

Electronic Litigation as a Mechanism for Modernising the Justice Sector: A Study in Light of Algerian Legislation

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Abstract:

The outcomes of the third industrial revolution have impacted various fields globally, including the judicial sector. This has led to the emergence of electronic litigation. Recognising the effectiveness and efficiency of this innovative approach in improving the quality of judicial work, the Algerian state, like many others, has sought to adopt it to offset the disadvantages of traditional litigation.

However, implementing this idea in practical terms requires concerted efforts at various levels to establish a suitable foundation. Consequently, a series of legal texts have been issued, the most significant of which is Law 15-03, which concerns the modernisation of the justice sector. This law established the general framework for electronic litigation in Algeria, and was followed by numerous legal texts amending provisions in the Penal Procedure Code and the Civil and Administrative Procedure Code.

Keywords: Modernisation of justice, electronic litigation procedures, electronic registration, electronic submission of pleadings, remote trial.

Introduction:

The judiciary is one of the vital and sensitive institutions in the state, responsible for protecting rights, safeguarding freedoms, and ensuring justice for litigants. After moving beyond the concept of individual retribution that prevailed in ancient times, the judiciary has become a public entity entrusted with resolving disputes.

The significant role assigned to this institution necessitates addressing various challenges that hinder its operations and affect the performance of its officials. Undoubtedly, delays in resolving disputes, resulting from the high volume of

cases that need to be adjudicated and the congestion in judicial corridors due to the necessity of physical presence for service provision, primarily stem from reliance on traditional methods in judicial work. To overcome this, the Algerian state has turned to the advancements of the third industrial revolution, which have proven effective in various fields by shortening time and overcoming distance issues. This has involved the use of computers and the establishment of an internal and international network connecting various stakeholders, allowing for the electronic exchange of documents and pleadings, as well as enabling remote video conferencing in specified areas.

Adopting this innovative approach required concerted efforts over many years to achieve the desired outcome. A suitable legal environment was created, leading to the issuance of Law 15-03 concerning the modernisation of the justice sector¹. This law establishes common general provisions for various judicial bodies and emphasises the use of remote video conferencing in specific fields. Numerous legal texts have been issued to elaborate on and support its provisions in the penal field, starting with Order 15-02, which amends and supplements the Algerian Procedural Law², and ending with Order 20-04, which further amends the same law. Additionally³, Law 22-13 was issued to amend and supplement the Civil and Administrative Procedural Law with the aim of reinforcing and consolidating electronic⁴ litigation in the administrative judiciary.

The research problem that arises from this is to examine the adequacy of current legal texts in realising the concept of electronic litigation in Algeria?

To address this issue, descriptive and analytical methodologies will be employed to focus on the available information on this topic and analyse its various components, from legal opinions to relevant legal texts.

Undoubtedly, answering the aforementioned problem requires a dual approach, with the subject being addressed in two sections. The first section will explore the concept of electronic litigation (Section One), while the second will clarify the provisions of electronic litigation in Algeria (Section Two).

¹- Law No. 15-03 dated 11 Rabi' al-Thani 1436 AH (February 1, 2015), concerning the modernization of the justice sector, Official Gazette, No. 06, issued on February 10, 2015.

²- Ordinance No. 15-02 dated 7 Shawwal 1436 AH (July 23, 2015), amending and supplementing Ordinance No. 66-156 dated 18 Safar 1386 AH (June 8, 1966) concerning the Criminal Procedure Law, Official Gazette, No. 40, issued on July 23, 2015.

³- Ordinance No. 20-04 dated 11 Muharram 1422 AH (August 30, 2020), amending and supplementing Ordinance No. 66-156 dated 18 Safar 1386 AH (June 8, 1866) concerning the Criminal Procedure Law, Official Gazette, No. 51, issued on August 31, 2020.

⁴- Law No. 22-13 dated 13 Dhul-Hijjah 1443 AH (July 12, 2022), amending and supplementing Law No. 08-09 dated 18 Safar 1429 AH (February 25, 2008) concerning the Civil and Administrative Procedure Law, Official Gazette, No. 48, issued on July 17, 2022.

Section One: The Concept of Electronic Litigation

Electronic litigation is a term introduced by the third industrial revolution. It is the inevitable result of the judiciary's reliance on the technological advancements of this revolution. Given the importance of this term and its associated technology, it is crucial to shed light on it. This will begin with a definition of the term and an outline of its characteristics (Subsection One), followed by an examination of the legal basis that defines its existence in Algeria (Subsection Two).

