ASSESSING LEGAL SECURITY IN ECUADOR'S ABBREVIATED CRIMINAL PROCEDURE: A NEUTROSOPHIC DELPHI APPROACH

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ABSTRACT
The study analyzes deficiencies in Article 636 of the Comprehensive Organic Penal Code of Ecuador, which lacks clarity in determining the penalty in the summary procedure and affects the legal certainty of the defendants. The objective of the work is to carry out a critical legal analysis that identifies ambiguities and gaps in Article 636 of the COIP, as well as to propose solutions to strengthen legal certainty in the abbreviated procedure. Through the Neutrosophic Delphi method, consultations with experts, comparative analysis with foreign legislation, and review of judgments, ambiguities in the process are identified. It was found that certain international legislations emphasize the need to ensure a fair and proportionate trial in these cases, which is essential for safeguarding fundamental rights, and reform is proposed to incorporate clear and objective criteria, inspired by international practices and principles of justice and human rights, to improve the legal certainty and effectiveness of the Ecuadorian penal system.
KEYWORDS: Neutrosophic Delphi, penal system, fundamental rights, principles of justice.
MSC: 03B70, 68T37, 91D10, 03C90, 93A30

RESUMEN
El estudio analiza las deficiencias del Artículo 636 del Código Orgánico Integral Penal (COIP) de Ecuador, el cual carece de claridad en la determinación de la pena en el procedimiento abreviado, afectando la seguridad jurídica de los acusados. El objetivo del trabajo es realizar un análisis jurídico crítico que identifique las ambigüedades y vacíos en el Artículo 636 del COIP, así como proponer soluciones para fortalecer la seguridad jurídica en el procedimiento abreviado. A través del método Delphi Neutrosófico, consultas con expertos, análisis comparativo con legislaciones extranjeras y revisión de sentencias, se identifican ambigüedades en el proceso. Se encontró que ciertas legislaciones internacionales enfatizan la necesidad de garantizar un juicio justo y proporcional en estos casos, lo cual es esencial para la protección de los derechos fundamentales. Se propone una reforma para incorporar criterios claros y objetivos, inspirados en prácticas internacionales y principios de justicia y derechos humanos, con el fin de mejorar la seguridad jurídica y la eficacia del sistema penal ecuatoriano.
PALABRAS CLAVE: Delphi Neutrosófico, sistema penal, derechos fundamentales, principios de justicia.

1. INTRODUCTION

The criminal justice system is a cornerstone of any society seeking to maintain order, fairness, and the protection of its citizens. It represents the mechanism through which the state exercises its *ius puniendi*, that is, the right to apply sanctions and penalties to those who have committed criminal actions. At the same time, it has the important mission of safeguarding the individual rights of persons subject to criminal proceedings [9].

In the specific context of Ecuadorian criminal justice, the Comprehensive Organic Penal Code (COIP) represents a pivotal milestone in the country's legal system evolution. Since its implementation, efforts have been made to establish a more comprehensive, updated, and coherent legal framework that adapts to the needs and realities of Ecuadorian society.

One of the procedural instruments introduced with the COIP is the abbreviated procedure, conceived as a tool to expedite and simplify the resolution of criminal conflicts. This procedure aims to accelerate the judicial process by reducing the time and costs associated with a regular trial. Additionally, it seeks to encourage collaboration among the involved parties, thus favoring the speed and effectiveness of sentences. However, its application has faced significant challenges related to the clarity of its norms, especially concerning the imposition of penalties. The lack of precision in Article 636 of the COIP has led to various and sometimes contradictory interpretations, affecting the legal certainty of the accused.

On the other hand, legal certainty is an essential principle in the Rule of Law, ensuring that individuals have certainty about the rules governing their conduct and the legal consequences of their actions [17]. When legal norms are unclear or leave room for ambiguous interpretations, uncertainty, and vulnerability are created for citizens undergoing judicial processes.

