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# Electronic Transactions In Algerian Commercial Law: Reality And Prospects

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## Abstract:

The world has witnessed a great development in the field of information and communication technologies, most notably the Internet, which has changed the forms of communication between people, thus transcending the concepts of time and place. Thanks to its increasingly advanced features, it has enabled individuals to communicate with each other in different regions of the world at the same time or at different times, which has enabled them to transmit information and news, exchange ideas and experiences, as well as display goods and services and stimulate commercial exchanges, which has led to the spread of a new type of commercial transactions, which is what is known today as e-commerce.

Technological and technical development and the emergence of the Internet had an impact on amending the legal rules governing various legal transactions between individuals, in order to expedite their conclusion and implementation. With the emergence of the electronic revolution and its impact on legislators in domestic law and international law, what is called electronic transactions appeared in private law as a contrast to classical and traditional transactions.

**Keywords:** e-loyalty, e-payment, e-commerce.

## Introduction:

The current digital environment is witnessing a new economic challenge that is forcefully invading the world of commerce in Algeria. This is due to the emergence of the e-market as an inevitable and necessary result of recent developments in the field of information and communications technology. This virtual market utilizes many modern e-commerce activities and practices (electronic payment, electronic fulfillment, electronic signature, electronic certification).

Despite the delay in the legislative and legal rules regulating it, represented by Law No. 18-05 of May 10, 2018, as well as the limited and weak methods of using e-commerce, Algeria is currently seeking to govern its e-commerce in order to frame and modernize the e-market, regulate it, and bring transparency to all e-commerce activities. Accordingly, in this research, I addressed the aspects of electronic transactions in two sections. In the first section, I addressed the concept of electronic fulfillment and its importance for its parties, then the means of electronic payment, whether by electronic cards, whether civil or credit, as well as electronic money. As for the second section, I explained the organization of electronic commerce according to Law 18-08 on electronic commerce. Through this second section, I aim to identify the reality of electronic commerce in Algeria, considering that this commerce is a modern phenomenon that has invaded our current era. I initially decided to point out the reality of its infrastructure and the gaps that hinder its development. Then I will address some successful experiences of advanced and pioneering countries in this field, then the prospects of electronic commerce. The image of electronic commerce in Algeria is largely different from that of

developed countries. It is still far behind the electronic transactions bandwagon, but this does not negate the exertion of many efforts in this field. It also does not prevent the existence of good movements and some relatively successful initiatives that we will study to draw lessons from them. Electronic commerce cannot grow and continue in Arab or developed countries alike without global, regional and national coverage of legal and technical construction issues. Accordingly, the study was divided into two sections. The first section addressed the concepts of electronic fulfillment, while the second section addressed the regulation of e-commerce requirements under Law 18-05 on e-commerce.

## **Chapter One: Concepts and Importance of Electronic Loyalty**

The emergence and spread of e-commerce and e-banking have effectively influenced and changed payment systems, with electronic payment cards gradually replacing traditional payment methods. These bank cards enable withdrawals, bill payments, and transfers to other accounts without having to visit the bank. They provide users with ease of use, rapid payment settlement, and reduced costs. They eliminate the need to carry large sums of cash and facilitate buying and selling operations worldwide.

## **Chapter One: The Concept of Electronic Loyalty**

### **Section One: Definition of Electronic Payment**

Jurists have differed and their opinions vary regarding the definition of electronic payment. The basis of this diversity is the different angle or aspect from which each definition of this method is viewed, as follows:

Some believe that electronic payment is a special system issued by a bank to its customer, enabling them to obtain goods and services from specific stores and locations upon offering such payment. The seller of the goods or services presents an invoice signed by the customer to the bank that issued the credit, which pays the customer. The bank then provides the customer with a monthly statement of the total value to be paid or deducted from the customer's current account (Badawi, 1994, 62).

This definition is criticized for not addressing the essence of electronic payment. Rather, it addresses how this process is obtained and used, how the creditor extracts the price of the goods or services provided to the debtor using the method, and how the bank recovers from the customer what they paid to the merchant creditor. These details, in fact, have deviated from its intended meaning, in terms of being concise and comprehensive in highlighting the features of the thing being defined. This is achieved by focusing on its essence. (Abu Salman, 1998, 588)

The aforementioned definition of electronic fulfillment as a form of credit has been criticized. Some believe that giving electronic fulfillment the character of a credit means that the definition does not encompass all forms of fulfillment. Proponents of this view believe that the correct description for this type of fulfillment is "lending," as this description is indicative of its reality and distinguishes it from other means. (Abu Salman, 1998, 588)