Subsection One: Definition and Characteristics of Electronic Litigation

Given the precision and high technology inherent in the term 'electronic litigation', a clear definition is required (Branch One) to highlight the characteristics that distinguish it from traditional litigation, which is primarily based on conventional judicial methods (Branch Two).

Branch One: Definition of Electronic Litigation

Electronic litigation, also known as remote litigation, is one of the key outcomes of the Third Industrial Revolution and has contributed to the growth and development of e-government. Due to its significance, some legal scholars define it as follows: 'The process of electronically transmitting litigation documents to the court via email for examination by relevant staff, who then issue a decision regarding acceptance or rejection and notify the litigant of the outcome.'⁵

However, this definition has been criticised for being too limited, as it confines electronic litigation to the process of document transmission and ignores other litigation procedures that inevitably affect remote litigation.

Another definition describes it as follows: 'The judicial court's authority to resolve disputes presented to it electronically via the internet, using electronic systems and advanced technical mechanisms to expedite conflict resolution and facilitate litigant access.'

However, this definition has also been criticised for limiting electronic litigation to the dispute resolution phase, without addressing the preceding stages. Therefore, another description states:⁶ 'The authority of a specialised

⁵- Khalid Mamdouh Ibrahim, *Electronic Litigation: The Electronic Lawsuit and Its Procedures*, University Thought House, Alexandria, 2008, p. 12.

⁶- Hazem Mohammed Al-Shar'a, *Electronic Litigation and Electronic Courts*, Al-Thaqafa Publishing and Distribution, Amman, Jordan, 1st ed., 1431 AH (2010), p. 57.

group of regular judges to consider cases and conduct judicial procedures through innovative electronic means within a comprehensive judicial information system, utilising the internet and electronic filing programmes to manage cases, deliver judgements and enforce rulings, with the aim of achieving swift case resolution and ease for litigants.'

Additionally, it has been defined as follows:⁷ 'The acquisition of judicial protection through electronic means that assist the human element, employing technical procedures that ensure the realisation of litigation principles and guarantees under legislative protection aligned with the general rules and principles of procedural law, while considering the specific nature of electronic means.'

Clearly, electronic litigation involves interconnecting all judicial bodies within a single interactive framework. This is achieved by automating the operations of each judicial department and linking them together to perform their functions electronically. This allows communication between judicial institutions via the same methods and replaces paper documents and files with databases, enabling quick access to information, rapid retrieval and interconnection⁸.

Branch Two: Characteristics of Electronic Litigation

Electronic litigation is one of the outcomes of the Third Industrial Revolution. It relies primarily on electronic means, especially the internet. Based on this, it differs from traditional litigation in several key ways:

- Transition to electronic documents: The use of electronic means, particularly the internet, allows paper documents to be replaced with electronic ones. This fundamental difference reduces the circulation and storage of paper files within judicial bodies and enhances the security of records due to the ability to detect alterations to electronic documents.

- Electronic submission of documents and pleadings via the internet:

Advancements in the third industrial revolution enable the online exchange, transfer and receipt of documents, pleadings and other materials without the need for external resources. Lawyers and litigants can submit legal documents electronically via a comprehensive system through remote uploading, also

⁷ - As'ad Fadel Mandil, Remote Litigation: A Legal Study, Al-Kufa Journal for Legal and Political Sciences, Faculty of Law, Al-Qudsia University, Iraq, Vol. 1, No. 21, 2014, p. 04.

⁸ - Safaa Outani, The Electronic Court: Concept and Application, Journal of Economic and Legal Sciences, Damascus, Syria, Vol. 28, No. 01, 2012, p. 182.

known as symbolic delivery.

Use of Electronic Means in Litigation Procedures: Electronic litigation necessitates the use of an electronic intermediary. Therefore, electronic litigation does not differ from traditional litigation in terms of its parties or subject matter, but rather in terms of its execution method. Electronic litigation employs electronic media, such as a computer connected to the internet or an extranet, to convey electronic expressions of will simultaneously despite the differing locations of transmission.

Moreover, electronic litigation enables electronic files to be stored and preserved, and facilitates the handling of notifications, alerts and communications. It is also used for listening to witness statements, interrogating parties and exchanging briefs between litigants or their lawyers. This enhances workflow efficiency by linking case information across various judicial bodies⁹.

