

Towards an electronic administrative justice – Remote litigation in Algeria –

نحو قضاء إداري إلكتروني : التقاضي عن بعد في الجزائر

Dr. Gousto Chahrazed ⁽¹⁾

University of Djillali Liabes, Sidi Bel Abbes (Algeria)
chahrazad.gousto@univ-sba.dz

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Abstract:

Algeria, alongside other nations, has increasingly embraced electronic litigation as an alternative to traditional judicial proceedings, particularly in administrative lawsuits. However, its current implementation remains limited to case registration, tracking, and document access, without encompassing all procedural aspects, largely due to the nature of administrative litigation. This study aims to explore the feasibility of fully transitioning administrative court procedures from paper-based to electronic formats to achieve justice more efficiently. Furthermore, it examines the impact of electronic judicial system characteristics on the distinct features of administrative litigation, considering the differing legal standings of litigants and the discretionary power granted to administrative judges in managing procedural aspects.

key words: Administrative Court – Electronic Administrative Judiciary – Remote Litigation – Judicial Procedures – E-litigation.

الملخص:

الجزائر و على غرار باقي الدول الأخرى اتجهت إلى اعتماد القضاء الإلكتروني بديلا عن القضاء التقليدي في العديد من الدعاوى من بينها الدعوى الإدارية، إلا أن تطبيقه حاليا مازال يقتصر على تسجيل الدعوى ومتابعتها والإطلاع على أوراقها دون أن يشمل كافة الإجراءات وذلك بالنظر إلى طبيعة الدعوى الإدارية. و عليه فسنحاول في هذه الدراسة تسليط الضوء على مدى إمكانية الانتقال بكل الإجراءات التي تمارسها المحاكم الإدارية من الإجراءات الورقية إلى الإجراءات الإلكترونية تحقيقا للعدالة في أقصر مدّة، و البحث في حقيقة تأثير خصائص النظام القضائي الإلكتروني على الخصائص التي يتمتع بها القضاء الإداري في ظل اختلاف المراكز القانونية لأطراف الدعوى، وفي ظل السلطة الممنوحة للقاضي الإداري في إدارة إجراءات الدعوى الإدارية.

الكلمات المفتاحية: المحكمة الإدارية- القضاء الإداري الإلكتروني- التقاضي عن بعد- الإجراءات

القضائية- التقاضي الإلكتروني.

⁽¹⁾ Corresponding author: Dr. Gousto Chahrazed,

e-mail: cheraz.droit@gmail.com



Introduction:

Electronic litigation has emerged as a consequence of the rapid advancements in information technology. Given the vital role of administrative courts in overseeing government actions, legislative frameworks in various countries have focused on modernizing judicial processes, particularly in light of global digital transformation. Traditional litigation procedures often involve multiple steps that can be time-consuming, necessitating the search for alternative mechanisms that provide litigants with faster and more accessible means to claim their rights. In response, Algerian lawmakers have introduced a series of legal reforms aimed at modernizing the justice sector and adopting e-litigation to address the inefficiencies of conventional judicial processes.

The significance of this study lies in evaluating the practical implementation of electronic litigation before administrative courts, the technical, legal, and administrative challenges it presents, and the extent to which this system can comprehensively encompass all stages of administrative litigation—from case registration to the issuance of final rulings.

Accordingly, the study raises the following key questions:

- How do the characteristics of the electronic judicial system influence the fundamental principles of administrative justice, particularly considering the differing legal positions of litigants and the discretionary powers of administrative judges?
- What is the current state of electronic administrative litigation in Algeria?

To answer these questions, the study adopts a descriptive methodology by gathering and categorizing relevant information to establish a comprehensive understanding of e-litigation and its implications within the Algerian legal framework. Additionally, it employs analytical and inductive methods to examine legislative provisions governing administrative litigation procedures, assessing their underlying principles and addressing practical challenges in their application.

The study is structured into two main sections. The first explores Algeria's transition from traditional to electronic litigation, while the second examines the implementation of remote litigation procedures in administrative courts and the challenges associated with this transition.

Section One:

The Transition from Traditional to Electronic Litigation in Algeria

The concept of electronic litigation in Algeria was initially introduced in 2007 when the President, during the judicial year inauguration on October 29, 2007, emphasized that "judicial reform serves as a means to elevate the justice system in response to both internal and external transformations rather than being an end in itself." The practical implementation of this initiative commenced in 2015.

To analyze Algeria's efforts in adopting electronic litigation, this section first defines the concept of electronic administrative litigation before addressing the legal foundations underpinning its application in the country.

