

The E- Justice in Algeria between Achievements and Future Challenges

العدالة الإلكترونية في الجزائر بين الإنجازات وتحديات المستقبل

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Abstract :

The bandwidth of information and communication technology is constantly increasing.. This last one generates many modern opportunities that affect all aspects of human activities, including the judicial system. And with technological development; The way of providing and exchanging information is changes, and with a computer that facilitates the process of access to justice for interested parties, and has the ability to receive, process, store, retrieve and distribute large amounts of information.. And by integrating telecommunications technology side by side; It makes them an essential tool for the establishment of justice, and the electronic justice projects faces great challenges in different countries despite the different results of these projects from one country to another. This paper analyzes and discusses the experience of electronic justice in Algeria between its achievements and challenges for the future.

Keywords: Justice; Electronic; Algeria; Technology; information .

ملخص:

النطاق الترددي لتكنولوجيا المعلومات و الاتصالات في تزايد مستمر ، أين تولد عن الأخيرة العديد من الفرص الحديثة والتي مست جميع أوجه أنشطة الإنسان بما فيها الجهاز القضائي ، ومع التقدم التكنولوجي تتغير طريقة توفير المعلومات وتبادلها ، وبوجود كمبيوتر يسهل للأطراف المهتمة عملية الوصول إلى العدالة ، وله القدرة على تلقي ومعالجة وتخزين واسترجاع وتوزيع كميات كبيرة من المعلومات ودمج تكنولوجيا الاتصالات السلكية واللاسلكية جنباً إلى جنب تجعلهم أداة أساسية لإقامة العدل، وتواجه مشاريع العدالة الإلكترونية تحديات كبيرة في بلدان مختلفة على الرغم من اختلاف نتائج هذه المشاريع من بلد إلى آخر، تحلل هذه الورقة وتناقش تجربة العدالة الإلكترونية في الجزائر بين إنجازاتها وتحدياتها للمستقبل .

الكلمات المفتاحية: العدالة : الإلكتروني : الجزائر : تكنولوجيا : المعلومات .

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Introduction

Information and Communication Technology has revolutionized the way of life in just one human generation. When ICTs are increasingly changing the way, individuals, businesses and public institutions, including the judiciary, interact.

The State of Algeria tended to take advantage of information technology in the field of communications and electronic transactions for a long time and issued the "Electronic Algeria" strategy regarding electronic transactions. This strategy aims to develop appropriate solutions to the problems posed by electronic transactions, protect customers' rights electronically, and enhance confidence in the use of electronic correspondence in all activities.

Over recent years, the Algerian state has been increasingly interested in taking advantage of the benefits of this technology in the field of remote litigation. This led to the issuance of Law No. 03/15 of 2015 regarding the use of communications technology in judicial procedures and related to the **Modernization of Justice**. It was followed in 2020 by amending some provisions of the Code of Penal Procedures, including a new section entitled "Using Communication Technology in Penal Procedures." Accordingly, this study will be limited to remote litigation in penal proceedings with reference to remote litigation in civil procedures when appropriate. It will focus on analyzing the work of courts and the most important advantages and disadvantages, that resulted from the use of electronic means in remote litigation procedures in Algeria. Thus, the problematic of this article comes from the following main.

question: **What are the elements of the Algerian experience in the transition towards electronic justice ? .**

It is divided into the following sub-questions:

- What we mean by the E-justice? And what is Algeria's strategy for digitizing the judiciary?
- What are the achievements of the Algerian state in the field of electronic justice? And what are its challenges for the future?

In preparation for this study's Endeavour to shed light on E-Justice and associated procedures, we will begin by the first section attempting to ascertain what is meant by 'E-justice', and what falls within its ambit from the perspective of the Algerian legislator. This will lead us to then ascertain how this judicial system operates, which courts are practicing electronic litigation, what the cases filed electronically are, and how to bring a case forward and administer it through those courts. This section sets out these definitions and explanation as the necessary background in understanding the operations of the E-courts in Algeria. Secondly, we will in the second section, address the achievements of the Algerian state in the field of electronic justice.

Following in all, we adopted a descriptive approach for the description of the E-Justice and then, an analytical approach aiming at the study of several elements of the Algerian experience in the transition towards electronic justice and legal texts on a basis of a comparative approach.

Objectives of the study :

This article focuses on the use of ICT in the judicial system, the importance, benefits and challenges that come along with it. With this article, one would be able to understand how ICT would be helpful for the judicial system in Algeria and how it could make lives easier for the judges, lawyers, judicial clerks, and most importantly victims approaching the courts.

1 - The concept of electronic justice

Electronic justice is a new way for managing the judicial system, that emerged as a consequence of technological and scientific developments that affected all developed and even developing world societies, including Algeria.

A) The emergence and development of electronic justice in developed societies

In the last years, information and communication technologies (ICT) have pervaded in different areas of the worlds judicial systems, opening new opportunities to improve the internal management of justice as well as the delivery of its services, called for this purpose E-Justice.

Some examples of key e-services thereof: The possibility of consulting online court registers, the availability of web services, legislation and case-law, the use of electronic filing, the electronic exchange of legal documents or the publication of jurisprudence online , aimed at significantly improving the efficiency, transparency and accessibility of the judicial administration.¹

It should be noted that the use of the term paperless office for the first time was in the U.S.A in 1973, referring to the idea of switching to digital work, and in 1974 Xerox Corporation started promoting this ambitious concept as representing the office of the future, as was the beginning of the launch of Microsoft in Al-Maidan (electronic administration) in 1996 through the use of the network link between the computers used in its institution, which led to a significant reduction in the need to use paper.²

In 1993, the Court Room Project was launched, where it works on a modern and sophisticated hall in which electronic litigation procedures are practiced. So it was equipped with the latest hardware and software to provide its judicial services, as an initiative of the National Center for State Courts in cooperation with William and Mary University - School of Law, and this cooperation led to the establishment of the Legal Center for Court Technology, which in turn found the Court ROOM 02 project, which in turn is considered one of the leading projects in the United States of America and the world.³