Therefore, it is essential to address these issues in the application of the abbreviated procedure and work on solutions that ensure coherence, predictability, and protection of the fundamental rights of the accused. Clarity and precision in the regulations, as well as the incorporation of procedural safeguards, are key aspects to guarantee a more efficient and fair criminal justice system in Ecuador. Only in this way can an adequate balance be achieved

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between procedural expediency and respect for human rights, thus strengthening society's confidence in its justice system.

Throughout this article, the nature and purpose of the abbreviated procedure will be analyzed, as well as the regulatory framework in which it is found in the COIP. The critical points in the application of this procedural figure will be identified, and how the lack of clarity in Article 636 can lead to divergent interpretations and unpredictable consequences for the accused.

In addition to pointing out existing issues, this critical-legal analysis will propose concrete and well-founded solutions to address the ambiguity of Article 636 and ensure coherence and security in the imposition of penalties in the abbreviated procedure. These proposals will be supported by solid legal arguments and ethical considerations, thus seeking to strengthen the Ecuadorian criminal justice system and safeguard the rights of those involved in this process.

The results obtained from contrasting the provisions of Article 636 of the COIP with other national and international legislations related to criminal law and human rights were enlightening in identifying good practices and potential solutions that could be applied in the Ecuadorian context.

Firstly, it was found that some legislations in neighboring countries and the region have more detailed and clear provisions regarding the determination of the penalty in the abbreviated procedure [6]. These legislations include explicit lists of mitigating circumstances and establish objective criteria for their assessment. Additionally, some of these legislations allow for greater flexibility in reducing the penalty, provided that the principle of proportionality between the committed offense and the imposed sanction is respected. These practices could be considered to improve the wording of Article 636 of the COIP and avoid ambiguous interpretations that affect the legal security of the defendant.

For example, in the criminal legislation of Colombia, the "proceso abreviado" (abbreviated process) is similar to the abbreviated procedure of the COIP. However, Article 356 of the Colombian Code of Criminal Procedure establishes limits for determining the penalty in this procedure. It states that in no case shall the agreed penalty exceed two-thirds of the minimum penalty established for the offense [2].

In Chile, Law No. 20,931, which reformed the criminal procedural system, also contains more precise provisions regarding the penalty in the abbreviated procedure [5]. Article 406 of the Chilean Code of Criminal Procedure establishes that, in this procedure, the agreed penalty shall not exceed half of the minimum penalty established for the offense. Likewise, in Peru, the Code of Criminal Procedure establishes in Article 468 that, in the abbreviated procedure, the agreed penalty shall not exceed half of the minimum penalty set for the offense [3,10].

These examples show that in neighboring countries and the region, greater precision has been foreseen in determining the penalty in the abbreviated procedure. These clear and detailed provisions provide greater legal security for both the defendant and judicial operators, thus avoiding subjective interpretations and ensuring a more uniform application of the law. In this sense, the COIP could benefit from implementing similar modifications to ensure a more effective and equitable criminal justice system.

Secondly, it was observed that certain international legislations related to human rights, such as the International Covenant on Civil and Political Rights and the American Convention on Human Rights, emphasize the importance of guaranteeing the right to equality before the law and to a fair trial in all types of criminal proceedings, including the abbreviated procedure. In this regard, the need to ensure that the penalty imposed in this procedure is not disproportionate and complies with the standards of justice and human rights became evident.

Based on these observations, it is proposed that the COIP consider modifying Article 636 to establish clear and objective limits on determining the penalty in the abbreviated procedure. It is essential to set specific and proportional criteria to guide judicial operators in their application, thus avoiding possible ambiguous interpretations that affect the legal security of the defendant. By considering the good practices of other national and international legislations and respecting the principles of justice and human rights, legal security in the Abbreviated Procedure of the COIP can be strengthened, advancing toward a more equitable and effective criminal system.