Speed of processing in judicial procedures:

Using advancements from the third industrial revolution in litigation contributes to the swift execution of judicial procedures. It enables judicial bodies to perform their functions more effectively, fostering a partnership among the various participants in the judicial process, including judges, court clerks and their assistants. This system enables the electronic exchange of documents and materials at any time, including on public holidays, from any location with an internet connection¹⁰, eliminating the need for physical travel to court. This shift transforms physical movement in the tangible world into virtual movement in a non-material realm, thereby reducing issues related to public congestion in judicial institutions.

Improvement of Judicial Service Quality:

Using computers connected to the internet in litigation enhances the quality of services provided to litigants by accelerating their execution. It saves significant time, reduces effort and minimises costs, thereby eliminating the notion of delayed or ineffective justice. Additionally, electronic litigation increases the productivity of judges, enabling them to handle more cases than in traditional litigation thanks to the lack of necessity for a daily presence in court¹¹.

⁹- Hazem Mohammed Al-Sharaa, Previous Reference, p. 44.

¹⁰- Khalid Mamdouh Ibrahim, Previous Reference. p. 14.

¹¹- Ahmed bin Suleiman Al-Rubaish, Electronic Means and Their Role in Simplifying Litigation Procedures, Justice Between Reality and Aspiration, December 19-20, 2012, Vol. 1, Journal of Law for Legal and Economic Research, a quarterly peer-reviewed scientific

Transition to electronic archiving:

Using the internet in the judicial field facilitates the transition from paper to electronic archives. This transformation eliminates vast amounts of paperwork associated with cases that clutter courtrooms and chambers, reducing the space needed for file storage in judicial bodies.

Subsection Two: The Legal Basis for the Electronic Litigation System in Algeria

The concept of electronic litigation is rooted in international legislation, including the treaties and agreements that Algeria has ratified, as well as domestic laws that aim to bring Algeria in line with developed countries in this field.

Branch One: The International Legal Basis for Electronic Litigation in Algeria

The growing use of electronic methods in various sectors has prompted countries to conclude international agreements and treaties that mandate their use in the judicial system. The United Nations Convention against Transnational Organized Crime is the first and most significant international law to regulate electronic litigation. Recognising its importance, Algeria ratified it with reservations under Presidential Decree No. 02-55¹².

This convention is significant because it regulates video conferencing technology in Article 18, allowing the requesting state to request a hearing via video when it is impossible or impractical for the individual to appear in the territory of the requesting state. It also permits the parties to agree that the judiciary of the requesting state shall conduct the hearing in the presence of the receiving state's judiciary.

Branch Two: The Domestic Legal Basis for Electronic Litigation in Algeria

Algeria's desire to catch up with developed countries in utilising the third industrial revolution's advancements in the judicial sector has led to significant attention being paid to this sensitive area. The initiative began with a statement by the President of the Republic on 29 October 2007 during the

journal published by the Faculty of Law, Alexandria University, 2012, p. 190.

¹²- Presidential Decree No. 02-55, ratifying with reservations the United Nations Convention against Transnational Organized Crime, adopted by the United Nations General Assembly on November 15, 2000, dated February 5, 2002, Official Gazette, No. 09, issued on February 10, 2002.

opening of the 2007–08 judicial year. In his statement, he said: ‘Reforming justice is not an end in itself, but a transitional means to elevate the judiciary to meet the challenges posed by internal and external transformations.’

The outlines of this approach became apparent in 2014, when Parliament began discussing the draft law concerning the modernisation of justice. This received implicit approval from Parliament members on 24 November that year, indicating further discussion of the draft law was to follow. This process culminated in the issuance of Law 15-03 relating to the modernisation of the justice sector.

To achieve the objectives of Law 15-03, three mechanisms were established. The first involves creating an information system for the Ministry of Justice which automates the processing of data relating to the Ministry’s activities and those of all its affiliated institutions, as well as ordinary and administrative judicial bodies, including the Court of Conflicts. The system also certifies the validity of electronic documents and the electronic authentication of judicial documents issued by the Ministry of Justice and its affiliated institutions.

The second mechanism involves converting all judicial correspondence from paper documents to electronic documents, while the third addresses the use of remote video conferencing technology in judicial procedures¹³.

