an in-absentia application of the procedure; and hence, if the suspect is not present at the declared address or he is abroad or cannot be reached for any other reason, the procure shall not be applied.

5. Procedure

Once the public prosecutor determines that the preconditions for the application of the expedited procedure have been met, he shall initiate *ex officio* the further proceedings as set out the article 250 of the criminal procedure code and the regulation. As a rule, the expedited procedure of the sentence proposal and the approval hearing phases.

5.1. The Sentence Proposal Phase

In the prosecution or sentence proposal phase, the prosecutor must first investigate the evidence to establish sufficient suspicion of the crimes covered by the expedited procedure.[23] When the prosecutor reaches sufficient suspicion, the prosecutor must carry out some procedures for the application of the expedited trial procedure: Inviting the suspect, informing the suspect about the expedited trial procedure, determining the sanction to be imposed and proposing it to the suspect; upon acceptance of the proposal by the suspect in the presence of his defence counsel, the prosecutor prepares a written request to be reviewed by the court.

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[23] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü.* op. cit. p. 500-501; KARAKEHYA, Hakan and INCE TUNCER, Asuman. *Türk Ceza Muhakemesinde Seri Muhakeme ve Basit Yargılama*. Ankara: Adalet, 2021, p. 31-32; KIZILARSLAN, Hakan. "7188 Sayılı Kanun'la Ceza Muhakemesi Hukukuna Getirilen Seri Muhakeme ve Basit Yargılama Usulleri". *Bahçeşehir Üniversitesi Hukuk Fakültesi Dergisi*, 2019, v. 14, n. 183-184, p. 1885-1960, p. 1916.

In order to apply the expedited trial procedure, the public prosecutor should first invite the suspect to inform him about this procedure before the offer. It is not possible to apply the expedited trial procedure if the suspect is not present. If the suspect does not give his assent to the application of the procedure or he cannot be reached out as explained above, the public prosecutor shall prepare a report which delineates the reason for non-applicability and resumes the ordinary investigation phase pursuant to general provisions. In Italy, it is also possible for a defendant to initiate such proceedings, and the public prosecutor shall consider the appropriateness of such a request.[24] In France, the *plaider coupable* procedure may be initiated by the prosecutor, the defendant or his counsel in accordance with article 495-7 of the French Criminal Procedure Code.[25]If the suspect accepts the invitation regarding the application the procedure, the public prosecutor or law enforcement officers will inform the suspect about the expedited trial procedure. The scope and method of the information which should be made before the offer is set forth under the Regulation. According to Art. 10 of the Regulation, the information should include:

a) the alleged acts, the crime concerning the acts, and that the crime is within the scope of expedited trial procedure,
b) that there is sufficient suspicion to file an official claim,
c) that this procedure will be applied if he/she accepts it with his/her free will in the presence of the defence counsel, and the principal punishment will be reduced by one-half,
d) that the court will make a judgment in accordance with the request regarding the sanction offered by the public prosecutor and that a motion of opposition may be filed against the judgment,
e) that the acceptance of the offer can only be made in the presence of the defence counsel, and if he/she does not

[24] VICOLI, Daniele. Critical Aspects on the Italian Features Concerning "Negotiated Justice". op. cit. p. 145.

[25] GILLIERON, Gwladys. Comparing plea bargaining and abbreviated trial procedures. op. cit. p. 714.

choose a defence counsel, one will be appointed regardless of his/her Will,

f) that he/she can renounce the application of expedited trial procedure at all phases of the procedure until the judgment of the court,

g) that the decision of the court will be recorded on the criminal registry,

h) that an indictment will be presented, and an official claim will be filed against him/her in accordance with the general provisions if he/she does not accept the application of this procedure,

i) that his/her declaration regarding acceptance of the expedited trial procedure and other documents related to the application of this procedure will not be used as evidence during investigation and prosecution if the general provisions are to be imposed.