Ultimately, it is expected that this article will contribute to constructive debate in the legal community and contribute to the development of a more transparent, predictable, and respectful justice system of the fundamental rights of the defendant in the context of the abbreviated procedure. The importance of legal security in the criminal field is crucial to ensure impartial, equitable justice that provides certainty to both society and individuals involved in the process.

This article aims to design a critical legal analysis that addresses the problem of the lack of clarity in Article 636 of the Comprehensive Organic Penal Code regarding the imposition of the penalty in the abbreviated procedure through the modeling of the Delphi method. It seeks to demonstrate how this normative ambiguity can undermine the fundamental principle of legal security and affect the rights and guarantees of the individuals involved in the process.

2. PRELIMINARIES

2.1. Delphi Neutrosophic Method

The Delphi Method is a research technique that involves collecting opinions from a panel of experts through a series of questionnaires or surveys, to reach a consensus or make predictions on a particular topic. It is commonly used in various fields such as information systems research and decision-making to identify and prioritize issues and factors affecting a specific area of interest [11,12]. The Delphi Method is a structured communication technique, developed as an interactive systematic. It is a prediction method, based on an expert panel, see [13]. Its objective is to achieve consensus through discussion 3,8].

Neutrosophy is a branch of philosophy that studies the origin, nature, and scope of neutralities, as well as their interactions with different ideological spectra. In mathematics and logic, the most important concept is the neutrosophic set that generalizes the fuzzy sets of Zadeh and the fuzzy intuitionist sets of Atanassov, in the following these definitions are formally defined [1,15]

Definition 1: The Neutrosophic set *N* is characterized by three membership functions, which are the truth-membership function *TA*, indeterminacy-membership function *IA*, and falsehood-membership function *FA*, where U is the Universe of Discourse and

$$\forall x \in U,\ TA(x),\ IA(x),\ FA(x) \subseteq]-0,\ 1+[,$$

and

$$-0 \leq inf\ TA(x) + inf\ IA(x) + inf\ FA(x) \leq sup\ TA(x) + sup\ IA(x) + sup\ FA(x) \leq 3+.$$

Notice that, according to the definition, *TA(x)*, *IA(x)*, and *FA(x)* are real standard or non-standard subsets of]-0, 1+ [and hence, *TA(x)*, *IA(x)* and *FA(x)* can be subintervals of *[0, 1]*.

Definition 2: The Single-Valued Neutrosophic Set (SVNS) *N* over *U* is $A = \{\langle x;\ TA(x),\ IA(x),\ FA(x)\rangle : x \in U$ [12], *where* $TA: U \to [0,\ 1]$, $IA: U \to [0,\ 1]$, and $FA: U \to [0,\ 1]$, $0 \leq TA(x) + IA(x) + FA(x) \leq 3$. The Single-Valued Neutrosophic Number (SVNN) is represented by $N = (t, I, f)$, such that $0 \leq t, I, f \leq 1$ and $0 \leq t + I + f \leq 3$.

Definition 3: The single-valued trapezoidal neutrosophic number, $\tilde{a} = \langle (a_1, a_2. a_3, a_4); \alpha_{\tilde{a}}, \beta_{\tilde{a}}, \gamma_{\tilde{a}} \rangle$, is a neutrosophic set on $\mathbb{R}$, whose truth, indeterminacy, and falsehood membership functions are defined as follows, respectively:

$$T_{\tilde{a}}(x) = \begin{cases} \alpha_{\tilde{a}}\left(\frac{x-a_1}{a_2-a_1}\right), & a_1 \leq x \leq a_2 \\ \alpha_{\tilde{a}}, & a_2 \leq x \leq a_3 \\ \alpha_{\tilde{a}}\left(\frac{a_3-x}{a_3-a_2}\right), & a_3 \leq x \leq a_4 \\ 0, & otherwise \end{cases} \quad (1)$$