For this reason, we find that proponents of this view, when defining electronic payment, focus on its types, without paying attention to its distinctive nature. They define electronic payment as: "A method used by a bank, merchant, or institution that authorizes its user to obtain goods or services by withdrawing their prices from their account, or as a loan paid by the source, guaranteeing the rights holders of the user's debts. The user undertakes to repay the loan within a specified period without any increase in the loan amount, except in the event of non-payment, or with an interest-based increase if he chooses to pay in installments, with a commission deducted from the value of his sales in all cases." (Al-Azzi, 1998, 18-19)

## **Section Two: The Importance of Fulfillment by Electronic Means**

Electronic fulfillment is of great importance in electronic contracts. This importance is evident in the benefits and advantages it provides to the parties to the relationship arising from the issuance and use of these means. There are a number of benefits for the payer, the original debtor, and the party accepting the fulfillment (the merchant) or the creditor to whom the fulfillment is made. The following summarizes the most prominent of these benefits:

**1-Regarding the source of fulfillment:** Related to the fulfillment or its supporting services, the entity performing the fulfillment process receives significant financial returns, whether from providing its basic services related to the fulfillment or its supporting services.

The financial returns the entity performing the fulfillment process receives from providing its basic services are represented by the fees it receives for issuing fulfillment cards, which vary from one source to another. These fees can decrease in light of the intense competition between issuers, which may ultimately lead some issuers to opt out of imposing any financial fees on the issuance process. Thus, the user who meets the card granting conditions can obtain this card without paying any fees to obtain the card. (Mujahid, 2003, 98)

In fact, even in this case, it can be argued that, although the issuing entity will be deprived of issuance fees, it can compensate for this by encouraging individuals to use the cards it issues and to abandon cards issued by other entities that charge fees. For the entity issuing cards without fees, the increased number of card users will compensate for these fees, as this means that the number of invoices it will be responsible for paying for its users' purchases and services will increase. This entitles it to receive a percentage of the amount of each invoice submitted by merchants as the price of a good or service purchased by the card user, even if this percentage varies from one merchant to another. However, greater individual use means an increased financial return from this percentage. This increase can cover the issuing entity's waived issuance fees. In certain cases, these amounts may exceed what it would have received from the card issuance fees. (Mujahed, 2003, 98)

**2-Regarding the payer (debtor) using the card:** On the one hand, it provides the greatest degree of security and reassurance for him, and on the other hand, it facilitates transactions. Transactions via card provide the user with benefits of importance to individuals. These benefits lie in the security and reassurance that the card user obtains, as electronic payment is a non-cash means of debt settlement. This means that the user does not need to carry cash when traveling, which protects them from the risk of loss or theft. There is no doubt that this provides the card user with a significant amount of convenience. The advantage of electronic payment is that it allows the user to obtain a number of the goods they need directly, especially if the card they use is a credit card, which does not require immediate deduction of the value of these goods. For the user, this card becomes a means of facilitating payment for the credit it provides. Both regular credit cards and debit cards facilitate automatic loan access for their users upon presentation of the card. This allows the user to access credit whenever the need arises, thus facilitating the user's access to credit when faced with unexpected situations. It also covers the financial requirements of these situations. (Barham, 2010, 123)

**3-For the creditor to whom the payment is made:** The benefits, advantages, and advantages that accrue from fulfilling financial obligations in exchange for a good or service are not limited to the card issuer and the card user alone. They also extend to the merchant who accepts the debtor's payment of the obligation to pay for the good or service via electronic payment. The widespread and expanding list of users of these cards, and the ease they provide to the user as mentioned above, has a positive impact, leading to increased profits.

Many merchants also resort to adding a percentage of the sales or service invoice amount deducted by the card issuer. In other words, for them, it's as if payment is made in cash, as long as the deduction by the card issuer doesn't affect profit, and this percentage is borne by the card user. This is especially true since payment by the card issuer typically only takes a few days. Even in cases where no price differentiation is made between payment in traditional cash and electronic payment, for the merchant who accepts payment by card, the standard price for the product or service is the price the electronic payment is supposed to pay—that is, the actual price plus the percentage deducted by the card issuer on the sales or service invoice. Thus, in addition to not affecting their profit rate, they also earn additional profits from those who fulfill their financial obligations in exchange for the product or service in cash. (Al-Tawanisi, 2008, pp. 2-3)

## **Second Requirement: Electronic Payment Methods**

Electronic payment methods are modern means of payment that allow their owners to pay online, whether through direct or indirect payment. These methods are numerous and varied, the most important of which are:

### **First Section: Electronic Loyalty Cards**

Electronic loyalty cards are numerous and varied. Some are not intended to be used to fulfill financial obligations, but rather to achieve other purposes unrelated to payment. Some are solely intended to fulfill obligations arising from a person's receipt of a good or service, and some combine this purpose with other purposes. This category of electronic loyalty cards is divided into two groups. The first does not have a credit feature, as the issuing entity does not grant its user any credit facility. This type of electronic loyalty card is called a debit card. The second group, in which the basis of payment is the credit granted by the issuer to the user, is called a credit card.