The public prosecutor offering the expedited adjudication procedure should act as a quasi-judge when determining the sentence to be offered. He shall employ the general rules set out in the Criminal Code for the determination of the concrete sentence. Indeed, as it is explicitly regulated in article 250 para. 4 of the Criminal Procedure Code, the public prosecutor will determine the sanction by taking into account the factors specified in the first paragraph of Article 61 of the Turkish Penal Code, by applying a reduction of one-half from the basic penalty determined between the lower and upper limits of the penalty foreseen in the definition of the offence in question and from the penalty determined after applying, if appliable, the provisions regarding the so-called successive offence regulation in the general part. In other words, after identifying or, as it were, concretising the punishment as if he were a judge of the case, the public prosecutor shall reduce the sentence by one-half. Similarly in Italy, sentence of the defendant shall be reduced by one-third compared to what might be imposed after a full-blown trial.[26]

[26] MARAFIOTI, Luca. Italian criminal procedure: A system caught between two traditions. In: JACKSON, John, LANGER, Maximo and TILLERS, Peter. *Crime, Procedure and Evidence in Comparative and International Context*:

It is, indeed, a quite significant element of the expedited procedure that the suspect shall before giving his assent to the prosecutor's offer will know the punishment to be applied in his case, and thereby giving an informed consent to application of the institution into his case. Besides, the execution of the proposed sentence may be postponed under article 51 of the Turkish Penal Code.[27]

The offer made by the prosecutor within ambit of the aforementioned conditions must be accepted by the suspect. Article 250 para. Article 3 of the Criminal Procedure Code, like in French law,[28] stipulates that the presence of a defence counsel is mandatory in the expedited trial procedure..[29] The presence of a mandatory defence counsel is meant to guarantee the suspect's rights and enabling him to make an informed judgment regarding the offer. It is also worthy of note that the public prosecutor cannot suffice himself with making the offer solely to the defence counsel or accepted by the counsel alone, the offer must be made directly to the suspect himself in presence of his counsel. Likewise, the plea agreement will not be valid if accepted without legal assistance. A lawyer of one's own choice or a legal aid lawyer must be present, and it is impossible for the suspect to waive this right.

The offer must not be immediately responded by defendant, he will have a certain period for consideration. The length of this period is determined in article 10 para. 3 the Regulation according to which a reasonable period for consideration shall be granted to the suspect but in any event such a period shall not exceed a month. If the suspect does appear within the designated period without an excuse or declares that

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Essays in honour of Professor Mirjan Damaska. Oxford: Hart, 2008. p. 81-98, p. 89; VICOLI, Daniele. Critical Aspects on the Italian Features Concerning "Negotiated Justice". op. cit. p. 145.

[27] YENISEY, Feridun. *Criminal Law in Turkey*. op. cit. p. 199.

[28] GILLIERON, Gwladys. Comparing plea bargaining and abbreviated trial procedures. op. cit. p. 714.

[29] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü.* op. cit. p556; BOZALAN, M. Nureddin. *Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. Ankara: Yetkin, 2024, p. 99; SENOL, Cem. *Türk Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü (CMK m. 250)*. Ankara: Adalet, 2025, p. 92; BAYRAKTAR, Çiler Damla. *Karşılaştırmalı Hukukta Seri Muhakeme Usulü Almanya Örneği*. Ankara: Adalet, 2025, p. 212

he does not accept the offer, the investigation shall resume in accordance with the general provisions. In case of a rejection or not showing, the public prosecutor shall prepare a report regarding this and it will be added to the investigation dossier. Yet, article 5 para. 11 of the Regulation might be interpreted as a window of opportunity, in case he changes his mind. Indeed, according this provision the suspect may apply to the public prosecutor and request that the expedited trial procedure be applied until the issuance of the indictment. If such a request is made, the public prosecutor shall initiate the expedited trial procedure. Although, in the Turkish institution the public prosecutor ex officio initiates the procedure, this rule enabling a request by the suspect for the application of the procedure, enhances the consensual and negotiated nature of the institution.