Although the Algerian legislator laid the foundations for electronic litigation through the aforementioned law, which serves as the cornerstone for this new system across various ordinary and administrative judicial bodies, it also reaffirmed this direction in subsequent legal texts. The starting point was Order 05-02, which amended the Algerian Procedural Law, allowing under Article 65 bis 27/1 for the court to automatically or upon request from the parties to hear witnesses with concealed identities through technical means that ensure their anonymity, including via remote video conferencing.

In reality, the application of the Law on the Modernisation of Justice was initially limited and subject to specific conditions to ensure proper judicial functioning. The first national remote trial took place on 7 October 2015 at the Court of Kliâa. This practice continued and, by 2016, this technology was being used in international trials, such as the one held at the Court of Appeal of M’sila on 11 July, where a witness was heard from the Court of Nanterre in

¹³- Article 1 of Law No. 03-15 concerning the modernization of the justice sector.

France¹⁴.

Although remote video conferencing technology had been used in judicial procedures since the enactment of the Law on the Modernisation of Justice, its wider adoption was prompted by the outbreak of the 2020–21 COVID-19 pandemic, which imposed social distancing measures and halted judicial work, thereby affecting the rights of litigants. To address these challenges, remote video conferencing technology was activated to provide a means of continuing judicial operations. Due to its success, Order 20-04 was issued, amending and supplementing the Penal Procedure Law and dedicating a supplementary book to detailing its use. The first chapter addressed general provisions, the second focused on its application during the investigative phase and the third discussed its use during the trial phase.

The introduction of electronic litigation in criminal matters by the Algerian legislator through Order 20-04 drew further attention to administrative and civil disputes. In 2022, Law 22-13 was issued to amend and supplement the Civil and Administrative Procedure Law¹⁵. This law established the system of electronic administrative litigation and reinforced the foundations of the Law on the Modernisation of the Justice Sector. Under Article 815, electronic filing of administrative lawsuits was permitted, and pursuant to Article 840, notification of all procedures and investigative measures to the parties involved in the administrative lawsuit was enabled by all means, including electronic methods intended for electronic notification.

Thus, Law 22-13 is considered a legal reference for electronic administrative litigation in Algeria, reflecting the Algerian legislator's plan to implement this modern information system which serves administrative justice by facilitating the replacement of paper documents with electronic ones.

Section Two: Procedures for Electronic Litigation

To clarify these procedures, it is important to first address the general provisions that can be followed before any judicial body for registering pleadings or complaints (Subsection One). This will be followed by a discussion of remote video conferencing as a practical embodiment of this system, which is currently limited to specific cases (Subsection Two).

Subsection One: Common Procedures for Electronic Litigation in Algeria

¹⁴- Nasima Tarjaman, The Mechanism of Electronic Litigation in the Digital Environment, Journal of Legal Studies, Vol. 05, No. 02, June 2019, p. 128.

¹⁵- Law No. 22-13 dated 13 Dhul-Hijjah 1443 AH (July 12, 2022), amending and supplementing Law No. 08-09 dated 18 Safar 1429 AH (February 25, 2008) concerning the Civil and Administrative Procedure Law, Official Gazette, No. 48, issued on July 17, 2022.

As in traditional settings, the judicial dispute begins before judicial bodies with an opening petition drafted as an electronic document. This petition is then registered in the electronic registry designated for filing lawsuits via a specific website. Parties and lawyers can access the system to register the lawsuit using their email address and password. The computer then verifies the data and confirms the user's identity, granting access and opening a menu to select the relevant judicial authority (civil or criminal). The same procedure applies to administrative courts.

It is worth noting that, in most areas, filing a lawsuit electronically in Algeria still follows traditional methods, as this procedure requires lawyers to register on the digital platform set up by the Ministry of Justice. This platform enables lawyers to exchange pleadings and memoranda. However, criminal complaints and petitions can be filed electronically via the platform designated for electronic prosecution, which has been operational since 28 July 2020¹⁶.

After the data has been verified, court fees can be paid using the electronic payment methods used for electronic transactions. It should be noted that electronic payment is not currently activated and payments are still made using traditional methods.

According to Article 09 of Law 15-03 concerning the modernisation of the justice sector, documents and evidence submitted by the parties are deposited securely with the court registry handling the dispute. This can be done through the traditional methods set out in the Civil, Administrative and Penal Procedure Laws, or through electronic methods that allow specific documents to be transmitted online without recourse to external means.