#### **1-Civil Loyalty Cards:**

Also called debit cards or loyalty cards, direct debit cards allow the user to pay for goods and services purchased from certain merchants that accept them pursuant to an agreement with the issuing entity. This card allows the user to transfer the price of the goods and services from the debit account.

This type of loyalty card does not grant the user credit card credit with the issuing entity, as the issuance of this type of loyalty card is conditional upon opening a bank account with the card issuer. Each time the user uses the card, a debit is made from their account to pay the value of the sales or service invoice received from the seller or supplier. In fact, before most of today's known loyalty cards became an effective electronic payment method, the payment system for the value of a sales or service invoice was carried out by the card user (the debtor) presenting his card, which contained the name of the issuing entity, its price, his name, his signature, the card number, and its expiration date, to the creditor (the merchant). The creditor would then record in detail the goods the debtor purchased or the services provided, as well as information about his card, on a number of copies signed by the debtor. The creditor would then send a copy of this information to the card issuing entity for payment, and that entity would then record these amounts in his account.

#### **2- Credit Loyalty Cards:**

Law No. 05-2002 of February 6, 2005, in Chapter Four, on Certain Means and Methods of Payment, Chapter Three, addresses the subject of payment and debit cards in Articles 543 bis 23 and 543 bis 24. Article 543 bis 23, in its first paragraph, defines payment cards as follows:

"A payment card is any card issued by legally authorized banks and financial institutions that allows its holder to transfer or withdraw funds." (Merbah, 2019, 21)

These cards are used to settle debts or financial obligations in exchange for goods or services that the debtor (user of the card) receives from the creditor (merchant). This type of electronic loyalty card can be divided into two categories: the first is the monthly debit card and the second is the installment payment card.

#### **A- Monthly Debit Card:**

This card is defined as a card that enables its user to use it in stores to purchase or obtain services from airline offices or Hotels, restaurants, etc., and according to it, the amounts received by the source from merchants and included in the purchase invoices or the services obtained by the card user are deducted on a specific date each month. These cards are usually not issued by banks unless the user has a credit account with the bank that issued the card to collect the value of the card uses. With this type of card, the card user is provided with a card statement every close period of time, which includes the value of his purchases and services obtained using the card. On the monthly debit date, the total amount of the statement is deducted from the card user's account at once. (Credit Cards in the Kuwaiti Transfer House, 1992, 429)

There are a limited number of these cards, such as American Express and Diners Club, where the issuing entity does not require the cardholder to have a credit account. Payment is made by the cardholder to the issuing entity after the cardholder receives a monthly account statement. The cardholder is required to make immediate payment, and after a short grace period, the issuing entity begins accruing interest on late amounts. This payment system is followed with American Express. The cardholder receives a monthly account statement requesting immediate payment. The cardholder is then given a short grace period and a written warning is sent to the cardholder. If payment is not made within the specified period, late interest is charged on the amounts due after the warning period. If the cardholder does not require an account with the issuing entity and payment is not made as described above, the amounts due are recovered through the courts to settle any outstanding amounts, including late interest, for purchases and services obtained using the card. (Credit Capacities in the Kuwaiti Exchange House, 1992, 450)

**B- Installment Card:** This card differs from the monthly debit card in that the credit it generates is a revolving debt. Upon receiving the monthly bill, the card user is not required to pay the amount. Payment is made in installments, which may be regular or irregular. The card user always has the ability to use the card within the agreed credit limits, as long as they regularly pay the interest due monthly. The most popular types of these cards are American Express, Visa, MasterCard, and Diners Club.

It is worth noting that these cards can be either monthly payment cards or installment cards. (Abu Salman, 1998, 623)

### **Second Section: Electronic Money**

The topic of electronic money is a recent one in this regard, and to date, it has not received a comprehensive legal treatment in developed countries, let alone other countries that are not yet familiar with this type of transaction, so as to consider a solution for it.

