

Digitization Features of Public Transactions Administration by Virtue of the Algerian Law (A Descriptive Analytical Study)



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Abstract:

The study aims at exploring and assessing the characteristics of digitization of public transactions administration in the light of the Algerian Presidential Decree N°. (15-247) relating public transactions regulation and public facility empowerment. The study uses the descriptive analytic methodology to reach the targets in question. To gather the required data, a review of literature is going to be administered. The study's main expected finding is that the most prominent characteristic of digitization of public transactions administration in the light of the Algerian Presidential Decree N°. (15-247) relating public transactions regulation and public facility empowerment is starting the e-portal for public transactions. However important it is, digitization of public administration in Algeria is still as not expected. The study recommended planning training courses on dealing with public transactions' e-portal

Keywords: Public Transactions; Digitization; The Algerian Legislation.

Introduction:

Digitization is a necessity in all working fields including the administrative one, nowadays. The e-administration lessens the bureaucratic complexities that overburden the work of the civil departments. It improves the quality of the services done to the public. It also diminishes the time needed to achieve the administrative processes. In addition, it maintains accuracy and objectivity and makes the communication easier. Too, it remarkably reduces using paper. Thus, it helps overcome the problem of paper documents storing (Mohamed Qureishi, Adel Bu-Mejan and Mohamed Rushdi Sultani, p. 151).

No doubt that public transactions (the Presidential Decree N° 15-247, 2015) is one of the areas that needs Digitization since it is of paramount importance. It improves the public service. It enhances efficiency, transparency and equality. It saves time and effort. It secures greater opportunities for free and fair completion. Thus, it guarantees a fertile atmosphere that helps the public transactions realize the aims of the economic and social development (Faiza Mirahi and Waleed Kahhouli, vol. (7), issue N° (4), p. 312).

In response to the digital revolution, the Algerian government has made great efforts to keep pace with it. It has digitized most of the local administration. It makes it available for the public administration, the citizens and entrepreneurs to do public transactions electronically, i. e., using the internet and technologies of media and communication (Widan Bu-Abdullah and Mohamed Al-Bashir, Mercan, vol. N° (2), issue N° (2), p. 95).

The Algerian government has passed many laws, executive orders and presidential decrees to modernize the management of public transactions. The most prominent legislative effort in this area is issuing the presidential decree N°. (15-247) in (2015) relating public transactions regulation and public facility empowerment. It aimed not only to update the public facility, but to enhance the public service as well. The current study seeks to explore and assess the characteristics of digitization of public transaction administration in view of the presidential decree N°. (15-247) in (2015) relating public transactions regulation and public facility empowerment. Thus, the study's problem is set in the following question: What are the characteristics of digitization of public transaction administration in according to the presidential decree N°. (15-247) in (2015) relating public transactions regulation and public facility empowerment? In light of this question, the objective of the study is to highlight the characteristics of digitization of public transaction administration in according to the presidential decree N°. (15-247) in (2015) relating public transactions regulation and public facility empowerment. The study used the descriptive analytical approach. The study consists of three parts covering the e-advertisement, the e-portal and the e-auction. These points are going to be tackled in further detail in the following sections.

1. E-Advertising for Public Transactions

Electronic advertisements are notices or announcements promoting a product, a service, or event or publicizing a job vacancy using the internet. E-

advertisements are characterized with quick publication. They spread rapidly to a large number of people.

E-advertising for public transactions means conveying the commercial message to every contracting party, informing them how to obtain the contract terms, the standard specifications, the place and time of contracting (Abdu As-Salam Nur Ed-Din, vo. (4), issue N°. (2), p. 323).

E-advertising for public transactions is of utmost importance. It is known that if a civil department is willing to conclude a contract, the first step to do is to advertise the contract terms. This advertisement is regarded as a call to whosoever wills to contract. E-advertising is an effective and attractive means that conveys the message to the targeted audience wherever and whenever they are. If run and placed elaborately, e-ads attract a great number of dealers. In other words, e-advertising is important for the following reasons (Khadija Qammar, vol. (6), issue N°. (2), p. 788).