In the event that the suspect accepts the offer of the public prosecutor, his case is brought to court. The public prosecutor shall prepare an approval request for the court, which must according to article 250 para. 8of the Criminal Procedure Code and article 12 of the Regulation, include the following information:

a) The Identity of the suspect and his defence counsel,
b) The Identity of the victim or the parties aggrieved due to the offence and, if any, their representatives, or legal representatives,
c) The offence alleged and relevant provisions of legislation,
d) The place, date and time perid in which the alleged offence was committed,
e) Whether the suspect is under arrest or not; if so, the dates of detention and arrest and their durations,
f) Summary of the events constituting the crime charged,
g) The information that the public prosecutor offered the application of this procedure and the suspect accepted the offer in the presence of his defence counsel,
h) The information regarding whether delayed announcement of the judgment, alternative sanctions to the imprisonment, suspension of the execution of the imprisonment have been applied in the present case.

5.2. The Approval Hearing Phase

After receiving the approval request, the court shall commence the approval hearing phase. It is worth noting that the Council of Judges and Prosecutors has assigned some departments among the criminal courts of first instance to handle solely the cases subject to expedited trial procedure according to Article 9 para. 5 of the Law on Judicial Organisation (Law Number 5235), thereby ensuring prompt treatment of the cases that are subject to this type of procedure. An approval request will be sent back to the prosecutor if a material error has been made regarding the determination of sentence or security measure. After the public prosecutor's correction of the deficiencies and errors, the approval request shall be redrafted and sent to the court. In cases where the court finds no reasons for rejecting the offer of the public prosecutor, the court shall proceed to the phase of hearing the suspect.

Although there are no evidentiary proceedings, the judge hears the offender and his lawyer, after reviewing the approval request regarding whether the conditions for the applicability of the procedure have been met. Put in more concrete terms, the judge according the formal conditions set out above shall verify that the act falls within the scope of the expedited trial procedure and that a conviction is warranted based on the available evidence in the file.

The court does not have the authority to expand the investigation to search for the truth or for the collection of new evidence and the hearing of witnesses.[30] Moreover, the judge may send back the offer to the prosecutor, if the acceptance of the suspect is not voluntary.[31]

Relatedly, the judge after checking the truth of the facts and their legal qualification may decide to approve the penalties proposed by the public prosecutor at a public hearing on the same day by means

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[30] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 596-597; ALDEMIR, Hüsnü. *Ceza Yargılamasında Seri Muhakeme ve Basit Yargılama Usulleri*. Ankara: Adalet, Second Edition, 2020, p. 176; ILDIRAR, Elif. *Seri Muhakeme Usulü*. Ankara: Seçkin, 2021, p. 183 ff.

[31] YENISEY, Feridun. *Criminal Law in Turkey*. *Criminal Law in Turkey*. op. cit. p. 199.

of a reasoned decision. Indeed, the expedited procedure rests on a model where the offer, the acceptance of the offer, preparation of the approval request and the court's hearing of the suspect are designed to take place on the very same day.[32]

In the original form of the institution, the judge's role was confined to validating or rejecting the agreement struck between the public prosecutor and the accused. Remarkably, in the original version it was clearly stipulated in article 250 para. 9 of the Criminal Procedure Code that the court would render a judgement "[...] *in line with the sanction specified in the written request* [...]" if the conditions were met. In this respect, the court did not have the authority to change the sanction specified in the written request prepared by the prosecutor. Nevertheless, after a judgment of the Constitutional Court in 2021, the law was amended by the legislator, and it now enables the judge to modify the prosecutor's proposal when he considers the sentence requested by the public prosecutor too high. In its judgment, which was rendered upon a concrete judicial review request by a first-degree court, the Constitutional Court annulled the phrase "[...] *in line with the sanction specified in the written request* [...]" as contrary to the principles of the exercise of judicial power by independent and impartial courts and the judge's judgement according to his personal conviction as set out in Articles 9, 138 and 140 of the Constitution. In the preamble of the amending legislation, it is clearly stated that the amendment was made pursuant to the annulment decision of the Constitutional Court. In this respect, considering the final version of the provision, the court may act in two ways if it concludes that the conditions specified in Article 250 para. Nine of the Criminal Procedure Code are present: In the first option, the court may accept the sanction specified by the prosecutor in the written request. In the second option, if the court considers that