#### **A- Definition of Electronic Money:**

There are several definitions of electronic money. Some define it as a new type of money, an electronic alternative, without addressing the monetary value itself. Money can be stored and traded. This definition refers to the means of storing and transferring value. Another view holds

that electronic money is cards containing electronic storage or cash balances electronically loaded onto a value-storage card. However, this definition does not define electronic money, but rather the means by which this money is stored or preserved. Others believe that electronic money is a series of numbers expressing specific values issued by traditional or virtual banks to their depositors, who receive them in the form of electromagnetic pulses on a smart card or hard disk. (Al-Hasani, 2009, 123)

### **B - Characteristics of Electronic Money:**

From traditional forms of money, these differences can be considered characteristics of electronic money. Electronic money is a new form of traditional money, and these differences can be considered characteristics of electronic money. It can be said that the most important of these is that it is paid over an electronic network and the necessity of a banking system designed to handle electronic money.

- **Payment of money over an electronic network:** From the definition of electronic money, it becomes clear that it can only be used with a computer connected via a private or public electronic network. This characteristic gives electronic money an international character, which necessitates international regulation of this money. The space of electronic networks is not restricted by the geographical borders of a particular country, but rather extends to encompass all corners of the globe. This characteristic also entails that there is no need for contemporaneity or presence in one location during the payment process. Rather, the transaction can be completed through the presence of a single party. Electronic money does not require the payer and the payee to be present in the same place or time for the transaction to be completed through the presence of a single party.

- **The existence of a banking system designed for the purpose of dealing with electronic money:** The mechanism by which electronic money is used requires a special banking system established by banks, whether they are real or virtual banks. Both of these systems require a special banking system based on protecting confidentiality and security, because the Internet is based on the existence of serial numbers that symbolize the monetary value, and these numbers are used only once, as we have seen, so that the bank changes the serial number when electronic money is transferred from one person to another, and this requires a special banking system. (Al-Hasani, 2009, 126)

### **C- The mechanism of electronic money transactions:**

Electronic money transactions begin with the bank issuing an electronic currency represented by a series of random numbers called the currency's serial number. This number is stored on the card or on the customer's device. The customer then uses this currency by providing the encrypted serial number to the person with whom he is dealing. The latter then contacts the bank to issue new currency in his name or to transfer the cash value to his account. The bank, using its list of numbers, verifies that the currency is issued by the bank and that it has not yet been spent. However, this method is criticized on two counts. First, the merchant or the person dealing with the customer cannot verify whether the currency has been previously spent, and if they are able to do so, it is too late. Second, this method makes the serial number, which is supposed to be confidential, vulnerable to disclosure when the bank verifies the currency's serial number. (Barham, 2010, 169)

## **Section Two: Regulating E-Commerce Requirements According to Law No. 18-05 on E-Commerce**

Commerce is the backbone of modern economies, so it's no surprise that it has received significant attention from organizations, countries, and individuals. Commercial transactions have evolved in parallel with scientific and technological developments. In addition to the traditional aspect of these transactions, a new aspect has emerged, based primarily on electronic media, forming what is known as e-commerce. Given that electronic transactions face numerous challenges, foremost among which are technical, commercial, and cultural challenges, among others, Algeria, like many countries that have adopted an e-commerce system, has sought to align its relevant legal texts with current developments and to complement the legislative and regulatory framework for this type of commerce with new texts. In this regard, the Algerian legislator enacted Law No. 18-05 of May 10, 2018, on e-commerce.

Accordingly, in the first section, we will address the concept of e-commerce and its advantages. In the second section, we will review the reality and prospects of e-commerce.

### Section One: The Concept of E-Commerce and Its Features

This section is divided into two sections. The first addresses the concept of e-commerce, while the second focuses on the features of e-commerce.

## Section One: The Concept of E-Commerce

### First: Definition of E-Commerce

Linguistically, the term e-commerce is divided into two words:

**"Commerce"**: meaning the practice of buying and selling. It is the profession of a merchant who conducts commercial activities professionally. (Al-Hosani, 2007, 3)

**"Electron"**: referring to the electron, a component of the atom and an extremely small object. All devices and devices that perform their functions through the movement of electrons under the influence of an electric or magnetic field are attributed to the electron, a minute particle with a negative electrical charge.

-The Arabic Language Academy in Egypt defined the electron as "its charge is an integral part of electricity." From the combination of the two words, we conclude that e-commerce refers to commerce based primarily on modern technological means, meaning that this commerce is conducted electronically, such as the internet, fax, mobile phones, etc.