In Belgium Before 1997, the outstanding electronic legal device was a Kluwer database on CD-ROM called Judit, with no serious challenge from other products. It still exists today as a CD. Judit has been a reference tool created in the late eighties, with hardly any full texts, to meet the challenge from the new public websites, Kluwer published Judit and TWS both on the web in early 2000, calling the “new” database Jura. But this did not end its troubles on the online market , Between 2000 and 2004 some separate journals created a website with full text⁴. In 2003, Kluwer mounted the www.kluwerconnexion.be website, on which CDRom’s could be accessed online, Finally, and in 2004 Larcier published a complete new website called Strada, offering several full text resources, including some important law reviews, then in November 2005, Intersentia, Die Keure and Bruylant created a new website, called Jurisquare.⁵

of Spain signed a collaboration agreement for the development of digital public services. The program called Ius+network (“Ius+Red”), accomplished through the Public Enterprise “red.es”, aims

to lay the foundation for technological development under the “Strategic Plan for the **Modernisation of Justice**”. The agreement, approved at the last Council of Ministers, aims to achieve a technologically advanced model of Justice. Among the planned actions is the digitisation of the registration function in the Peace Courts (**“Juzgados de Paz”**), the provision of e-services to courtrooms and the enhancement of the Digital Judicial Records, Juriservice is a Web-based system intended to provide the Spanish judiciary with a means to facilitate knowledge management in daily judicial practice.⁶

B) Definition of E-Justice

Different terminology for the exercise of the judicial function by electronic tools is being used in various literature. It is sometimes called the E -Justice , E-Court, smart litigation, or remote litigation, which means litigation procedures that are initiated through means of telecommunications or by electronic media to produce remote attendance, exchange of documents and memoranda, filing of a lawsuit, process service procedures, trial procedures before the competent court and issuance of judgments.

According to the previous, we can define the E-Justice as: the exercise of judicial function in all proceedings through electronic means in whole or in part. This includes the filing of the lawsuit and its announcement, the exchange of documents, the hearing of witnesses, the conduct of expertise, the deliberation of judges and the issuance of judgment.

On the other hand, ICT is the main generally includes all technologies such as devices, networking components, applications and systems. That together allow people or people within an organization or different organizations to interact with each other in the digital world.

In E-Justice proceedings the lawsuit will be filed, and the prescribed fees collected via the internet or any other means of remote communication. The participants of the legal procedure (judge, plaintiff, defendant, witnesses, interpreters and experts) are to be notified along electronic means. Witnesses are to be heard, issues discussed, experts appointed, reports received, and documents exchanged between parties to the case through electronic media. The judges of the court are either to deliberate among themselves and issue their judgment by such means without their physical presence.⁷

C) The Algeria's strategy for Digitizing the Judiciary

The ever-increasing trend in the development of the information and communication technology system leads to its penetration into many systems, thus into the legal system. As well, it imposes the need for an appropriate strategy and reform of the judicial system followed by the introduction of electronic justice. The Algerian judicial system has taken significant initiatives to adopt and widely use ICTs.

Reform and Modernization of justice are two elements that cannot be separated from each Other, and this strong interdependence between the both items highlights the importance of the latter as a strategic destination central, that is the reorganization of the central administration would fully ensure the completion of the program reform, which led to the creation of a new general directorate charged with modernization through a strategist Scheme whose achievement extends to the promotion of the judicial system in Algeria, where introduced information and communication technologies in the judiciary are not a goal in themselves, but rather a mechanism and a means to reach justice accessible to the citizen more effectively, and a quality granted to the judge in availability of technical means to complete the services in the best manner.

The judiciary in its capacity as the protector of public rights and freedoms considered as the main pillar of governance Al-Rashid for all countries and in the entire world, thus the rest of the fields will be reformed by reforming it, without neglecting its prominent role in advancing the wheel of development. But during the 1990s, Algeria experienced backwardness at the judiciary as a result of the deteriorating security situation that the country experienced during that period.

To then dictate on it the political, social, and especially technological requirements to keep pace with the times the necessity of reforming the judicial system in Algeria to make it more flexible and fair, establishing transparency beside the application of the law and the elimination of corruption and its side effects.⁸

Where the former President of the Republic, **Mr. Abdel Aziz Bouteflika**, placed the Algerian Justice reform as a national priority under his presidential program related to comprehensive reform, which has been achieved in the end indeed. And based on the presidential program for justice reform, the former President of the Republic in 1999 installed the National Commission for Justice Reform⁹, which was composed of national tires and judges, Where he entrusted them with the task of re-diagnosing the situation of the Algerian judicial system with an overall view, with the detection of gaps and deviations and set it with a combination of solutions to ensure establish a truly independent justice of their suggestions.

A month after the investiture of the National Commission for Justice Reform, the latter presented a set of findings and recommendations, which made them think of a program capable of advancing development in the country with reforming the rest of the sectors through justice, as the latter is in its nature to strengthen the foundations of the state and impose its powers by taking a set of measures related to the support of human rights and freedoms, with facilitating access to justice and Reconsideration of rehabilitation and training programs. In addition to other long-term projects and many more.¹⁰ From the aforementioned we can list the most important projects undertaken in the following axes:

- **Reviewing the legislative System:** which makes national legislation in line with international standards, whether it is related to the field of human rights and their freedoms in particular, or with the commitments; economic and social developments that the country is witnessing on the one hand and the entire world on the other hand.
- **Human Resources Development:** Considering judges the effective and main human element focusing on judicial activity. The National Committee came out with recommendations on the following elements that would qualify the judge: Supporting the policy of continuous training which Specialized in deepening cooperation ties with developed countries and experienced in this judiciary field to achieve mutual benefit and upgrade the sector. Conclusion of agreements for the benefit of upgrading the training of judges.
- **Modernization of Justice:** the introduction of modern information and communication technologies on the traditional judiciary activity as a keeping up with the information age, and in order to facilitate the process of access to the judiciary and making justice more closer to the citizen and modernizing litigation procedures. At the same time, requiring the emergence of a new mentality that has the ability to share information and knowledge in general to match this conjunction between knowledge and technology, under transparency and the smooth functioning of the public facility. This dimension is like a second subject of strenuous efforts.¹¹

2 - The Achievements of the Algerian State in the Context of Digitizing Justice.