$$I_{\tilde{a}}(x) = \begin{cases} \frac{(a_2-x+\beta_{\tilde{a}}(x-a_1))}{a_2-a_1}, & a_1 \leq x \leq a_2 \\ \beta_{\tilde{a}}, & a_2 \leq x \leq a_3 \\ \frac{(x-a_2+\beta_{\tilde{a}}(a_3-x))}{a_3-a_2}, & a_3 \leq x \leq a_4 \\ 1, & \text{otherwise} \end{cases} \quad (2)$$

$$F_{\tilde{a}}(x) = \begin{cases} \frac{(a_2-x+\gamma_{\tilde{a}}(x-a_1))}{a_2-a_1}, & a_1 \leq x \leq a_2 \\ \gamma_{\tilde{a}}, & a_2 \leq x \leq a_3 \\ \frac{(x-a_2+\gamma_{\tilde{a}}(a_3-x))}{a_3-a_2}, & a_3 \leq x \leq a_4 \\ 1, & \text{otherwise} \end{cases} \quad (3)$$

where, $a_1, a_2, a_3, a_4 \in \mathbb{R}$ and $a_1 \leq a_2 \leq a_3 \leq a_4$.

Definition 4: Given $\tilde{a} = \langle (a_1, a_2, a_3, a_4); \alpha_{\tilde{a}}, \beta_{\tilde{a}}, \gamma_{\tilde{a}} \rangle$ and $\tilde{b} = \langle (b_1, b_2, b_3, b_4); \alpha_{\tilde{b}}, \beta_{\tilde{b}}, \gamma_{\tilde{b}} \rangle$ two single-valued trapezoidal neutrosophic numbers and λ any non-null number in the real line. Then, the following operations are defined, [3,7,15]

The model proposed in this article is described below. Table 1 contains the scale for measuring criterion weights and Table 1 summarizes the scale of evaluations associated with single-valued triangular neutrosophic numbers (SVTNN).

Linguistic terms	SVTNN
Extremely important (EI)	⟨(0,0, 1); 0.00, 1.00, 1.00⟩
Very important (VI)	⟨(0, 1, 3); 0.20, 0.75, 0.80⟩
Important (I)	⟨(1, 3,5); 0.30, 0.80, 0.60⟩

Medium (M)	⟨(3, 5,7); 0.50, 0.50, 0.50⟩
Not important (NI)	⟨(5, 7,9); 0.60, 0.25, 0.35⟩
Not very important (NVI)	⟨(7, 9, 10);0.85, 0.15, 0.20⟩
Extremely unimportant (EU)	⟨(9, 10, 10); 1.00, 0.00, 0.00⟩

Table 1. Linguistic terms for evaluations associated with SVTNN. Source: [4,5,15]

3. MATERIALS AND METHODS

This study employs the Neutrosophic Delphi Method to evaluate the legal certainty of Article 636 of the Comprehensive Organic Penal Code (COIP) in Ecuador's abbreviated criminal procedure. Given the complexity of legal interpretations and the need for expert-driven insights, this method provides a structured framework to achieve consensus among specialists. The research followed a systematic process, ensuring that the ambiguities and legal inconsistencies identified were analyzed rigorously and methodically.

Research Steps

The study was conducted in five structured steps, each contributing to the development of a robust legal analysis:

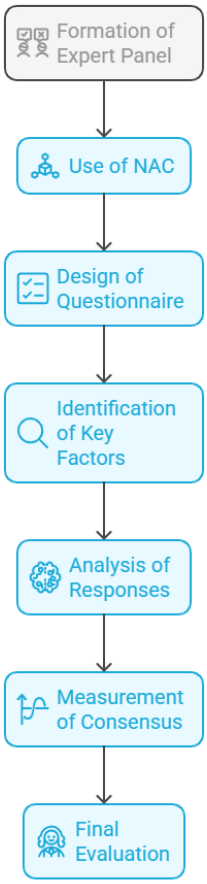

Figure 1. Process of Evaluating Article 636 of the COIP

Expert Selection

A panel of eleven experts was formed, including jurists, legal academics, and legislative specialists. The Neutrosophic Argumentation Coefficient (NAC) was used to ensure the relevance and reliability of the expert's opinions. Experts remained anonymous to avoid bias.