Many bodies have been interested in electronic commerce, most notably the United Nations, European documents, various laws, and jurisprudence.

**1-Definition of the United Nations Commission on Electronic Commerce:** Initially, there was the term "Electronic Data Interchange" (EDI), which developed in the American system. However, the United Nations used a more general and advanced term, "Edifact," which means the exchange of information data in the fields of administration, commerce, and transportation. On December 16, 1996, the United Nations Commission on International Trade Law approved a model, but it did not provide a definition. Instead, it defined a draft unified law on electronic commerce, "Electronic Data Interchange," which includes electronic commerce. This definition states that electronic data interchange is "the electronic transfer of information from one computer to another using an agreed-upon standard for the formation of information." (Hijazi, 2007, 24)

### 2-Definition of electronic commerce in comparative law in France:

The working group formed under the chairmanship of the French Minister of Economy in 1998 defined electronic commerce as "the set of digital transactions related to commercial activities between enterprises and between enterprises and administration." (Ramadan, 2001, 12)

The French legislator issued Law No. 230/2000 concerning the Evidence Code and the Electronic Signature, but it did not include a specific definition of e-commerce. It was not until 2004, thanks to the Law of June 21, 2004, concerning trust in the digital economy, known as LCEN, that it was defined in Article 14, paragraph 1, as follows: "Electronic commerce means the economic activity through which a person proposes or guarantees, remotely and by electronic means, the supply of goods and services." (Ramadan, 2001, 26)

As for the Egyptian draft e-commerce law, its first article defines e-commerce as "any commercial transaction conducted remotely using electronic means." (Ramadan, 2001, 39)

As for the Algerian legislator, he defined it in the text of Article 6, Paragraph 1 of Law 18-05, as "the activity by which an electronic supplier offers or guarantees the provision of goods and services remotely to an electronic consumer, via electronic communications".

## **Section Two: Characteristics of E-Commerce**

First, the types and characteristics of e-commerce are discussed, followed by the means upon which this commerce relies.

### **First: Types and Means of E-Commerce**

#### **1-Types and Forms of E-Commerce:**

E-commerce is of two types. Commercial transactions may be purely electronic, such as the exchange of information, computer products, e-books, or artistic products, where these goods or services are delivered digitally to the buyer by downloading them from the network to the buyer's device. Commercial transactions may be partial (partial e-commerce), where one element is digital and the other elements are physical, such as when a customer purchases a book from a website and requests that the company send the book to his or her residence by regular mail. (Ismail, 2009, 40)

#### **2-Forms or types of e-commerce: These include:**

- Business-to-Business e-commerce:** A business unit submits purchase orders to other business units, and data and information are exchanged until an agreement is reached. An electronic contract is then concluded for the supply of goods or services. Invoices are delivered and payments are made electronically. Delivery may be electronic or physical, depending on the agreement and the nature of the goods and services.

This type of e-commerce transaction is currently the most common, representing approximately 80% of e-commerce revenues. Examples of business-to-business e-commerce include online trading in various goods. International trade is considered the ideal model for this type of e-commerce. (Ismail, 2009, 41)

- Business-to-Consumer (B2C) e-commerce:** With the emergence of online marketplaces and the spread of information and information technology, this type of e-commerce has begun to flourish. Visitors typically browse through the various stores located in electronic malls to learn about the goods, products, and services on offer, shop directly, and pay electronically, such as electronic checks and credit cards.

- Consumer-to-Consumer (C2C) e-commerce:** This is the buying and selling process that takes place between consumers over the internet. Examples include various online auction sites through which individuals can buy or sell directly.

- Consumer-to-Business (C2B) e-commerce:** This process is often carried out by electronic intermediaries who offer their services online and may provide information, services, or products to companies. (Ismail, 2009, 42)



## **Second: E-commerce Methods**

### **Means of Concluding Electronic Contracts**

E-commerce relies on several modern methods, perhaps the most prominent of which is the internet, due to its many features. E-commerce contracts may be concluded by any electronic means. We can review some of the methods for concluding e-commerce contracts as follows:

**1-The Minitelphone:** This device is similar to a computer, but is small in size. It appeared in France in the mid-1980s. It is a visual communication device that transmits text to another Minitelphone, without images. It is therefore a means of concluding e-commerce contracts. (Mamoun, Suleiman, 2008, 84)

**2 -Telex:** A device for sending data by printing and sending it directly. The process takes place over a private network monitored by a central, neutral communications center. This center identifies the senders, ensures the receiving device is ready to receive, dates the transaction, and retains evidence of its occurrence for a year, thus providing security. However, the message sent via this device is not signed by the recipient, which could lead to fraud. However, the telex number appears at the top and bottom of the message. French, Belgian, and English courts have recognized the evidential value of telex. (Mamoun, Suleiman, 2008, 85)