1. E-advertisements are distinguished with its quick spreading. So, they can reach to any person in any country in a few seconds. This means that they cover a big number of consumers.

2. E-advertisements help the contracting parties to recognize the characteristics of the transaction and the ways of implementation.

3- E-advertisements enable sending the offers to the contracting parties. That is, they put into effect the principle of freedom of access to the public order.

4- E-advertisements enable the contracting department to decide the targeted population in order that the ad is addressed only to those meant.

5- E-advertisements urge the dealers to visit the e-portal. Thus, they get the opportunity to have a look at the company's other products. This increases the company's purchase.

6- E-advertisements pave the way for the contracting department to reach numerous and various markets that are difficult to get to through the traditional ad.

7- E-advertisements secure competitiveness that enables the companies to recognize the products of each. Thus, they do their best to offer high quality products for lesser cost. This is so beneficial for the contracting parties.

It is noteworthy that the design of the e-ad requires specialized experts that are able to make best use of the international experiences in order to set e-ads that

convey the message of the company to the targeted population using the shortest way and the least cost.

For the protection of the main principles of the public order that are stated by Article (5) of the Presidential Decree N°. (15-247) in (2015) relating regulating public transactions and empowerment of public facilities such as the principles of freedom of access to public order, equity and transparency, it prescribes certain procedures that limit the freedom of the contracting department in concluding transaction contracts. The advertisement is one of these procedures. Using the advertisement, the contracting department expresses its will to contract by virtue of the legally stated terms and regulations. This procedure is so important since it secures the opportunity for the dealers to participate in doing commercial transactions in an atmosphere of free and equal competitiveness and transparency. It is also useful for the contracting department since it attracts a greater number of clients so that it can select the best bid from the financial and technical viewpoint and thus realizes the success and efficiency of the public transaction (Ghaniya Abbas, vol. (29), issue N°. (1), p. 18).

2. The E-Portal for Public Transactions

This section sheds light on the definition and the steps of concluding contracts of public transactions via e-portal. This is shown in further detail in the coming two sections.

2.1. The Definition of the E-Portal

E-portal is a specialized website that enables spreading and exchanging data, information and documents that relate to public transactions, and concluding contracts electronically (Widan Bu – Abdullah and Mohamed Al-Bashir, vol. N°. (2), issue N°. (2), p. 111). It is also defined as a unified entry that includes a big set of electronic services or applications that concern a given department securing the services and information that pertains to this department" (Hisham Masou'di, vol. (7), issue N°. (2), p. 279).

The Algerian lawmaker seeks to digitize the public transactions service, so he calls for creating an electronic portal for public transactions. Article (203) of the Presidential Decree N°. (15-247) in (2015) states that: "An electronic portal for public transactions is to be fixed and run by the ministry of finance and ministry of technologies of media and communication, each within his field of competence. A decision that is jointly taken by both the minister of finance and the minister of technologies of media and communication decides the authorities of each

ministerial department. The portal' content and techniques of operation are to be determined by a decision from the minister of finance" (Article (203), the Presidential Decree N°. (15-247), 2015).

In light of the previous Article, an e-portal for public transaction has to be started. The law empowers both the ministry of finance and ministry of technologies of media and communication to establish, run and to define the authorities of this portal. The content and methods of operation are to be drawn by the minister of finance.

It is evident that empowering the management of the e-portal to the minister of finance is evidence of the role it plays in rationalizing the public expenses since it is a tool that imparts transparency and fairness on the procedures of public transaction conclusion and provides the public service on a basis of justice, equality and publicity. Therefore, through building the e-portal, the lawmaker has fulfilled the basis for public transactions rational administration which is the keystone to the revival of the whole governmental administration (Khadija Qammar, vol. (6), issue N°. (2), p. 792).