It is noteworthy that the aforementioned law requires that for a document sent electronically to have the same validity and effectiveness as the original document, several legal safeguards must be met regarding the technical means used in these communications. These safeguards aim to secure electronic correspondence and preserve it, including: the ability to reliably identify the parties involved in electronic communication, ensuring the integrity of the sent documents, meaning that the technical means used must be secure to prevent any alteration, deletion, erasure, or tampering of the document during transmission.

Furthermore, it must provide security and confidentiality in communication, ensuring that the information contained within is not accessed by unauthorized

¹⁶- Bousif Mustafa, Boujana Mohammed, *Electronic Administrative Litigation in Algeria: Between Legal Text and Field Application*, *Al-Mi'yar*, Vol. 15, No. 01, June 2024, p. 352.

individuals to maintain the confidentiality of the information. It should also be capable of preserving data in a way that allows for the accurate determination of the date of sending and receiving by the recipient, which is crucial for establishing an electronic judicial archive and assisting in tracking judicial deadlines.

To ensure the successful completion of the process and confirm that the message has reached its intended recipient without any technical issues during transmission, the recipient is required to send a receipt notification indicating the date and time of receipt. This serves as a confirmation, seal, and signature, or any indication of receipt.

Please note that the sending of documents is determined by the email addresses of the parties involved. Once litigation documents have been sent electronically, they are transferred to the server of the company responsible for executing the transfer. The court clerk then relies on these documents on the date and at the time they entered the court's information system¹⁷.

Following acceptance of the lawsuit, the plaintiff is notified of the case number via email and the defendant is electronically served with a summons regarding the filed lawsuit within a specified timeframe from registration. This process is referenced in Article 9/1 of Law 15-03 and Article 840 of the Civil and Administrative Procedure Law. The purpose of using electronic notification is undoubtedly to save time and avoid the complexities posed by traditional notification practices, particularly the physical search for the addresses of the parties involved by court bailiffs.

It is evident from the above that significant responsibility for electronic litigation lies with the specialised court employee who is responsible for automating information relating to any lawsuit from the moment it is registered until the final stages of the judicial process. They are responsible for updating the data according to the procedures presented in the case. Furthermore, this employee ensures that each lawyer is provided with access to the court's website to assist them in receiving requests, attending sessions publicly to present defences and documents, and obtaining other documents in their office. This enables them to follow the finer details and stages of the case¹⁸.

It is evident that monitoring the progress of a case in electronic litigation utilizes the advancements of the third industrial revolution, allowing the

¹⁷- Khalid Mamdouh Ibrahim, Previous Reference, p. 33.

¹⁸- Safaa Outani, Previous Reference, p. 175.

litigant or their legal representative to follow specific steps outlined on the designated digital platform. The concerned party selects the judicial authority assigned to resolve the dispute, enters their username, password, and phone number, enabling them to check the status of the case—whether it is under deliberation, being heard, postponed, archived, or otherwise.

This procedure has been implemented for various types of dispute. Initially introduced for criminal matters, it was later extended to administrative disputes, and the digital platform has now been activated for these cases. However, it is currently only used in administrative courts, not in the newly established administrative appeal courts.

The electronic litigation system allows for online access to the text of judgments. Additionally, the national electronic window service enables litigants or their lawyers to obtain ordinary copies of judgements and judicial decisions from any judicial body nationwide without having to travel to the issuing court. This can be done by following a series of specified steps on the digital portal.

Experience has shown that retrieving judgments and administrative judicial decisions electronically from the relevant court requires the requested copy to be signed electronically and scanned to convert it into a digital image¹⁹.

Thus, it can be seen that the use of information technology helps to solve the problem of judicial congestion, as it provides benefits to litigants at all stages of filing a lawsuit: from registration and scheduling hearings to conducting them and arranging them relative to other cases, and finally issuing the judgment via the internet²⁰.

This indicates that electronic litigation procedures involve the use of electronic means at various stages, not just during a single phase such as presenting the dispute, judges considering it, or issuing a judgment.

Subsection Two: Video Conferencing as an Embodiment of Electronic Litigation in Algeria

Video conferencing facilitates the virtual presence of the parties and the judge through audio via speakers and visual via a display screen, representing the

¹⁹- Bousif Mustafa, Boujana Mohammed, Previous Reference, p. 354.