**3 -Fax:** A telephone copying device that copies messages identically to the original to another fax machine. It is noted that there is a time lag for responding to the sender, and factors of trust have become established in fax operations, especially in Europe and the United States. (Mamoun, Suleiman, 2008, 87)

**4-Telephone:** This device is used to conclude e-commerce contracts. It is characterized by its speed of connection and ease of use, and contracts are concluded instantly and directly. Cell phones are also used to conclude e-commerce contracts. (Mamoun, Suleiman, 2008, 85)

**5- Television:** This device is also used to conclude e-commerce contracts. This occurs when a program host displays the product or service to be sold, specifies the product description and price, and the viewer calls the program to express their desire to purchase the product or benefit from the service, leaving their details. The product is then delivered to their location. Trade via television generates significant profits in the United States and France, the latter of which enacted a law in 1988 regulating such sales, called the "Achat-Télé" law. (Mamoun, Suleiman, 2008, 88)

**6-Computer:** This device is considered one of the most widely used devices in the field of e-commerce, especially via the Internet. Although browsing the Internet can be done using various electronic devices, such as mobile phones, for example, the computer remains the most widely used device. There are many means of contracting over the Internet. It may be done through correspondence via email, conversation, or viewing, or it may also be done via the "Web" network, the latter being the most widespread for online contracting. (Mamoun, Suleiman, 2008, 89)

### **Section Two: The Reality and Prospects of E-Commerce**

This section addresses the most important challenges facing e-commerce in Algeria (Section One), followed by an attempt to monitor the reality and prospects of e-commerce in Algeria (Section Two)

## **Section One: Obstacles and Challenges to E-Commerce**

### **First: Obstacles to E-Commerce**

E-commerce faces a number of obstacles and impediments that hinder its development and spread. The most prominent of these are:

**1-Psychological and cultural obstacles:** Psychological factors remain a challenge for e-commerce. Some users are reluctant to conclude transactions online, especially if their value is significant, or they prefer to conclude transactions electronically and pay using traditional methods. This is due to a lack of trust in electronic transactions. Furthermore, e-culture has yet to gain its natural place in many countries, and there are countries where the level and quality of education are limited, which negatively impacts the dissemination of e-culture and its use. (Taha, Bundak, 2006, 338)

**2-Technical obstacles:** There are numerous technical obstacles facing e-commerce, especially in the countries of the South. The most important of these are the weak transformation of conversion and software design capabilities into effective productive capacities for the information and communication technology sectors, weak research and development activities, the low level and number of researchers in the field of e-commerce in underdeveloped countries, weak electronic infrastructure, and the failure of governments in the South to adopt comprehensive strategies for dealing with communications technology. (Matar, 2009, 121)

**3-Commercial Obstacles:** The most important of these is the relatively limited volume of e-commerce, whether between businesses themselves, between them and their local suppliers, or between them and consumers. This is in addition to the inability of financial markets in many countries of the South to support e-commerce projects, and the inability of government strategies to support national commercial projects to compete with their global counterparts. (Matar, 2009, 122)

**4-Legislative Obstacles:** Any new developments in society must be embraced by legislative developments that regulate and contain them. E-commerce differs from traditional commerce, which has various legislations in place to regulate it and resolve its problems. The difference lies in the advanced means of this trade, which give it distinct characteristics. However, at the same time, it raises numerous legal challenges on several levels, whether related to the stage prior to concluding the electronic contract, the stage of concluding the contract, or the stage of contract implementation. Among the most prominent of these challenges are the privacy of the relationship between contracting parties, the privacy of information exchanged between them, and the challenge of protecting e-commerce from criminal activities. Not to mention the problem of judicial jurisdiction to hear disputes that may arise between parties to an electronic contractual relationship. Which judiciary will govern the dispute? Which law will be applied when the nationalities of the contracting parties differ? (Matar, 2009, 123)

### **Second: Third World Countries and the Digital Divide**

Although the term "digital divide" or "digital rift" is new, its concept is as old as humanity's use of means and technologies to harness nature. However, the gap is wider in the information society than in previous societies. The truth is that there is not just one digital divide, but rather multiple gaps. Specialized references mention at least four, namely:

• **A gap in access to information and communications technology (ICT):** formally measured by the prevalence of telephone lines, computers connected to the internet, etc.