The Algerian state was created in order to reach a transparent administration that keeps pace with the era of technology development and deals with its requirements and data. In addition, the electronic administration as the first step to modernize the judiciary facility,¹² especially since the latter is a strategic facility based on improving judicial business and developing the public service, where it was reformed according to advanced strategies from the first reform projects are on the agenda of the government program launched since 1999¹³. It also allowed the use of information and communication technology mechanisms for the purpose of improving public service and ameliorating it, developing the information system according to central data, relying, in particular, on facility efficiencies, by establishing an internal communication network linking all of the central administrations and the judicial authorities and penal institutions, as well as bodies under guardianship by means of visual fibres, in light to embody the electronic signature and certification mechanisms to ensure the authenticity of documents with the Development of services to make them available remotely.¹⁴

In order to dedicate a more remote litigation system, the Ministry took the initiative to take a distinguished step during the outgoing correspondence by the Secretary General of the Ministry of Justice on 03/15/2021 under No 302 / AA / 2021, which provided for the adoption of electronic litigation in civil matters with displaying the digital platform designated for this and putting it into service in order to simplify the judicial procedures by communication technology. Among the processes embodied in practical reality to consolidate the strategy of “Electronic Algeria”, we mention: extracting a nationality certificate remotely via the Internet, issuing a case law sheet, electronic correction of errors in the civil status records, withdrawing judgments electronically by accredited lawyers, and automatic management and follow-up of the judicial file.¹⁵

The Algerian legislator also tended to embody electronic justice (**E-Justice**) by enacting a group among the legislations and legal texts that aim to start adopting remote litigation, to then lay out its components and conditions for its use, where Law No. 15/03 was issued which related to modernization justice , where the latter included 19 articles dealing with the consolidation of the electronic litigation process, where putting and referring to the text of Article (01) thereof:

- * A central information system affiliated to the Algerian Ministry of Justice
- * Sending judicial editors and documents electronically
- * Adopting the technology of remote conversations, i.e. videoconferences, in judicial procedures.¹⁶

Referring to the text of Article 02 of Law No. 15/03 related to the modernization of justice, we find it states on: **‘Create a central information system for processing the mechanism for data which related to the activity of the Ministry of Justice and its affiliated institutions, as well as judicial bodies of the ordinary judicial system and the administrative judicial system and the Dispute Court’**, that is, it included the Algerian judicial organization, whether ordinary or administrative. As well as the Dispute Court.¹⁷

Then the Algerian legislator in Law No. 15/03 related to the modernization of justice comes and organizes a technique remote Conversation in the fourth chapter , and in Law No. 20/04, which includes an amendment to the law of criminal procedures, through which the Algerian legislator

organized the use of the technology remote conversations (visual), where is the use of this technology permitted under the text of Article 65 bis 27, which States that ‘the arbitrator may automatically or at the request of the parties, hear the Identity concealed witness by developing technical means that allow his identity to be concealed, including hearing through remote video chatting and the use of methods that do not allow the identification of the image of the person and his voice. If the statements of the anonymous witness are the only evidence for the accusation, the court may allow the identity of the witness to be disclosed after his consent, provided that adequate measures are taken to ensure his protection.¹⁸

The Algerian legislator also approved in the second book bis of the first chapter related to the use of audio and visual means of communication during the procedures, through each of Articles 441 bis and Article 441 bis 01, and in chapters two and three related to the use of technology remote conversation is in the judicial investigation stage, along with the trial stage, to be embodied for the first time, on October 07, 2015, the first pictures of remote litigation in the Misdemeanor departement of Al-Qulea Court, referring to the jurisdiction of the Judicial Council of Tipasa , but internationally, it took place in 2016 for the first time a remote trial between the Judicial Council of M’sila and the Judicial Council of Nanterre, France. To be repeated then the international experience of remote trials between the Setif Judicial Council and the Court of Loire, France.

In addition to Law No. 15/04 related to electronic signature and certification, and to continue In the process of modernizing justice, the electronic Public Prosecution platform was created as an application available on The website of the Algerian Ministry of Justice, which entered into force on July 28, 2020, to take over the task of receiving complaints electronically from citizens and processing them and following up in the same way¹⁹. Through what has been presented, we will discuss the digitization of judicial services in (A), then to the applications of digitization in the criminal field (B).

A) Digitization of judicial Services

The justice facility is one of the strategic facilities that the state itself manages and modernizes. Where the latter was made in order to achieve impartial and easy-to-reach justice for citizens, to exploit information and communication technology in it, which stands out in particular by providing technical means for the human elements in the sector, including judges and police officers, as well as justice agents and its assistants in order to perform their job as expected. And as a matter of always updating and modernizing justice,²⁰ according to the recommendations of the Special National Committee to reform Algerian justice²¹, Decree No. **333/04** of October 2004 was issued,²² Which included the organization of the central administration in the Algerian Ministry of Justice, as it was introduced afterwards a new directorate has been entrusted with the task of digitizing justice and following it up, and it has been launched for the first time ‘**Directorate of Modernization of Justice**’; where the latter specializes in researching and proposing technical means, which promote justice, with providing electronic procedures, documents and documents used in judicial authorities, ensuring the use and promoting of automated media technology and Information and communications technology, which became more entrenched with the issuance of Law No.15/03 which related to modernization of justice.²³