Bearing in mind that the public transaction e-contract does not differ in its elements and effects from the traditional one. The difference is in the way of concluding the contract. The traditional contract is a paper one, but the e-contract is virtual. Thus, the e-public transaction is regarded as an electronic administrative contract that is concluded by legally qualified parties and made virtually in some or all its stages. In other words, the parts concluding the contract are not physically existing as it the case with paper contracts (Abdul-Rahman Bin Grad and Abdul – Qader Mahawi, vol. (3), issue N°. (3), p. 223).

2.2. The Steps of Concluding Public Transactions via the E-portal

The Algerian lawmaker defines a set of procedures to use the e-portal to conclude public transactions. These procedures are as follows:

Step 1: The Call for Competition Electronically:

The Algerian lawmaker enables the contracting department to use the e-ad to ask for offers via the e-portal for public transaction putting into effect the principle of transparency. He also guarantees for every contracting party to submit their offer to put into practice the principle of equality. Article (204) of the Presidential Decree N°. (15-247) in (2015) prescribes that: "The contracting departments are to make available the documents of the call for competition for the entrepreneurs or candidates for public transactions electronically in accordance with a timetable set

by the minister of finance. The entrepreneurs or candidates for public transactions reply electronically to the call for competition according to the above timetable. The way this Article is implemented is to be identified by a decision made by the minister of finance". (Article (204), the Presidential Decree N°. (15-247), 2015).

By virtue of the pre-mentioned text, contracting department electronically invites every willing party to participate in the competition for the offered public transaction. The willing party replies to this call, at the given times, electronically as well.

The data, information and documents that the e-portal makes available for the competitors for the public transactions are as follows (Khadija Qammar, vol. (6), issue N°. (2), p. 792).

- The legislative and regulative texts related to the public transactions.
- The legal consultations related to the public transactions.
- The list of the economic dealers who are banned from participating in the public transactions.
- The list of the economic dealers who are excluded from the participation in the public transactions.
- The supposed projects' programs of the contracting departments, the lists of the concluded public transactions in the previous fiscal year and the names of the establishments and the organizations that benefit from them.
- The reports of the contracting departments related to the implementation of public transactions.
- The list of the establishments that certificates of classification and quality withdrawn from.
- The prices inferential numbers.
- All relevant data, information and documents.

It ought to be taken into consideration that the previous text does not forbid the contracting department to stipulate certain requirements for the participation in the public transaction competition. In this case, not every willing person can take part in this competition, but whosoever fulfills the targeted stipulations only has the right to participate. This implies that the willing party has to prove that he is not banned from participation (Fayrouz Hoot, vol. (7), issue N°. (5), p. 179).

Step 2: Exchanging Data and Information and Documents among the Parties of the Public Transaction:

The contracting parties exchange data and information and documents electronically via the e-portal. These data, information and documents are to be safely stored for future use. Article (205) of the Presidential Decree N°. (15-247) in (2015) prescribes that: "The data, information and documents that are used through the e-Portal are to be handled to create a database taking into consideration the legislative and regulative rulings in effect. By this way, the contracting candidates' files are stored to be used in subsequent procedures. Moreover, as long as the documents needed from the entrepreneurs can be submitted electronically, the contracting department is not allowed to ask them via any other means" (Article (205), the Presidential Decree N°. (15-247), 2015). In view of the above Article, the data, information and documents that relate to the contracting parties are to be electronically exchanged via the e-portal and safely stored for future use.

The documents required from the contracting parties include tender specifications, contribution subscription and obligation forms, integrity declaration, investment commitment, advertisements for bids, calls for incipient selection, consultation messages, return of offers, offers completion and clarification requests, temporary grants for public transactions, procedures cancellation, answers of enquiry requests concerning the rulings of tender specifications, replies to requests of offers and appeals assessment results, tender terms withdrawal, technical and financial offers as well as amended offers (Widan Bu – Abdullah and Mohamed Al-Bashir, vol. N°. (2), issue N°. (2), p. 114).