• **A gap in the ability to use IT:** measured by the level of skills and the presence of numerous active complements.

• **Actual usage gap:** Measured by the time spent on wired and wireless communications for various purposes, the number of internet users and the time spent using them, the number of internet hosts, the level of e-commerce, etc.

• **Impact of usage gap:** Measured by financial and economic returns. Some researchers believe that the most important indicator is the difference in the ability to exploit new technology. (Delio, 2010, 186)

The term "digital divide" is used to describe patterns of inequality in access to information and communications technology (ICT) between countries. The disparity in technological progress from one country to another will divide the world into two groups: technology-exporting countries and technology-importing countries. This, in turn, impacts e-commerce, which relies primarily on electronic devices, software, and information systems. The countries of the North are ahead of the countries of the South. Therefore, developed countries have the best chance in the field of e-commerce, as they will market their various products and services to the less advanced counterpart, namely developing countries, which will be satisfied with receiving goods, services, and a small amount of technology from developed countries. (Hegazy, 2007, 72)

Since the 1970s, many countries of the South, as well as international organizations, especially UNESCO, have criticized the one-way flow of information. However, the rapid political and technological changes on the global stage have maintained the dominance of developed countries, especially those with dominant production and distribution institutions and advanced infrastructure. (Delio, 2010, 188)

The term "digital divide" is used to describe patterns of inequality in access to information and communications technology within a country. There are gaps between urban areas, especially capitals and major cities, and rural areas, as well as between the rich and the poor. There are even gaps based on indicators of age, gender, language, ethnicity, educational level, occupation, and physical health... (Delio, 2010, 189)

Economists confirm that there is a new economy based on intangible goods, dealing with ideas and their information components as an alternative to material goods, devices, and direct cash. Therefore, this economy, in its electronic form, focuses on services. The importance of information is evident, as it has become the wealth of many countries, reaching 80% of their national income. Therefore, technological progress and e-commerce are valuable information circulated through information systems. Therefore, technology-consuming countries have no choice but to strive to develop their information and legislative systems, attempt to acquire technology within their own capabilities, and enter into serious agreements with developed countries in this regard. This is especially true since developed countries are bound by an international agreement to protect intellectual property rights (TRIPS), which makes it difficult for technology to be transferred to other countries except through them. (Hijazi, 2007, 74)

## **Section Two: The Reality and Prospects of E-Commerce in Algeria**

The first point addresses the reality of e-commerce in Algeria, and the second addresses the prospects of e-commerce in Algeria.

### **First: The Reality of E-Commerce in Algeria**

Discussing e-commerce in Algeria leads first to discussing Algeria's policies in the field of media, communication, and information technology, and second to discussing the internet in Algeria.

In summary, it can be said that Algeria has known three major stages in its policy directed towards the field. The first stage is the seventies, in which the state took the initiative to establish the National Information and Communication Authority for Computer Science and the Center for Training and Research in Computer Science. Algeria has occupied a prestigious position among the countries on the path to development in this field, by establishing institutions and paying attention to training, designing information systems, developing software, and even installing hardware for computer science. This policy allowed for the beginning of introducing the information system to the management of institutions and administrations, and the establishment of information management networks for each of the Current Account Center, Sonatrach, and Air Algérie, and the training of hundreds of engineers and technicians in computer science. The second stage was the eighties and nineties, during which Algeria retreated from its prestigious position, as a result of the critical political, security and economic conditions it was going through. In 1986, the Center for Studies and Research in Scientific and Technical Information (Crist) was established, which was entrusted with managing the (.dz) domain. The third stage began on the verge of the third millennium, when Algeria sought to make up for the technological progress it had missed. It established a communications infrastructure with a large capacity of 45,000 km of optical fibers, created a new organization for wired and wireless communications, opened the field to the private sector, established private institutions responsible for providing Internet services, and providing services in the field of technical, economic and cultural media, selling licenses to operate new wired and wireless communications systems such as GSM and VOLP, the emergence of Internet cafes and the increase in the number of their users, and the widespread use of mobile phones.