The justice sector has been dedicated to stand on the digitization of the judiciary by many guises, under a variety arsenal of laws and regulations, which is manifested on its adoption of many projects that serves it of which we can mention: ‘biometric identification card, biometric passport, biometric Al-Shifa card, electronic payment cards, including the golden payment card and the debit bank card, as well as Visa Card. And we can enumerate the electronic judicial services²⁴, which were provided by the Algerian Ministry of Justice in the following elements:

1) The Creation of a Call Center

The call center is defined as space equipped with the purpose of providing remote information or services whose main activity is to have several remote operators respond to large numbers of phone calls , or making a large number of calls, according to a specified procedure, for the benefit of one or more customers The Algerian Ministry of Justice has established a call center located at the level of the Ministry of Justice, a national center and other centers are located at the level of well-known judicial councils, where the latter provides judicial services to beneficiary litigants, with the remote inquiry, where the center takes care of responding to everything related to the fate of cases, which allows litigating citizens to benefit from the green number service by calling **1078** to inquire about their cases.²⁵

In order to answer citizens questions, a special website has been opened on the following website: contact@mjustice.dz as well as the cell known by (Cellule de Treatment des Doléances des Citoyens) takes care of receiving complaints and suggestions from citizens and their concerns, and direct them in the end to the competent bodies, and are available on the following electronic addresses :

Infocasier@mjustice.dz: This website is dedicated to answer citizens; questions related to the service of requesting and receiving the case law sheet no. (03) Remotely via the Internet.

Infonasionalite@mjustice.dz : This site is dedicated to answer citizens questions related to the service of requesting and receiving a nationality certificate remotely via the Internet.²⁶

2) The Service of withdrawing both the nationality Certificate and the Case law Electronically.

The Algerian Ministry of Justice has provided, through its official website, a withdrawal service of the nationality certificate and the case law sheet electronically, without the need to move to judicial authorities directly to withdraw it , and this is done once the registration at the central database level which available mainly for this purpose.²⁷

- **The Process of withdrawing case law No. 03 electronically**

The service of withdrawing case law No. 03 electronically was officially launched on February 15, 2021, starting at 10 am, at the headquarters of the General Directorate to Modernize Justice which located in **Bir Mourad Rais**, where it was registered and once the service was unleashed and according to what was stated by the Director of Organization and Supervision of Service in the Ministry, it was extracted during the first ten minutes of launch, about 160 documents. The latter is a service that is available to all convicted and non-convicted citizens except Algerians residing outside the country only, where they will benefit from that without having to go directly to the competent judicial authority or bear the burden of that, where they can access the website of the Algerian Ministry of Justice available at: <http://portail.mjustice.dz>

This service is available free of charge, as it is exempted from paying any judicial fees according to the provisions Finance Law for the year 2020.

- **The Process of withdrawing the Nationality Certificate Electronically**

Based on the idea of modernizing justice, to bring it more closer to the citizens who benefit from the judicial public service, the legislator approved the possibility of obtaining nationality certificate remotely and through the Internet, only by accessing the official website dedicated to this service as follows: <http://portail.mjjustice.dz> This service is available to any Algerian, whether inside or outside the country He can extract his Algerian nationality certificate from the official website of the Ministry, but before that, he must take the following steps:

- ❖ Approaching the holder of his national identification card to the window of any court across the national territory, if he is inside the country, or any Algerian consulate or his diplomatic representatives if he is outside the country, accompanied with the following file:
 - The birth certificate of each of the interested party and the birth certificate of his father and grandfather.
 - The mobile phone number of the concerned person.
 - Civil status documents and all documents related to obtain an Algerian nationality certificate in its traditional form.
- ❖ Submitting a paper information card of the concerned to the seizure trustee at the competent court after registration, it includes his name and family name with the username of the electronic account and the password.
- ❖ Receiving the concerned after 48 hours following the account opening process, a text Message via his mobile phone, where the message contains another two username and password are new and confidential only to him, and here as soon as the concerned receives the user name user and the new password, he will be able to resort to the service of requesting and receiving a remote Algerian citizenship certificate electronically, by accessing the official website to the Ministry of Justice.²⁸

3) Withdrawal and Electronic Correction of Errors Contained in the Civil status records

- **Withdraw Documents related to civil status electronically**

In 2020, the legislator introduced a new service that allowed beneficiary citizens to withdraw documents related to civil status among each of the birth certificate, marriage certificate or even death certificate electronically and remotely, and this is done by accessing the application available on the official website of the Ministry of Interior, Local Authorities and Urban Planning via the following link: www.Interieur.gov.dz

- **Electronic Correction of errors in civil status records**

On the other hand, Algerian citizens were provided with a service related to electronic Correction of errors which present in the civil status records, without the need to move to the concerned judicial authority to deposit a correction request or taking the trouble to do so, as this service includes even members of the resident community outside the national territory, where they are now able to request the correction of the errors contained within their civil status records and benefit from the new application for electronic correction for the errors contained in the civil status

records available at the level of diplomatic representatives or even consulates, by simply entering the electronic services gate of the Ministry of Justice.²⁹

4) Automatic follow-up of the judicial file

The ultimate goal of modernizing and digitizing justice is to facilitate access to the latter from the side of the citizen and bringing him closer to it while reducing the various burdens of the facility and shortening the distances, which appears through the electronic management of any file or case since its inception and deposition until the final decision, whether it is civil, administrative or even penal, where the beneficiary gets the service and once he enters the password that enables him to enter to the electronic site portal to follow up the outcome of his case, after taking the following steps:

- Choosing the competent judicial authority
- Entering the username
- Entering the password and then pressing the Execute button directly.³⁰

5) Electronic Management and Judicial Procedures

The Algerian legislator allocated as a matter of digitizing administrative and judicial documents and records, the chapter Three of Law No. 15/03³¹ related to the modernization of justice, as the latter organized a process of sending documents and judicial procedures, classifying and indexing them, while dedicating the means of required protection to do so electronically. Referring to the text of Article (09) of Law No. 15/03³², we find that this article approved new methods for notification and sending documents and papers, in addition to other traditional and applicable methods in accordance with the Civil and Administrative Procedures Law and the Penal Procedures Law. It also approved and according to Article Ten (10) of Law 03/15, to all the necessary conditions for the safety of documents sent by security and confidentiality together³³.