²⁰- Karim Karima, Using Information Technology in Civil Litigation to Support the Right to a Fair Trial, Journal of Law for Legal and Economic Research, Faculty of Law, Alexandria University, No. 1, 2013, p. 223.

embodiment of electronic litigation. This allows positive and effective participation and discussion during investigations and trials, enabling all parties to see, hear and communicate with one another simultaneously²¹.

Recognising its importance, the Algerian legislator has addressed this method, outlining the motivations for its use (Branch One) and the legal regulations and scope of its application (Branch Two).

Branch One: Motivations for using video conferencing

Chapter Four of Law 15-03 discusses the possibility of using video conferencing during judicial procedures²². It is also referenced in Article 65 bis 19 of Order 15-02, which amends and supplements the Penal Procedure Law, particularly with regard to the hearing of witnesses as part of the procedures for concealing the identity of witnesses and experts.

The Algerian legislator, through Law 15-03, clarified the motivations for resorting to this method, which include distance issues and the smooth functioning of justice. However, in Order 20-04, which amends and supplements the Penal Procedure Law²³, additional motivations were introduced, particularly those arising from the context of the COVID-19 pandemic, as well as other factors related to ensuring fair trial guarantees, including resolving cases within reasonable timeframes. Therefore, the motivations for using this procedure in criminal matters include²⁴.

- Distance Issues: Distance is a key motivation for using video conferencing technology, as litigants are often residents of correctional facilities located far from the judicial authority that has the jurisdiction to adjudicate their cases. This necessitates the use of this method to avoid the logistical challenges associated with their transfer, which requires following numerous administrative procedures, providing transportation, and implementing strict security measures.

- Smooth Functioning of Justice: The smooth functioning of justice

²¹- Bossan Jérôme, Videoconferencing in Criminal Proceedings: A Tool to Master, *Criminal Law Review and Comparative Criminal Law*, 2011/4, No. 4, p. 801.

²²- The National Council of Bar Associations in France previously praised the use of videoconferencing in criminal cases during the national lawyers' conference in Nantes on October 22, 2011, when it was possible to use it, or when the investigation necessitated its use due to distance, or to prevent harm to suspects, as it ensures communication and continuity. However, this type of session will change and affect the legitimacy and formality of hearings and alter the voice of justice, as remote defense, in their view, leads to a lack of neutrality. Refer to Karim Karima, Previous Reference, p. 218.

²³- Ben Abbas Mariam, Modern Elements of Public Order in Administrative Law, *Al-Bahith Journal for Academic Studies*, Vol. 07, No. 01, 2020, p. 195.

²⁴- Ben Azouz Ahmed, The System of Electronic Trial According to the Provisions of Justice Modernization Law 15-03, *Al-Basair Journal for Legal and Economic Studies*, Special Issue, December 2021.

necessitates the use of video conferencing technology to ensure that hearings and trials are not delayed and that the rights of detainees are respected, particularly the legally mandated duration of detention, which cannot be violated under the threat of penalizing arbitrary detention. The Algerian legislator first mentioned this motivation in Law 15-03 related to modernizing the justice sector, and subsequently in Article 441 bis of Order 20-04.

- Public Safety and Health, and During Natural Disasters: According to Article 441 bis of Order 20-04, public safety—considered one of the classical components of public order—has become a reason for utilizing this technology to avoid security risks associated with transporting defendants from correctional institutions to courts. This also protects victims and witnesses in cases that pose threats to their safety. Public health, as a component of traditional public order, has also driven the adoption of this method. The reliance on it, as per Order 20-04, aims to overcome the negative impacts of the COVID-19 pandemic on public facilities and state institutions, with the justice sector being among the most affected. Protecting judicial personnel, litigants, defendants, and all service seekers from the justice system requires adhering to a set of preventive measures, including physical distancing and implementing quarantine protocols, which conflict with the reality of court operations that are typically crowded with citizens.

Furthermore, Order 20-04 recognises natural disasters as a valid reason for using this technology. Such disasters, such as earthquakes and floods, represent instances of force majeure that hinder traditional litigation procedures. Therefore, it is essential to overcome these challenges by activating remote video trials in order to guarantee the rights of litigants.