3. The Electronic Reverse Auction

The electronic reverse auction is a tender for making purchases or doing services at which every participant is authorized to get information of others' offers and has the opportunity to continually amend his offer to compete other parties taking part in the auction without revealing their identities. The electronic reverse auction is mostly used with standard products and services which the standard price is the only criterion to get the transaction (Ismain Bu-Ghazi, vol. (4), issue N°. (7), p. 172).

The contracting department is entitled to resort to the electronic auction to select the best economic offer especially the transactions of materials and providing ordinary services. Article (206) of the Presidential Decree N°. (15-247) in (2015) states that: "To opt for the best offer in view of economic benefits in case

of transactions of materials purchase and providing ordinary services, the contracting department has to keep to the following:

- Doing the reverse auction by allowing the contracting party to check their prices or other elements of their quantifiable offers ...The way this Article is implemented is to be decided by the minister of finance" (Article (206), the Presidential Decree N°. (15-247), 2015). By virtue of the pre-mentioned text, the contracting service has the liability to use the electronic auction to opt for the best offer.

Offers are submitted electronically on the e-auction site. The participants are allowed to have a look at each other's offer and to make necessary changes to their own offers. As to the procedures of the electronic auction, they are as follows (Ismain Bu-Ghazi, vol. (4), issue N°. (7), p. 173).

1- The department announces its desire for contracting and displays all the relevant documents on its website so that every willing bidder can download these documents and submit their offers in according to the specifications mentioned on the e-portal.

2- In case the bidder replies to a given transaction on the e-portal, they prepare a hard or electronic copy of the offer, put it in a sealed envelope entitled "a substitute copy" and send it to the concerned department at the set times provided that this copy is not opened unless the electronically sent offer is virused or does not reach at the given times. In this case, the substitute copy is to be opened instead.

3- In case of discovering a virus in the electronically sent offer, the bidder is asked to send another offer and fix a time for sending.

4- If the contracting department discovers a virus in the original copy of the offer and the substitute copy, it tries to repair it.

5- If repair is impossible, the virus bearing files are cancelled and the bidder is informed of this cancellation.

It ought to be taken into consideration that the cancellation of the virus holding offer does not mean that the bidder is not allowed to re-offer. That is, he has the opportunity to bid a new offer on condition that he considers the given regulations and the set times.

To sum, the Algerian lawmaker does his best to digitize the administration of public transactions. He legalizes using e-advertisements and e-auctions.

Furthermore, he has passed a law for creating e-portal specified for public transactions. However, he does not draw due attention to issues that are necessary to the e-administration of public transactions such as e-signature, e-documentation and e-insurance.

Conclusion:

The current study aimed to investigate and assess the characteristics of digitization of public transaction administration in light of the presidential decree N°. (15-247) in (2015) relating public transactions regulation and public facility empowerment. It reached the following findings:

1- The significant features of digitization of public transaction administration in Algeria are using the e-advertisement, the e-portal and the e-auction.

2- The e-advertisement for public transactions is of utmost importance. It is an effective and attractive means that conveys the message to the targeted audience wherever and whenever they are in a few seconds. It helps the contracting parties to recognize the characteristics of the transaction and the ways of implementation. It enables to decide the targeted population in order that the ad is addressed only to those meant. It also clears the way to reach numerous and various markets that are difficult to get to through the traditional ad.

3- The e-portal plays a great role in rationalizing the public expenses. It is a means that imparts transparency and fairness on the procedures of public transaction conclusion and provides the public service on a basis of justice, equality and publicity.

4- The e-auction is an effective means that helps get detailed information of the contracting parties' offers and to continually amend the offers without revealing their identities.

5- The Algerian legislation does not pay due attention to issues that are indispensable to the e-administration of public transactions such as e-signature, e-documentation and e-insurance.

In view of the pre-mentioned results, the study recommends the Algerian lawmaker to consider the following points:

1- Referring to the necessity of training the contracting parties on how to effectively use the e-portal.

2- Referring to the necessity of securing the e-infra-structure to improve the e-public transaction dealings.

3- Referring to the importance of getting acquainted with and making optimal use of the advanced countries experiences in the field of e-public transactions.

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