6) Electronic exchange for reporting penal files between prosecution and investigative

Judges within the framework of continuous modernization of the justice sector, especially to

Consolidate the objectives and the strategies of technology, represented in speed in procedures and shortening distances, it created an application that allows Public Prosecution judges and investigative judges, without the need to move, to exchange files related to penal cases electronically, and thus, since its inception, this system has reduced many burdens on the penal department.³⁴

B) Applications of Digitizing Justice in the Penal Field

The matter that we will address through this section, where we will discuss the concept of remote videoconferencing technology with defining its conditions in the Algerian penal legislation in (01), and then in (02) we will discuss the definition of the electronic Public Prosecution with its procedures.

1) The Definition of videoconferencing Technology

The term videoconferencing is a translation of the Western term **Vidéoconférence** in French and Video Conferencing in English. Where it is divided into two words, the first is the word **Video**,

and the second is the word **Conference**,³⁵ where the first word in Arabic corresponds to the word (تلفزيوني), which is originally French word recently introduced into the Arabic language, and it means all device that transmits images and sound by means of different communication waves. The second word means the gathering of a number of individuals to conduct a discussion, lecture or dialogue with a specific topic and appointed.

As for its technical and terminological meaning for the use of videoconferencing technology, it is the other does not deviate from the linguistic meaning in terms of considering ;This technique is a technological means of communication and audio visual conversation that is used by a group of individuals between each other through all correspondence, transmission, or reception of signs, signals, writings, images, sounds, or various information by means of wires, optics, electrical wireless, or other electromagnetic devices or any other electronic means that provide and guarantee communication .³⁶

The videoconferencing technology has been enshrined in Algerian legislation under Law No. 15/03 related ³⁷to the modernization of justice. However, it did not find practical application on the ground.

Until the year 2020, when the Corona pandemic spread throughout the world, which imposed social distancing. However, the Algerian legislator did not provide a comprehensive definition of this technology, but rather and through Articles 14, 15, and 16 of Law 15/03 related to the modernization of justice, it established the conditions and procedures for its implementation.³⁸

- **Conditions for Applying the Technology of Videoconferencing**

Referring to the text of Article (14) of Law 15/03 related to the modernization of justice³⁹, as well as through the text of Article 441 bis of the Code of Penal Procedures⁴⁰, we can deduce the conditions for resorting to apply of the videoconferencing technology as follows:

- **The Existence of a Serious Reason:** As it was stated in the text of the article that the reason for using the technology of videoconferencing must be serious, such as the long distance or any other reason directly related to the good conduct of justice, where the parties can be interrogated or heard or even maintain security or health public and natural disasters.
- **The Complete Confidentiality:** The Algerian legislator was keen, through the texts of the two articles, on the importance of complete confidentiality, as it required that the technology guarantee complete confidentiality and security of transmission, as it cannot take place, for example, through social networking sites or any applications and networks that are easy to be hacked and are not sufficiently protected. Rather, they must be done through an internal communication network that is guaranteed confidentiality and quality⁴¹.
- **Recording statements on a support:** Referring to the text of Article 14, Paragraph 03 of Law 15/03 related to the modernization of justice, and Article 441 bis, Paragraph 02, the two aforementioned, we find that it is obligatory to record the statements of witnesses, the accused, or other parties of the trial for the on-going trial via the technology of remote videoconferences.
- **Registering the statements on a support:** Referring to the last paragraph of the same article, we find that it is obligatory to write down all the statements made during the remote

trial literally, without addition or subtraction, based on a report signed by the concerned judge, the trial specialist and the warrant officer.⁴²

- **Obtaining the approval of each of the imprisoned accused and the Public Prosecution:** by referencing to a text Article 15, the third paragraph of Law 3/15, we find that it requires the express consent of the accused who is in a penal institution.⁴³

- Procedures for Using Remote Videoconferencing Technology in the Penal Judiciary

We capture that the use of remote chat technology takes place in two stages, namely the stage of judicial investigation and trial stage.

- The Judicial Investigation Stage

Referring to the text of Article 441 bis 02 of the Code of penal Procedures⁴⁴, and Article 15 of Law No. 15/03,⁴⁵ we find that they approve the use of remote videoconferencing technology during the judicial investigation stage in order to; Interrogate, hear, or conduct a confrontation between persons in notifications that require, under the Code of Criminal Procedures, a report on them ,This means that the remote video trial has a place in the field of penal investigation, where the investigation takes place in one specific geographical area regarding all parties to the dispute, whether they are accused or witnesses. The investigation according to this technique nowadays has become an extension of the regional scope to include a variety of regional places, whether within the state or within several other countries, where it is possible for the investigating judge to be in one country, the accused in another country, and the victim and witnesses in another third country.

In the case that the accused who is intended to be heard by the technique is not imprisoned, interrogated, notified, or confronted with him, whose domicile is outside the jurisdiction of the court, the competent investigative authority here may submit a request to the Public Prosecutor of the closest court to his domicile, in order to summon him to carry out the procedure according to its specified date.

In the event that it is impossible to release the imprisoned accused or transfer him to another penal institution, the investigation authority and after informing the director of the penal institution, can conduct the hearing via remote videoconferencing technology and in the presence of the penal institution's control secretary who is tasked with issuing a report on the course of the process. The defense accompanied by his client, in order to hear him before the investigation authority, and in the case of the investigating judge orders that the accused, who was overheard by means of the remote videoconferencing technique, be placed in temporary detention, then the judge here must inform him orally and with the same technique, and informs him of all his rights stipulated⁴⁶ in Article 123 bis of the same law, and he notes that in the hearing minutes, so that at the end a copy of the temporary deposit order will be sent to the competent public prosecutor and to the director of the penal institution in order to execute it by means of technological means of communication⁴⁷.