Questionnaire Design

A structured survey with five key questions was developed to assess the legal security factors influencing Article 636 of the COIP. Questions focused on the identification, evaluation, and effectiveness of current strategies to improve legal certainty.

Selection of Key Factors

Experts analyzed ambiguities and deficiencies in Article 636, identifying five key factors that affect the abbreviated procedure:

C1: Diversity of Interpretations – Different judicial interpretations cause inconsistencies.

C2: Procedural Agility vs. Human Rights – Balancing efficiency with fair trial rights.
C3: Room for Ambiguities – Lack of clarity in sentencing rules.
C4: Legal Insecurity – Uncertainty for defendants due to vague legislation.
C5: Application Challenges – Regulatory issues hindering practical implementation.

Analysis of Expert Responses

Expert responses were analyzed using Neutrosophic Logic, which quantifies truth (T), indeterminacy (I), and falsity (F). This allowed the study to measure levels of agreement and highlight areas needing further clarification.

Consensus Measurement and Final Evaluation

The Concordance Coefficient (Cc) was calculated to determine the level of agreement among experts. A consensus threshold of 75% was set to validate the findings. The results showed high agreement on the need for clearer sentencing guidelines in Article 636 of the COIP.

This methodology provides a quantitative and qualitative foundation for evaluating legal certainty in the abbreviated procedure. The findings offer a data-driven approach to support future legislative reforms and judicial improvements in Ecuador's criminal justice system.

3. RESULTS

To model the Delphi method, especially in complex contexts such as the issue of the lack of clarity in Article 636 of the Comprehensive Organic Penal Code (COIP) regarding the imposition of penalties in the expedited procedure, the following steps should be followed:

Step 1: Expert Selection

- Eleven experts (E1, E2, E3, ..., E11) were selected. None of them know the identity of the others. They include jurists, academics specializing in international law, experts in law formulation, and other professionals. To properly select these specialists, the Neutrosophic Argumentation Coefficient is used, which is based on evaluating the strength of experts' opinions through a weighted aggregation of values obtained from various Influence Factors.

Step 2: Questionnaire Design

The moderator distributes the survey with the following questions:

1. Determine what factors or criteria affect the legal security of the accused.
2. Evaluate the importance of each of the given criteria on the linguistic scale.
3. How would you assess the relative frequency of the current implemented strategies?
4. What factor do you consider most effective?
5. From your perspective, do you consider the strategies useful for overcoming current challenges?

Step 3: Selection of factors

Code	Criteria	Dimensions
C1	Diversity of Interpretations	The ambiguity of Article 636 has given rise to varied and sometimes contradictory interpretations among justice operators, which directly affects the legal security of the defendants.
C2	Balance between Procedural Agility and Human Rights	The importance of finding an adequate balance between speed in the judicial process and respect for the fundamental rights of the defendants is highlighted, which requires clear rules and well-defined procedures.
C3	Room for Ambiguities	To ensure an efficient and fair criminal justice system, it is crucial to address clarity and precision in regulations, ensuring consistency and predictability in the imposition of sentences.
C4	Legal Insecurity	The lack of regulatory clarity generates uncertainty and vulnerability for citizens subject to judicial processes, undermining the principle of essential legal security in a rule of law.
C5	Application Challenges	The abbreviated procedure, although designed to expedite the judicial process, faces significant obstacles in its effective application due to regulatory imprecision, especially in the imposition of sentences.

Table 2: Selection of factors. Source: own elaboration.