[32] CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 547; YILMAZ, Yeşim. *Ceza Muhakemesinde Pazarlık Yöntemleri ve Kovuşturmaya Alternatif Bir Yöntem Olarak Seri Muhakeme Usulü*. op. cit. p. 360-361; KAPLAN, Metin. *Adil Yargılanma Hakkı Çerçevesinde Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. Ankara: Adalet, 2024, p. 75; SENOL, Cem, *Türk Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü (CMK m. 250)*. op. cit. p. 104-105.

the sanction specified by the prosecutor in the written request is severe, the court may make a judgment in line with the provisions of Article 250 para. 4 to article 250 para. 7 of the Criminal Procedure Code. Hence, *the judge may amend the request to impose a more lenient sentence*. Remarkably, the Turkish judge has now vested the authority to amend the sentence proposal in favour of the defendant. In doing so, the judge shall inevitably assess the evidence in the written dossier to make such a determination. Thus, the Turkish model has slightly departed from the French mother law, where the judge can neither impose nor propose a new sentence; the only available action for him is to send the dossier to be tried before the court (article 495-11 of the French Criminal Procedure Code).[33]

It is also remarkable that the Turkish Constitutional Court, like its European counterparts[34], sought to enhance due process guarantees within the framework of negotiated justice mechanisms. The Italian Constitutional Court, for instance, in a 1990 decision, sought to reinforce the role of the judge. Accordingly, in Italy, the judge must base their decision on the investigative dossier and cannot limit the evaluation to the formal aspects of the agreement. The judge must also evaluate the offer, taking due regard for the defendant's culpability.[35] More concretely as in Italy the judge shall apply a two-fold test. As aptly put by Luparia and Gialuz, the judge "must rule out that the accused person's innocence has been positively proven" and he must also verify that the offence to be applied corresponds to the defendant's action, that the sentence proposal is proper, and that the requested sentence is adequate.[36]

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[33] GILLIERON, Gwladys. Comparing plea bargaining and abbreviated trial procedures. op. cit. p. 715.

[34] For comparative analysis of the role of the constitutional courts in shaping negotiated justice mechanisms, see CZERWINSKA, Dorota. The role of the constitutional courts and ECtHR in shaping negotiated justice mechanisms – a comparative perspective. *Revista Brasileira de Direito Processual Penal*, v. 8 n. 1, p. 115-152, 2022. https://doi.org/10.22197/rbdpp.v8i1.681.

[35] VICOLI, Daniele. Critical Aspects on the Italian Features Concerning "Negotiated Justice". op. cit. p. 149.

[36] LUPARIA, Luca, GIALUZ, Mitja. Italian criminal procedure: Thirty years after the Great Reform. *Roma Tre Law Review*. 2019. p. 26-72, p. 65

5.3. Legal Remedies

In the expedited trial procedure, the persons who have a right to apply the legal remedies against the judgment of the court can only file a motion of objection as the legal remedy according to article 250 para. 14 of the Code of Criminal Procedure. According to the regulation, the objection authority will examine the objection regarding whether the statutory requirements for the application of the procedure have been met. In Italy, no appellate remedy is foreseen for the negotiated judgment, which shall be considered equivalent to a conviction. An appeal to the Court of Cassation shall be admissible only in certain circumstances in accordance with article 448, para. 2- bis of the Criminal Procedure Code.[37]

In Turkey, the standard of review, thus, is limited to whether the offer to the suspect has been made, whether the legal counsel was present, whether the conditions for the application of the procedure have been met, and whether the existing evidence in the dossier has been appropriately evaluated and the like. In case of a success in the motion of objection, the dossier shall be sent back to the public prosecutor, who will then resume the ordinary proceedings.[38]

5.4. The Exclusionary Rule

Inspired by the corresponding Italian institution, that is, application of penalty upon the request of the party, also in the Turkish expediated trial proceedings the acceptance of the offer by the suspect is not regarded as a confession or an admission of guilt.[39] Remarkably, whereas in the French model the defendant is expected to admit the crimes charged, in Italy the defendant's acceptance regarding the application of the mechanism into his case, resembling the *nolo contendere* plea in the

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[37] LUPARIA, Luca, GIALUZ, Mitja. Italian criminal procedure: Thirty years after the Great Reform. op. cit. p. 65.