- The Trial Stage

The use of remote video trial technology in the courts today is considered as one of the aspects of electronic litigation, where the transition it takes place from the usual traditional image to the electronic one that keeps pace with the era of technology and digitization, which guarantees at the

same time and according to the perspective of the Algerian legislator the principles of a fair trial in particular, the principle of adversarial system between the parties of the lawsuit without the need for their presence in the same place or for what is known as their actual presence, especially in light of the period of the Covid 19 pandemic, where ensuring social distancing in order to preserve public health was the most important thing.⁴⁸ Also, halls has been allocated inside the penal institutions and linked by fibers or the internal communication networks of the Ministry of Justice, with the session rooms of the courts and judicial councils, where the trial takes place remotely and in the presence of the defense present in the hearing hall for the detainees who are in the penal institutions, through the remote videoconferencing technology, and in the end the judge issues his judgment remotely and is considered present in the case of the accused.

The verdict body can take advantage of the remote video conferencing technology to hear witnesses and even civil parties and experts⁴⁹, and by referring to the text of Article 65 bis 19 of the Code of penal Procedures, we find that it excluded the uses of this technique in the penal judiciary in cases of organized crime, terrorism and corruption only, and therefore the legislator provided protection for witnesses in this type of crime only⁵⁰.

2) E-Nyaba

The term E-Nyaba is compared to other terms that benefit the uses of information and communication technology in the judicial system, as it was recently introduced an electronic platform via the official website of the Algerian Ministry of Justice called it e-nyaba , which means filing the complaint by the complainant at the level of the interests of the representative of the republic electronically, and without any need to move to the corridors of the courts and having to wait or otherwise .which makes us touch first on the concept of e-nyaba, and then to the procedures that must be followed in order to file the complaint electronically.⁵¹

- Definition of E-Nyaba

E-nyaba is defined as an electronic judicial information system, which allows persons, whether they are people or moral, or even to their agents, to file a digital complaint with the interests of the regional representative of the Republic or even the Public Prosecutor remotely or even via the Internet, and the latter is obligated to respond to the content of the complaint electronically via the Internet. This means that e-nyaba is a mechanism specialized in receiving petitions and complaints filed electronically by litigating citizens without the need for them to go to the court corridors and wait.⁵² And through our previous definition of e-nyaba, it appears to us clearly that this judicial system is capable of:

- Submit the complaint electronically in front of the court

First, before starting any step, the concerned person and interested one must have a personal email address and a mobile phone number through which he receives short text messages (SMS), in order to then enter the digital platform of e-nyaba office, which is available via the following link :

<http://e-nyaba.mjustice.dz>, located in the electronic portal of the Algerian Ministry of Justice. Once he logged in, two windows appear, the first is for registering complaints or petitions, and the second is for determining its destination. When he clicks on the first window, which is for registering complaints, the registration form appears. It must be filled out by the concerned citizen and the complainant with his own data (Name, family name, gender, nature of the complainant, date and place of birth, specifying his place of residence, mobile phone number, and e-mail address, determining the type and content of the complaint, determining the judicial authority competent to consider or

petition, upload the attachments if found), and after completing the registration in the form, he presses the “Register” button and he confirms this by clicking on the window of confirming and saving information, immediately after that, the complaint filed electronically and automatically is transferred to the representative of e-nyaba in order to take the appropriate action and dispose of it.⁵³

After reviewing the complaint filed electronically by the representative of e-nyaba, it sends an e-mail or a short text message to the interested, informing him of the outcome of his complaint and the procedures taken by it. Thus, the complainant benefits from the e-nyaba service from his home and without any trouble.

- How to inquire about the electronic complaint before the competent court

The complainant who has registered his complaint electronically, and after completing the process successfully, can inquire about the outcome of his complaint or petition and check all the details related to the latter, where he can inquire about it directly and electronically via the same link by clicking on the second check which is dedicated for the fate of cases, where he writes the username with the password, after that, all the details related to his complaint will be shown to him, and e-nyaba can also inform the complainant of its fate via a text message without the need to inquire about it. His complaint may not be accepted and it may be rejected by e-nyaba⁵⁴, indicating the reasons for this refusal, or it may be accepted and referred to the competent authorities so that the complainant here can follow up on his complaint.

It is noted from the aforementioned that the procedures followed in order to submit the complaint electronically via the digital platform allocated to e-nyaba are easy to implement for the simple complainant, and simple to deal with for the representatives of the latter.⁵⁵

C) Challenges of achieving the electronic justice

Despite the benefits provided by the E-justice, the use of this latter carries risks and Challenges, listed below:

1. Violating the principle of open justice: In the E-Court, people who are not involved in the case cannot follow the progress of the trial and attend the sessions as easily and conveniently as in a regular trial. A username and a password are required, which may not be accessible for everyone. This may sabotage the principle of open justice, which asserts that the doors of the court shall be open to everyone who wants to attend the court hearings. Open justice exists to ensure the litigation, by which the judiciary’s competence to produce justice can be examined by lay-people, as well as making sure that judgments are consistent and members of society understand how the law may

apply to them, hence it is vital in the functioning of the legal system. This risk can be mitigated by specifying a platform that allows spectators to access trials as a view- only participant, without the need for permission or procedures. They can join and follow the progress of litigation and attend the court hearings being held online, with the exception of those sessions that must legally be confidential with a purpose to preserve public order or family relation, as in regular trials.⁵⁶

2. Risks in reporting by e-mail: Notices are served traditionally with stern rules put forward by the legislator to ensure their delivery. But if email is used to transmit notification of the case or the date of the session, there will be risks e-mail not reaching the intended party for technical reasons. For instance, the e-mail system of the addressee may consider it spam and exclude it from the inbox, or

it so happens that the email address of the addressee is full at the time that message arrives and does not enter that mailbox, or it may be received by the addressee but it is unreadable or perceptible due to the difference between the sending and receiving email systems. A flow-on effect of this is the disability of the court to ascertain if the notice has been received and read by the recipient. A method of mitigating this risk is to produce a portal through which a litigant must indicate receipt of a notice within a certain timeframe and a failure to indicate this means there is a need to serve the notice along some other means⁵⁷.