Respect for the principle of reasonable timeframes: Through Order 20-04, the Algerian legislator relies on this principle to justify resorting to remote video trials and avoid the lengthy processes associated with traditional litigation. Resolving cases within reasonable timeframes is undoubtedly one of the fundamental guarantees of a fair trial. This requires cases to begin and conclude within a reasonable timeframe, while balancing the defendant's right to prepare their defence with the need to issue judgements without undue haste that could infringe rights or cause delays that undermine the presumption of innocence²⁵.

Branch Two: Legal Regulations for Using Video Conferencing in Judicial

²⁵- Yakar Al-Tahir, *Electronic Litigation: Between Contemporary Necessity and the Reality of Legal Texts*, Journal of Legal and Political Research, Vol. 08, No. 02, June 2023, p. 298.

Procedures and Their Scope

It is essential to address the legal regulations governing the use of video conferencing (First) and to clarify the scope of its application (Second).

First: Legal Regulations for Using Video Conferencing in Judicial Procedures

The Algerian legislator has established regulations for the use of video conferencing in judicial procedures, beginning with Law 15-03, which permits its use in criminal matters under Articles 14 to 16. After outlining the reasons for using this method, which were mentioned earlier and expanded upon in Order 20-04, the law required that the means used ensure the confidentiality and integrity of the transmission. This safeguards the confidentiality of investigative procedures from breaches or tampering.

Additionally, it stipulated that statements must be recorded on a medium that ensures their integrity, to facilitate reference when needed. This is evidenced by the requirement to attach the recording medium to the procedural file, thereby contributing to the formation of an electronic archive.

Effective use of video conferencing at this stage requires the complete and literal transcription of statements made by parties, which must be signed by the judge and court clerk responsible for the case. This ensures transparency in the procedure and aligns the electronic record with the signed minutes.

Notably, the Algerian legislator retained these legal provisions in Article 441 bis of Order 20-04, but added the requirement to capture proceedings conducted via this technology completely and clearly. The aim of all this is to document the procedure and affirm its credibility.

Second: Scope of Using Video Conferencing

Under Law 15-03, the Algerian legislator permitted the use of video conferencing during the investigation and trial phases. This enables the investigating judge to use it to question the accused, hear their testimony, and conduct confrontations between them and others. The law distinguishes between two scenarios: one where the person to be heard or questioned is in custody and one where they are not. For the video conferencing to be valid in the first scenario, the questioning, hearing and confrontation must occur at the court closest to the individual's residence, in the presence of the relevant public prosecutor and court clerk. This follows the public prosecutor's verification of the individual's identity and the drafting of a report.

Order 20-04 reaffirmed these provisions in Article 441 bis 1 and requires the court clerk to draft a report on the video conferencing process, sign it and send it to the competent judicial authority via the public prosecutor, to be attached to the procedural file.

Furthermore, the public prosecutor or investigating judge is authorised to use this procedure when extending preventive detention or apprehending the accused outside the jurisdiction of the investigating judge who issued the arrest order.

Order 20-04 addresses situations where a person who is not in custody is to be heard, questioned or confronted and resides within the jurisdiction of a different court to the one conducting the investigation. It permits the relevant investigative authority to request that the public prosecutor of the nearest court summon the individual on a specified date to carry out the prescribed procedures, in accordance with the provisions set out in Article 105 of the Penal Procedure Law.

Regarding incarcerated individuals, Law 15-03 initially provided for them to be heard at the correctional facility where they are located, after the public prosecutor verifies their identity and drafts a report. However, the law's provisions for this situation were brief. Order 20-04 addressed this in detail, permitting the investigative authority to hear the incarcerated individual using video conferencing technology after notifying the director of the correctional institution, provided the conditions for doing so are met. The individual's lawyer may also attend, and the procedure must take place in the presence of the correctional institution's clerk, who is responsible for drafting a report on the process, signing it and sending it to the competent judicial authority through the director of the correctional institution for inclusion in the procedural file²⁶.

Additionally, Article 441 bis 5 of Order 20-04 states that, for video conferencing to be valid in the aforementioned scenarios, the person being heard remotely must sign a copy of the report sent via any communication method, once it has been signed by the judge and court clerk at the relevant judicial authority. If the individual refuses to sign or is unable to do so due to a disability, this must be noted on the copy of the report, which should then be sent back to the competent judicial authority and attached to the procedural file using the same method.

²⁶- Article 441 bis 4 of Ordinance 20-04 amending and supplementing the Criminal Procedure Law.