[38] CENTEL, Nur and ZAFER, Hamide, Ceza Muhakemesi Hukuku. İstanbul: Beta, 22th Edition 2024, p. 634.

[39] Cf. DI AMATO, Astolfo and FUCITO, Federica. *Criminal Law in Italy*. op. cit. p. 188; CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü.* op. cit. p. 513.

Anglo-American law, implies that solely a waiver of the right to prove he is not guilty of the alleged offence.[40] According to Marafioti: "*the fact that a person can go to prison for up to five years when there is neither an admission nor a formal finding of guilt illustrates Italy's difficulty in reconciling plea bargaining with its civil law tradition*."[41] In any event, the defendant in Italy and Turkey waives his right to a fair trial, but without acknowledging his guilt concerning the alleged offence.

Accordingly, submission of the suspect regarding the acceptance of the expedited trial procedure shall not be used as evidence against him in later course of the trial.[42] It is worthy of note that in France, neither the defendant nor the prosecutor may make use of any statements made or documents given during the *plaider coupable* proceedings (article 495-14 of the French Criminal Procedure Code).[43]

Likewise in the Turkish expedited trial procedure, if the procedure collapses, the declaration of the suspect regarding his/her acceptance of the expedited trial procedure and other documents regarding the application of this procedure cannot be assessed as evidence during the subsequent investigation and prosecution. The rationale of this provision explained in the official reasoning as follows: "*If the Judge rejects the request for the application of the procedure for the reason that the requirements are not met or if the procedure cannot be applied for the reasons caused by the perpetrator, the principle is accepted that the perpetrator's statements for the purpose of the application of this procedure cannot be used as evidence in investigations and prosecutions, which will be subsequently conducted*". It is stated that "*Herewith, it is aimed to encourage the perpetrator who will accept the application of the procedure with the expectation of a moderate reaction from the judicial system*".

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[40] VICOLI, Daniele. Critical Aspects on the Italian Features Concerning "Negotiated Justice". op. cit. p. 150.

[41] MARAFIOTI, Luca. Italian criminal procedure: A system caught between two traditions. op. cit. p. 90.

[42] YENISEY, Feridun. *Criminal Law in Turkey*. op. cit. p. 199.

[43] GILLIERON, Gwladys. Comparing plea bargaining and abbreviated trial procedures. op. cit. p. 715.

6. Statistics

Tables 1 to 4 indicate the number of applications of the expediated adjudication procedure between 2021 and 2024.[44] The numbers indicate the successful disposition of cases through this procedure.