In 1994, Algeria connected to the internet via Italy, with a very low connection speed of 9.6 kbps, as part of a cooperation project with UNESCO aimed at establishing an internet network in Africa via Algeria. (Ghazil, 2010, 197)

In 1996, the line speed reached 64 kbps, passing through Paris. In 1998, Algeria was connected to Washington via satellite with a capacity of 1 megabit per second. Since then, internet traffic in Algeria has been increasing, and the number of internet service providers in Algeria reached 1,202 companies by the end of 2004. However, service was more concentrated in the major northern cities, especially those near Algiers. Studies indicate that the percentage of internet users in Algeria remains low, perhaps due to the lack of information literacy among members of society and the weak cost of living. (Ghazel, 2010, 199)

Regarding Algeria's internet infrastructure, it relies primarily on telephone lines, whether fiber optics, wireless lines based on satellites, modern radio transmission technology, frequencies used in mobile phone services, or even traditional telephone lines represented by the well-known telephone cables. Therefore, it is possible to link the extent of internet penetration in Algeria to the extent of telephone services and the percentage of subscribers. (Ghazel, 2010, 202)

### **Second: Prospects for e-commerce in Algeria:**

Algeria is making significant efforts to develop and disseminate information and communication technology, both domestically and internationally. Domestically, an ambitious program has been developed, the Algerian e-strategy for 2013. Internationally, regional initiatives have been launched, such as the fiber optic cable project between Algeria and Niger and Algeria and Nigeria, which falls within the New Partnership for Africa's Development project. (Ghazil, 2010, 230)

The "E-Algeria" program is a project consisting of thirteen main axes. The first axis focuses on enhancing the use of information and communications technology in government departments. The second axis concerns developing the use of information and communications technology in commercial establishments. The third axis focuses on establishing incentive mechanisms and measures that allow citizens to access information and communications equipment and networks. The fourth axis aims to stimulate and develop the e-economy, including content and services. The fifth axis aims to enhance the communications infrastructure to achieve high speeds. The sixth axis focuses on developing a precise plan for developing human capabilities. The seventh axis includes programs to promote research, development, and innovation. The eighth axis focuses on the legislative framework. The ninth axis focuses on developing and implementing a communications plan for the information society in Algeria and establishing a network of participatory groups as an extension of the state's efforts. The tenth axis emphasizes the importance of international cooperation through active participation in international dialogues and initiatives and establishing strategic partnerships. The eleventh axis focuses on electronic evaluation and monitoring mechanisms. The twelfth axis focuses on regulatory measures. The thirteenth and final axis addresses financial resources. (Ghazil, 2010, 240)

However, despite the remarkable development of e-commerce in Algeria, and despite the success of some Algerian websites that have generated significant revenues thanks to e-commerce via the Internet, these revenues remain limited compared to what they could achieve if the conditions were met to facilitate the process and optimally utilize available resources.

## **Conclusion**

As a result of the information revolution, so-called electronic transactions emerged, necessitating the use of electronic documents and signatures. This necessitated the adoption of electronic signatures as an inevitable consequence of electronic documents and contracts. Furthermore, so-called international trade emerged, which varied in reality and prospects among developing countries, particularly Algeria. Developed countries, however, have gone further in this area.

Accordingly, based on the above study, we conclude the following:

- Algerian law has accorded electronic proof the same status as traditional, paper-based proof.

- Electronic signatures in the virtual world and conventional signatures in the physical world have the same function: identifying the signatory. Electronic signatures are primarily based on security, which is achieved through encryption.

- Various legal provisions have granted binding legal force to electronic signatures, provided they are linked to the signatory.

- Authentication service providers must safeguard subscribers' personal information, protect it from disclosure, and establish liability in the event of such disclosure.

Electronic payment has two meanings, broad and narrow. In its broad sense, electronic payment refers to any payment of a sum of money conducted in a non-physical manner, not relying on paper, but relying on electronic data. In its narrow sense, electronic payment is limited to payment transactions that take place without direct contact between natural persons.

- Electronic payment is: A means provided by its source to a natural or legal person based on a contract between them, enabling them to purchase goods or services from whoever uses the means, without immediate payment, as this guarantees the source's commitment to payment.

-Electronic payment is important to the economy and society. This importance is evident in the benefits and advantages it provides to the parties to the relationship arising from the issuance and use of these means. There are a number of benefits for the payer, the original debtor, and the person accepting the payment (the merchant), the creditor to whom the payment is made.

-E-commerce is a modern business approach that relies on information and communication technology, particularly the internet, to complete all transactions related to concluding deals between multiple parties, whether institutions, government agencies, or individuals. The classifications of this trade are determined based on the relationship between these parties.

- Growing interest in e-commerce applications and increasing rates of their use across the world.

-The degree of awareness of the benefits of e-commerce and its response varies from country to country. The largest volume of this global trade is concentrated in developed countries, while Arab countries remain behind in the e-commerce movement and are novices in this field.

- A clear weakness in the indirect indicators of e-commerce in Algeria, primarily related to the technical infrastructure of communications and information.

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