3. General risks associated with the use of electronic means: There is no doubt that the use of electronic means is not without inherent risk; even the most protected sites are open to attack by intruders who can tamper with their content. Regrettably, E-Court records and websites are not expected from this and can be compromised and tampered with, or access to the privacy of some data, like tampering with some evidence or allowing access to the private data of the parties. This is may be the biggest shortcoming of an e-trial because though the risk perhaps mitigated by taking measures such as ensuring use⁵⁸ of private and highly protected sites or using unique links for each operation, it is still an inherent risk of using the internet.

Conclusion

To sum up, set of results that can be summarized, that there is global demand including Algeria, for technology to increase the efficiency of court systems, provide more accessible services, introduce service standardization, prepare for crises and modernize the legal sector. These demands come from a variety of Citizens, courts, lawyers, judges, governments and public users. Each with various priorities. Based on the previously mentioned , we suggest the following:

- ✓ The first step in advancing e-justice to transform justice systems into truly equitable, transparent , fair institutions is to be aware of the risks and the potential of e-justice.
- ✓ Information and communication technologies aim to help through managing the judicial system and the legal field in general in the future. As well as, it will play a significant role in enhancing people's confidence in the Algerian judicial system beside with occurring a huge point of development for this. Not to mention, it may also attract more foreign direct investment as investors will realize that the Algerian courts are starting to improve its services.

¹ Karem Aboelazm, (April 2022) ,The Role of Digital Transformation in Improving the Judicial System in the Egyptian Council of State: An Applied Study from a Comparative Perspective, Journal of Law and Emerging Technologies, Volume 2, Issue 1, p. 11.

²Bedghiou Amel, Arshushe Sofiane ,(2021),"altaqadi al'iiliktrunii wadawruh fi daman eamal mirfaq aleadalat 'athna' jayihat Covid 19", Electronic litigation and its role in ensuring the functioning of the justice facility during the Covid 19 pandemic, Journal of Legal and Social Sciences, Zayan Ashour University of Djelfa, Volume 06, Issue 03,P112.

³ Dory Reiling,(2022),E-Justice Platforms: Challenges for Judicial Governance, International Journal For Court Administration, Volume 13, Issue01,P.02.

4 J. Dumortier et al(August 1999) , The Challenge of the Information Society: Application of Advanced Technologies in Civil Litigation and Other Procedures; Report on Belgium, XI World Congress on Procedural Law, Vienna, 23-28 .

5 J. Dumortier,(2003) “Judicial Electronic Data Interchange in Belgium”, in M. Fabri et al. (eds), Judicial Electronic Data Interchange in Europe: Applications, Policies and Trends, p. 127.

6 For detailed information see the document attached “**Videoconferencing-facilities Spain**”.

⁷ Ziad Kh Al-Enizi,Ahmad Ghandour,(2021),Introducing Smart e-Trials into the UAE Judicial System, Arab Law Quarterly, Volume 36, Issue 22, United Arab Emirates,p02 .

⁸ Barkahim Salem, Amina Bouachri (2018) ‘ alasilah aladari fi aljazayir (easranat tajribat mirfaq aleadalat 1999 alaa 2017) ‘ (Administrative Reform in Algeria (Modernizing the Experience of the Justice Sector 1999 to 2017), Scientific Journal of the University of Algiers 03 , Faculty of Law, Volume 06, Issue 11, P203.

⁹ Presidential Decree No. 99/234, issued on 10/19/1999, related to the establishment of National Commission for Justice Reform, C No. 74, issued on 10/20/1999.

¹⁰ Tashour Abdel Hafeez,(held on April 6 and 07, 2011), Isalah aleadala fi aljazayir (almadahir w alafaq), Justice Reform in Algeria (Appearances and Horizons), Journal of Law, Society and Power, Oran University, a special issue for the works of the National Forum on the subject of indicators of good governance and its applications, ,No. 01/2012.

¹¹ Barkahim Salem, Amina Bouachri, ibid. P.204.

¹²Bin gulla Laila(2022),altawqie aliliktroni alia tajsid mabda aladarat alalkitrunia bimirfaq alqada' bialjazayir, Electronic Signature is a mechanism to embody the principle of electronic administration in the justice facility in Algeria, an article published in a collective book - Legal Works of Electronic Administration, Palestine Ahliya University, Bethlehem, p. 197.

¹³ Presidential Decree No. 99/234, issued on 10/19/1999, related to the establishment of National Commission for Justice Reform.

¹⁴ Bin gulla Laila(2022), ibid. P.197.

¹⁵ Zazoua Najat,(2022)," altaqadi alalkitruniu kalia liainjah nidham aleadalat , Electronic Litigation as a mechanism for the success of the justice system, University of Tlemcen , Faculty of Law, PhD thesis , p. 120 .

¹⁶ Law No. 15/03, issued on 01/02/2015, related to the Modernization of Justice, O.J, No. 06, issued on 10/02/2015.

¹⁷ Article 02 of Law No. 15/03 related to the Modernization of Justice.

¹⁸ Article 65 bis 27 of Law No. 20/04 amending the Code of Criminal Procedures.

¹⁹ Zazoua Najat,(2022), Electronic Litigation as a mechanism for the success of the justice system, ibid. P.121.

²⁰ Zazoua Najat,(2022),P122

²¹ The National Commission for Justice Reform was established by Presidential Decree No. 99/234, which includes the events of the National Commission for Justice Reform.