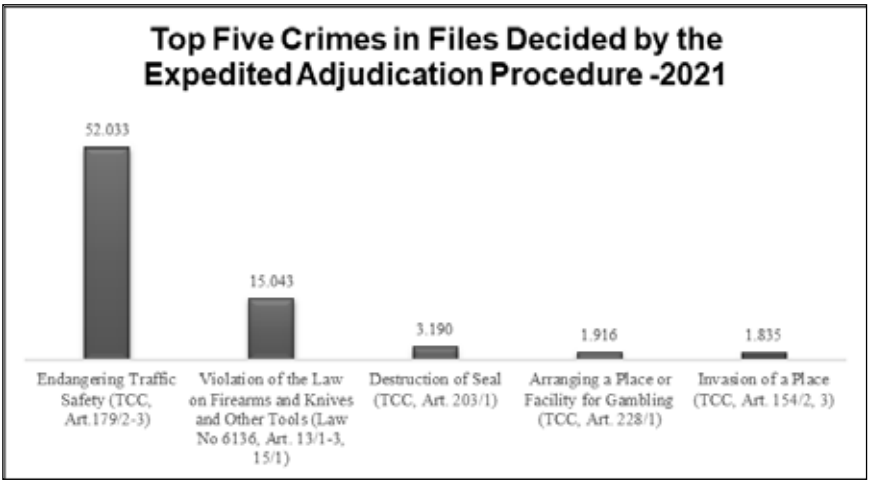

Table 1 Source: Turkish Ministry of Justice, General Directorate of Criminal Affairs, Statistics on the Expedited Adjudication Procedure for the Year 2021; CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü.* op. cit. p. 688.

[44] See further CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü.* op. cit. p. 688 ff.

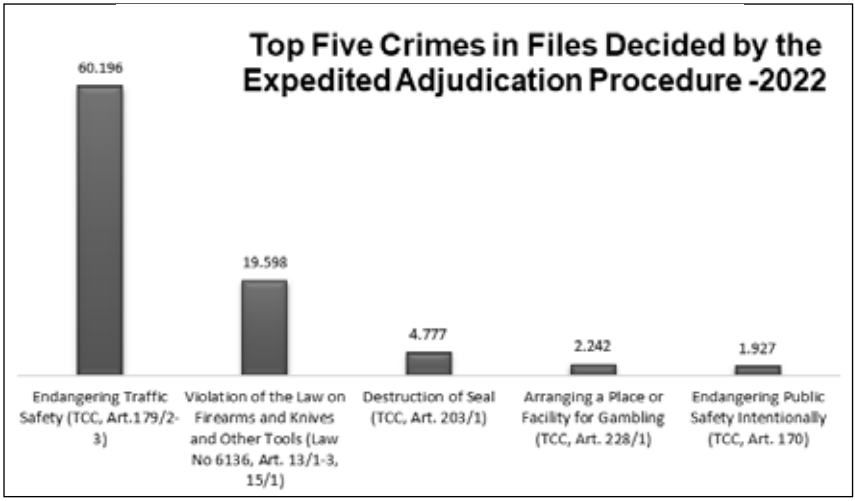

Table 2 Source: Turkish Ministry of Justice, General Directorate of Criminal Affairs, Statistics on the Expedited Adjudication Procedure for the Year 2022; CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 689.

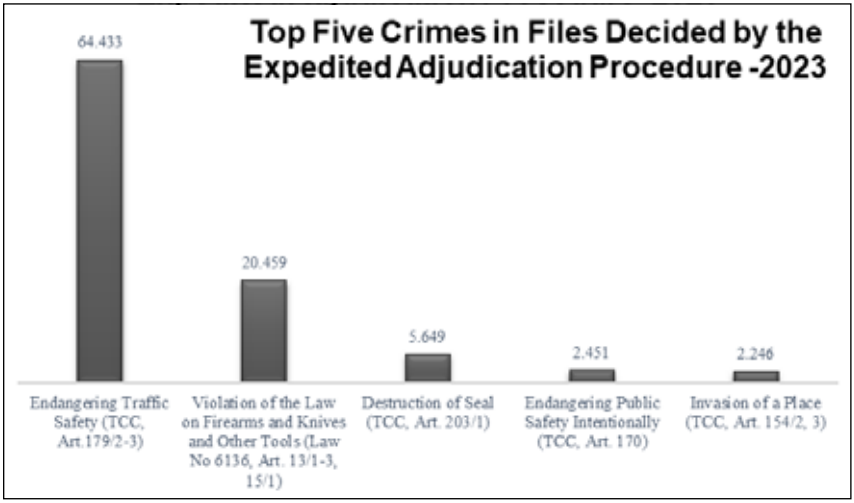

Table 3 Source: Turkish Ministry of Justice, General Directorate of Criminal Affairs, Statistics on the Expedited Adjudication Procedure for the Year 2023; CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 689.