Step 4: Analysis of the Responses

Analyzing the responses to identify areas of consensus and discrepancy. Prepare a summary of the responses and include statistics when possible.

Experts	C1	C2	C3	C4	C5

Exp2	⟨(5, 7,9); .60, .25, .35⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(7, 9, 10); .85, .15, .2⟩	⟨(0,0, 1); .00, 1., 1.⟩	⟨(1, 3,5); .30, .80, .60⟩
Exp13	⟨(7, 9, 10); .85, .15, .20⟩	⟨(5, 7,9); .60, .25, .35⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(1, 3,5); .30, .80, .60⟩	⟨(5, 7,9); .60, .25, .35⟩
Exp26	⟨(5, 7,9); .60, .25, .35⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(5, 7,9); .60, .25, .35⟩
Exp34	⟨(7, 9, 10); .85, .15, .20⟩	⟨(5, 7,9); .60, .25, .35⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(5, 7,9); .60, .25, .35⟩	⟨(3, 5,7); .50, .50, .50⟩
Exp52	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(3, 5,7); .50, .50, .50⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(3, 5,7); .50, .50, .50⟩
Exp59	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(5, 7,9); .60, .25, .35⟩	⟨(0,0, 1); .00, 1.0, 1.0⟩	⟨(3, 5,7); .50, .50, .50⟩	⟨(7, 9, 10); .85, .15, .20⟩
Exp67	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩
Exp71	⟨(5, 7,9); .60, .25, .35⟩	⟨(1, 3,5); .30, .80, .60⟩	⟨(5, 7,9); .60, .25, .35⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(5, 7,9); .60, .25, .35⟩
Exp78	⟨(5, 7,9); .60, .25, .35⟩)	⟨(7, 9, 10); .85, .15, .20⟩	⟨(3, 5,7); .50, .50, .50⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩	⟨(3, 5,7); .50, .50, .50⟩
Exp79	⟨(1, 3,5); .30, .80, .60⟩	⟨(5, 7,9); .60, .25, .35⟩	⟨(3, 5,7); .50, .50, .50⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(1, 3,5); .30, .80, .60⟩
Exp80	⟨(1, 3,5); .30, .80, .60⟩	⟨(7, 9, 10); .85, .15, .20⟩	⟨(0,0, 1); .00, 1.0, 1.0⟩	⟨(3, 5,7); .50, .50, .50⟩	⟨(0,0, 1); .00, 1.00, 1.00⟩

Table 3. Validation of criteria. Source: own elaboration.

Factors	**(0.92,0.1,0.12)**	**(0.7,0.2,0.25)**	**(0.50,0.55,0.5)**	**(0.3,0.75,0.80)**	**(0.10,0.90,0.95)**
C1	0.2222	0.3333	0.5556	0.6667	1,0000
C2	0.0000	0.3333	0.4444	0.5556	0.8889
C3	0.1111	0.2222	0.3333	0.7778	1,0000
C4	0.1111	0.3333	0.6667	0.7778	1,0000
C5	0.0000	0.1111	0.4444	0.6667	1,0000

Table 4: Relative Frequency. Source: own elaboration.

Average	**N - Avg.**	**SVNN**
0.58	**-1.79**	(0.7,0.2,0.25)
-0.54	**-0.67**	(0.10,0.90,0.95)
0.37	**-1.58**	(0.50,0.55,0.5)
0.61	**-1.82**	(0.7,0.2,0.25)
-0.19	**-1.02**	(0.3,0.75,0.80)
-3.50	**2.29**	(0.10,0.90,0.95)
-3.50	**2.29**	(0.10,0.90,0.95)

Table 5: Calculation of the neutrosophic indicator scale. Source: own elaboration.

For determining the consensus among the participants of the Expert Panel, the Coordinating Group considered the consensus level achieved when the Concordance Coefficient Cc obtains a value higher than 75%, thus concluding the process.