²² Executive Decree No. 410/02, issued on 11/26/2002, which includes the Organization of the Central Administration in the Ministry of Justice, J.O. No. 80, issued on 12/04/2002, amended and supplemented by Executive Decree No. 333/04, issued on 10/24 2004, JO 64, issued on 10/24/2004.

²³ Law No. 15/03, issued on 01/02/2015, related to the Modernization of Justice, O.J, No. 06, issued on 10/02/2015.

²⁴ Article 05 of Executive Decree No. 333/04, which includes the organization of the central administration at the Ministry of Justice

²⁵ Abdel Hakim Akka, Special Appeal Center of the Ministry of Justice, General Directorate of Modernization of Justice, Algerian Ministry of Justice, page 24, available at the following website: <https://www.coursupreme.dz/>

²⁶ Barkahim Salem, Amina Bouachri (2018), Administrative Reform in Algeria (Modernizing the Experience of the Justice Sector 1999 to 2017),P.203.

²⁷ Zazoua Najat,(2022), Electronic Litigation as a mechanism for the success of the justice system, *ibid.* P.125.

²⁸ The official website of the Algerian Ministry of Justice: www.mjustice.dz Date of visit 01/14/2023.

²⁹ Mezziti Fatih (2019) "raqmanat mirfaq aleadalat wathrah ealaa tahsin alkhidmat aleumumiat lilmutaqadina"; Digitization of the Justice Facility and its Impact on Improving Public Service for Litigants, *Bibliophilia Journal for Library and Information Studies*, Issue 04, Tebessa, Algeria , p. 22.

³⁰ Mohamed El-Eidani, Youssef Zarouq(2020) , "raqmnat mirfaq aleadalat fi aljazayir ealaa daw' alqanun raqm 15 /03 "; Digitizing the Justice Facility in Algeria in Light of Law No. 15/03, *Researcher Journal for Academic Studies*, Volume 07, Issue 01, Batna, Algeria, p. 509.

³¹ Law No. 15/03, issued on 01/02/2015, related to the Modernization of Justice.

³² Article (09) of Law No. 15/03

³³ Article Ten (10) of Law 03/15

³⁴ Mezziti Fatih (2019), Digitization of the Justice Facility and its Impact on Improving Public Service for Litigants,P.24.

³⁵ Administrative Office of the U.S. Courts (2001), "Videoconferencing in Court Shows Potential and Possible Problems," *The Third Branch*. Available at : <http://www.uscourts.gov/ttb/dec01ttb/videoconferencing.html>

³⁶ Abdel Hamid Emar,(2018) "aistikhdam almuhadathat almaryiyat ean bued fi altahqiq walmuhakamat aljazayiyati" , The Use of Remote Video Conversation in the Investigation and Criminal Trial, *Journal of Studies and Research (The Arab Journal of Humanities and Social Sciences)*, Issue 10 , p. 62.

³⁷ Law No. 15/03, Modernization of Justice.

³⁸ Articles 14, 15, and 16 of Law 15/03 related to the modernization of justice.

³⁹ Article (14) of Law 15/03 related to the modernization of justice,

⁴⁰ Article 441 bis of the Code of Criminal Procedure.

⁴¹ Naguib Adel (2016) , " altahqiq w almuhakamat ean bued (dirasat tahliliat tasiliat litiqniat Videoconference)" , Investigation and Trial from a Distance (A Original Analytical Study of Videoconference Technology), without edition, Dar Al-Nahda Al-Arabiya, Egypt, p. 25.

⁴² Article 14 of law 15/03 and Article 441 bis of the Code of Criminal Procedure.

⁴³ Article (15) of Law 15/03 related to the modernization of justice

⁴⁴ Article 441 bis 02 of the Code of Criminal Procedure

⁴⁵ Article 15 of Law 15/03 related to the modernization of justice.

⁴⁶ Safwan Muhammad Shafqat,(2015) , " altahqiq w almuhakamat aljazayiyat ean bued", Remote Investigation and Criminal Trial, *Journal of Studies (Sharia Sciences and Law)*, Volume 42, Issue 01, Jordan, p. 355.

⁴⁷ Article 123 bis of the Code of Criminal Procedure.

⁴⁸ Nawal Qahmous,(2021) , " tafeil tiqniat almuhadathat ean bued fi dili al'azmat alsihya (covid 19)" , Activating remote chat technology in light of the health crisis (Covid 19), *ibid.* p.96

⁴⁹Zazoua Najat,(2022), Electronic Litigation as a mechanism for the success of the justice system, *ibid.* P.130.

⁵⁰Article 65 bis 19 of the Code of Criminal Procedure.

⁵¹ Zazoua Najat,(2022), , *ibid.* P.133.

⁵² Zazoua Najat, Bin Gulla Laila,(2021), "alniyaba al'iiliktirunia fi altashrie aljazayirii" , E-neyaba in Algerian Legislation, *Journal of Legal and Economic Studies*, Volume 04, Issue 02, Barika, Algeria, p. 296.

⁵³ E-nayba Service User Guide , <http://e-nyaba.mjustice.dz>,

⁵⁴ E-nayba Service User Guide , <http://e-nyaba.mjustice.dz>,

⁵⁵ Zazoua Najat, Bin Gulla Laila,(2021), E-neyaba in Algerian Legislation, *ibid.* P.299.

⁵⁶ Ziad Kh Al-Enizi,Ahmad Ghandour,(2021),Introducing Smart e-Trials into the UAE Judicial System. *ibid.* P.07

⁵⁷ Bedghiou Amel, Arshushe Sofiane ,(2021), Electronic litigation and its role in ensuring the functioning of the justice facility during the Covid 19 pandemic, *ibid.* P.120.

⁵⁸ Ziad Kh Al-Enizi,Ahmad Ghandour,(2021),Introducing Smart e-Trials into the UAE Judicial System. *ibid.* P.07.

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