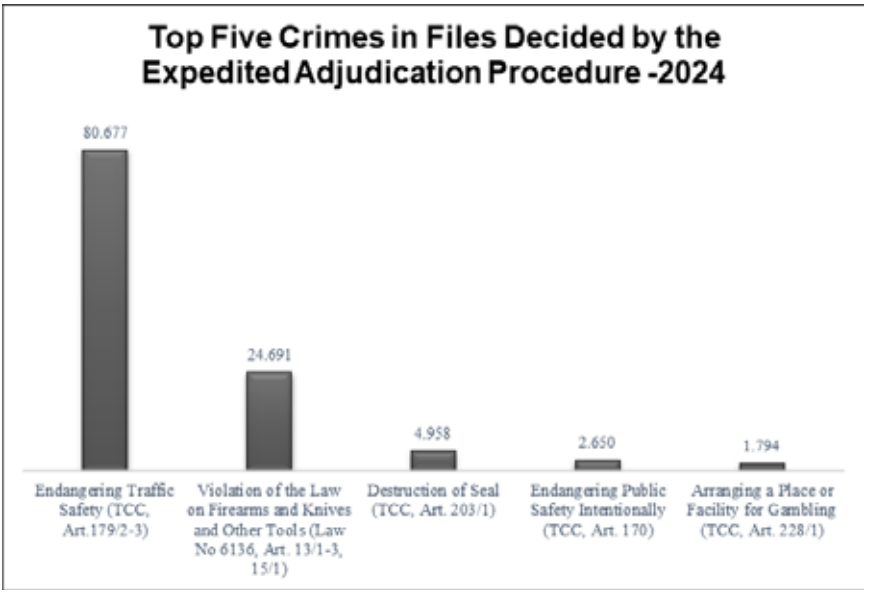

Table 4 Source: Turkish Ministry of Justice, General Directorate of Criminal Affairs, Statistics on the Expedited Adjudication Procedure for the Year 2024; CICEK, Tahsin Furkan. *Türk ve Mukayeseli Ceza Muhakemesi Hukukunda Seri Muhakeme Usulü*. op. cit. p. 690.

The above statistics show a consistent pattern of application where the expedited trial procedure is primarily applied in cases of driving a vehicle under the influence of alcohol, i.e., the so-called drunk driving and in cases of carrying firearms. These are mass crimes in which guilt is rarely contested and in which there are no injuries. It is worth noting that the French *plaider coupable* guilty plea is most commonly applied to these aforementioned offences.[45]

[45] See HAMDAN, Stephanie. *Absprachen im französischen Strafverfahren? Das Verfahren der Comparution sur reconnaissance préalable de culpabilité*. Baden-Baden: Nomos Verlag, Baden-Baden, 2018, p. 70; For an analysis of the practical application of the negotiated justice mechanism in France and Italy see LUPARIA, Luca, GIALUZ, Mitja. Italian criminal procedure: Thirty years after the Great Reform. op. cit. p. 66-67; GILLIERON, Gwladys. Comparing plea bargaining and abbreviated trial procedures. op. cit. p. 715.

6. Concluding Remarks

In order to cope with growing caseloads, the Turkish legislator has been implementing recent changes and novel institutions displaying a clear tendency towards providing alternative proceedings, while at the same time trying to uphold the procedural principles and guarantees intact. The expedited procedures, as has been shown above, are one of the most remarkable novums in this realm through which the prosecutors slipped into the role of decision makers, which requires the existence of adequate procedure safeguards. The Turkish model of negotiated justice has favoured a prosecutor-centred model inspired primarily by the French and Italian institutions, which have markedly put a greater emphasis on procedural guarantees within the ambit of such a negotiated justice mechanism. For the time being, the Turkish institution's scope is delimited to an exclusive list of offences, of which drunk driving and carrying firearms account for the practical relevance of the institution. Having said that, like the French and Italian models' development, once introduced, the scope of negotiated justice mechanisms tends to grow in waves of expansion, which is a decision, to be sure, made by the legislature. In other words, the Turkish legal system now has a solid background and framework for a prosecutor-centred negotiated justice mechanism, which is here to stay and the scope of which shall, inevitably, be expanded, if not too soon.