Furthermore, Article 441 bis 6 of Order 20-04 stipulates that the investigating judge who uses video conferencing to hear an individual in temporary detention must also use this technology to inform them orally of the order in question, while outlining their rights as specified in Article 123 of the Penal Procedure Law. A copy of the detention order must be sent to the public prosecutor or the director of the correctional institution for execution, using one of the communication methods.

Under the Law on the Modernisation of Justice, the Algerian legislator allowed the court to use this technology to hear witnesses²⁷, civil parties and experts. For misdemeanours, the court may use it to receive statements from detained defendants, provided that the individual concerned and the public prosecutor consent.

However, under Order 20-04, the Algerian legislator modified this stance, granting the judge discretion to use video conferencing after consulting the public prosecutor and notifying those involved. Therefore, the use of this technology is no longer dependent solely on the consent of the individual concerned and the public prosecutor. It also enables the public prosecutor, any party, or their defence to request its adoption²⁸.

In order to balance conflicting interests, the legislator has made a distinction between cases where the court initiates the use of video conferencing and cases where it is requested by the public prosecutor or the parties involved. In the former, the public prosecutor, one of the parties or their defence, or the detained defendant or their defence can object to the use of this technology, specifying their reasons for refusal. These reasons remain subject to the judge's discretion. The judge may accept or reject the objection based on the seriousness of the reasons presented. In both cases, the judge can issue a non-appealable decision²⁹.

In the second scenario, where video conferencing is requested by the public prosecutor, one of the parties or their defence, the relevant judicial authority must consult the other parties or their defence and the public prosecutor before expressing their position. If new circumstances arise after the request is made, the authority may reconsider its decision.

To develop a comprehensive understanding of video conferencing technology, it is necessary to consider the nature of the judgment. According to Article 441

²⁷- Article 15/2-3 of Law 15-03 concerning the modernization of the justice sector.

²⁸- Article 441 bis 7 of Ordinance 20-04 amending and supplementing the Criminal Procedure Law.

²⁹- Article 441 bis 8 of Ordinance 20-04 amending and supplementing the Criminal Procedure Law.

bis 10 of Order 20-04, if the accused fails to appear when this technology is being used, the provisions of Article 347 of the Penal Procedure Law apply and the judgement issued is considered to have been made in person. Thus, it is evident that this technology can substitute the actual presence of certain individuals with electronic presence.

It is clear from the above that video conferencing is currently used in criminal matters but not yet in civil matters. The Ministry of Justice aims to activate its sectoral network, which includes a database intended to connect various judicial bodies. The Ministry has established an internal communication network between the courts of appeal, the Supreme Court and the Council of State. This allows lawyers to register appeals against judicial decisions with the appeals service within the court network, and to track the status of the appeal, eliminating the need to travel to the Supreme Court.

Conclusion:

The present study has demonstrated that the justice sector in Algeria has made significant qualitative progress. The modernisation of this sector required the use of technology produced during the Third Industrial Revolution, overcoming the shortcomings of traditional litigation. The electronic transformation of the judicial system has led to the adoption of electronic intermediaries, which have greatly impacted the transition from traditional to electronic documentation. This allows files and documents to be sent electronically, eliminating the need for traditional methods of delivery that rely primarily on human involvement. This has resulted in time savings, increased efficiency, and improved the quality of judicial work.

The legal framework established by the Algerian legislature through Law 15-03 has played a crucial role in strengthening the electronic litigation mechanism across various judicial bodies. It introduced an information system for the Ministry of Justice and facilitated the electronic transfer of documents, specifying the regulations for their validity. The law also set out the reasons for using video conferencing and later clarified its provisions in Order 20-04.

While the legal framework for electronic litigation and its comprehensive theoretical basis, along with the provision of digital platforms reflecting the Algerian state's commitment to implementing it, are critical, they are not sufficient. A collaborative effort among all judicial stakeholders is necessary to create a well-rounded system, which can only be achieved by:

- Conducting regular training sessions in electronic justice involving various

stakeholders in this sensitive sector.

Activating the process of filing and registering lawsuits electronically with judicial authorities across the country.

Encouraging lawyers to engage with the digital platform designated by the Ministry of Justice, through which they can exchange petitions and memoranda electronically.

- eradicating information illiteracy in the judicial field by raising awareness of electronic litigation among citizens and emphasising its importance.

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