Expert	**C1**	**C2**	**C3**	**C4**	**C5**
Exp2	YES	YES	YES	YES	YES
Exp13	YES	YES	YES	YES	YES

Exp26	NO	YES	YES	NO	YES
Exp34	YES	YES	YES	YES	YES
Exp52	YES	YES	YES	YES	YES
Exp59	YES	YES	NO	YES	YES
Exp67	YES	YES	YES	YES	NO
Exp71	YES	YES	YES	YES	YES
Exp78	YES	YES	YES	YES	YES
Exp79	YES	YES	YES	YES	YES
Exp80	YES	YES	YES	YES	YES
Coefficient	**90,91**	**100**	**90,91**	**90,91**	**90,91**

Table 6. Final evaluations of the criteria. Source: own elaboration

4. DISCUSSION

The analysis of Article 636 of the COIP reveals significant ambiguities regarding the determination of penalties in the abbreviated procedure, which can lead to inconsistent judicial interpretations. Experts highlight that the lack of clear limits on penalty reduction creates uncertainty for both legal operators and defendants. The article states that the penalty reduction should not be less than one-third of the minimum penalty, but it fails to specify whether this reduction applies to the minimum penalty itself or the imposed sentence, leading to legal insecurity. Additionally, the absence of standardized criteria for evaluating mitigating circumstances further complicates judicial decisions, potentially resulting in disproportionate or arbitrary penalties.

To address these issues, experts propose reforming Article 636 by establishing precise guidelines for penalty determination, incorporating objective criteria for assessing mitigating factors and aligning the regulation with international human rights standards. Moreover, ensuring that defendants receive clear information and legal guidance throughout the process is crucial to prevent coercion and guarantee informed decision-making. Other key recommendations include limiting judicial discretion, incorporating proportionality principles, and implementing training programs for judicial operators to enhance uniformity in sentencing. These measures aim to strengthen legal security in the abbreviated procedure, fostering a fairer and more transparent criminal justice system.

5. CONCLUSION

The critical-legal analysis of article 636 of the Comprehensive Organic Penal Code (COIP) in the context of the Abbreviated Procedure has revealed the existence of ambiguities and gaps in its wording, representing a significant challenge to the legal security of the defendant. The lack of clarity in determining the penalty in this procedural figure can generate uncertainty and inequality in the treatment of criminal cases, which goes against the fundamental principles of a fair and equitable criminal justice system.

Comparison with legislation from neighboring countries and the region has shown that there are more detailed and clear provisions regarding the determination of the penalty in the abbreviated procedure. These legislations could serve as models to improve Article 636 of the COIP and strengthen the legal security of the defendant. The Ecuadorian criminal justice system must constantly seek to improve and perfect its processes to ensure respect for the fundamental rights of citizens and the equitable application of the law.

The neutrosophic Delphi method defines the criteria by level of importance and intensity within the analyzed field of study, based on the selection of experts according to the coefficient of expert competence. From the results obtained, it is defined that the criteria with the greatest relevance directly favored the legal security and effectiveness of the abbreviated procedure in the Ecuadorian criminal justice system.

To address this issue, various recommendations have been proposed. Firstly, it is suggested to reform Article 636 to make the determination of the penalty in the abbreviated procedure clearer and more precise, by establishing specific criteria and setting maximum and minimum limits to guide judicial operators in its application. Furthermore, emphasis is placed on the importance of ensuring that the defendant has access to clear and understandable information about the abbreviated procedure and their rights. For this purpose, it is essential to ensure adequate legal advice and provide the necessary guidance for the defendant to make informed decisions.

The implementation of mechanisms that promote a better understanding of the terms and conditions of the agreement, through the use of accessible language and graphic resources, is also a relevant measure to reinforce the legal security of the defendant. With these proposals and recommendations, the aim is to contribute to strengthening legal security in the Abbreviated Procedure of the COIP and to advance towards a more transparent, equitable, and respectful criminal justice system.

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