It needs to be of course emphasised that the Turkish legal system and tradition is the Turkish guilty plea procedure, like its French counterpart, which involves less negotiation, perhaps none at all. We contend that this could be explained by the hierarchical structure of the Continental criminal procedure tradition to which Türkiye belongs. As aptly put by Damaska, "*to grant the defendant a standing to negotiate with state officials over the sentence to be imposed is truly offensive to Continental ideas on the proper administration of criminal justice*."[46] Yet in order to be considered a variant of plea bargaining or a negotiated justice mechanism, the existence of an actual bargain is not viewed as

[46] DAMASKA, Mirjan. *The Faces of Justice and State Authority*. New Haven: Yale University Press, 1986.

an absolute requirement. Ortman highlights this aspect very well: "*the term plea 'bargaining' notwithstanding, nothing in the definition requires actual bargaining [...] This dynamic has led one commentator to explain that the term 'plea bargaining' is actually 'something of a misnomer'*".[47] In other words, the Continental forms of negotiated justice, thus, resemble a store with fixed prices rather than an Oriental Bazaar where deals struck mostly by haggling. The Turkish model of negotiated justice is marked by detailed regulation and offers greater procedural safeguards. Indeed, this aspect heightened in the Turkish model by the very delimitations put on the applicability of the institution, as well as a fixed reduction rate of the sentence to be applied. Furthermore, the role of the judge has been reinforced due to the 2021 Turkish Constitutional Court judgement, which upheld the role of the judge and resulted in an amendment that vests the judge with the authority to amend the sentence proposal of the prosecutor. In other words, while in the original version of the procedure, the judge's involvement was limited to validating the agreement struck between the prosecutor and the accused, now the Turkish judge has the authority to amend the sentence proposal in favour of the defendant. Thus, the Turkish Constitutional Court sought to ease the tension between the novel institution and basic principles of Continental criminal procedure, especially the inquisitorial ideal of the judicial search for the truth. By the 2021 amendment, the legislator has expanded already existing procedural guarantees. Indeed, in its original form, like its French counterpart, the Turkish expedited adjudication procedure required the presence of a defence counsel both before the prosecutor and before the judge, a consideration period for the suspect of the prosecutor's offer, and finally a right to lodge a motion of objection. All these guarantees, along with confining the acceptance of an offer to the admission of the application, but not as classifying a confession or admission of guilt, the Turkish model has sought to uphold the procedural guarantees when introducing the present negotiated justice mechanism, which would serve as a shield against the danger of miscarriage of justice. Overall, the Turkish

[47] ORTMAN, William, "Plea Bargaining and Guilty Plea", in Elgar Encyclopaedia of Crime and Criminal Justice. https://www.elgaronline.com/display/book/9781789902990/b-9781789902990.plea.xml accessed on 14 September 2025.

legislator has followed the emerging tradition of European negotiated justice mechanisms by imposing an automatic sentence discount and an exclusive catalogue of offences. In this manner, negotiations regarding the applicability of the institution are to a greater extent structured in advance by the legislator, and the procedure is sought to be confined merely to a sentence discount, which is meant to exclude a charge or fact bargaining.

Considering the dire need for negotiated justice mechanisms not only for the criminal justice due to backlog of cases and sheer quantity of *mala prohibita* offences, at least a partial administratization of criminal justice systems seems to be inevitable. Having said that, the Turkish legislator, instead of adopting an American-style plea bargaining, which would serve as a cautionary tale, by favouring a model inspired by the prominent Continental European negotiated justice institutions, which are marked by restraints on the scope of applicability and procedural safeguards, seems to have made a wise decision. The scope of application of the institution could be regarded as too narrow. However, it seems to be a proper way of testing a new institution's practicability and overall effect on the administration of criminal justice and its impact on the procedural culture in general.

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