A) Definition of Electronic Administrative Litigation:

Electronic litigation derives from the broader concept of e-governance, which entails shifting public services and information dissemination from conventional paper-based formats to digital platforms via the Internet. This transformation enhances the efficiency of judicial institutions by improving both administrative and judicial services.

The term "electronic litigation" emerged in the mid-1970s as a counterpart to traditional litigation. While both share the same objective - allowing individuals to file lawsuits before competent courts for adjudication-their procedural mechanisms differ. In remote litigation, proceedings are conducted through digital platforms, significantly altering the way cases are processed¹.

Legal scholars have attempted to define electronic litigation, with one prominent definition describing it as "the adjudication of lawsuits and the execution of judicial procedures through newly developed electronic means, managed by specialized judges within integrated digital judicial systems. These systems utilize Internet-based platforms and electronic file management programs to facilitate case hearings, issue rulings, and enforce decisions, thereby ensuring expeditious dispute resolution and enhancing accessibility for litigants."²

Electronic litigation is thus characterized by the existence of fully digital courts interconnected through a unified judicial network. This necessitates the digitization of all judicial departments and their integration into a cohesive digital system, enabling seamless electronic communication between judicial institutions. It also replaces traditional paperwork and archives with digital databases, allowing for rapid access, retrieval, and interconnection of legal information³.

From this perspective, electronic litigation involves the digital transmission of case-related documents to administrative courts via email, where they are examined by designated court officials who determine their validity. Upon review, litigants receive notifications regarding the acceptance or rejection of their submissions.⁴

Considering recent amendments to the Algerian Code of Civil and Administrative Procedure⁵, the definition of electronic administrative litigation should not be confined solely to the submission of documents and data via electronic platforms. Instead, it must encompass all procedural stages, from case registration and hearing processes to judgment issuance and execution, emphasizing the role of digital technologies in every phase of administrative litigation.

B) The Legal Basis for Electronic Litigation in Algeria:

The concept of implementing electronic litigation in Algeria is legally grounded in both the international commitments ratified by Algeria through various treaties and the

domestic legal framework that has formally embraced electronic litigation as a judicial mechanism.

1- The International Legal Basis for Electronic Litigation in Algeria:

This section outlines key international agreements ratified by Algeria that incorporate the concept of electronic litigation, particularly in investigative procedures and witness testimonies. Among the most significant is the **United Nations Convention Against Transnational Organized Crime**, which serves as a fundamental international legal instrument in this regard. Notably, Article 18, paragraph 18, of the Convention explicitly references "video conferencing" as follows:

"... At the request of the other State, a hearing may be conducted via video conferencing if the physical presence of the concerned individual in the territory of the requesting State Party is impossible or impractical. The State Parties may agree that the hearing shall be conducted under the authority of the requesting State's judicial body and supervised by a judicial authority of the requested State Party."⁶

In addition to this Convention, several other international instruments establish the legal foundation for the use of remote communication technologies in judicial proceedings, including:

- The **United Nations Convention Against Transnational Organized Crime (2000)**, particularly Article 18.
- The **United Nations Convention Against Corruption (2003)**, specifically Article 46, paragraph 18, which acknowledges the use of remote communication technologies.
- The **Rome Statute of the International Criminal Court**, as stipulated in Article 69, paragraph 2.
- The **Arab Convention Against Transnational Organized Crime**, under Article 36.
- The **Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters**, signed in Strasbourg on November 8, 2001, and enforced on February 1, 2004.
- As part of its cooperation with the **European Committee**, Algeria was integrated into an emergency network utilizing satellite-based **V-SAT technology**, alongside an internal linear network, to facilitate remote witness testimonies from any location. This project was completed in 2009⁷.

2- The national Legal Basis for Electronic Litigation in Algeria:

Given that, this study focuses on **electronic administrative litigation**, we will specifically examine recent legislative developments in Algeria concerning this area. These include:

- **Law No. 15-03**, relating to the modernization of the judiciary.
- **Law No. 22-13**, enacted on **July 12, 2022**, which amends and supplements **Law No. 08-09** governing the Code of Civil and Administrative Procedure.

Firstly: Law No. 15-03 on the Modernization of the Judiciary

The enactment of **Law No. 15-03**, aimed at modernizing the judicial system, represents a gradual yet significant step forward for Algeria. In comparison to some Arab countries -such as the **United Arab Emirates and Saudi Arabia**, which pioneered judicial modernization- the Algerian approach has been relatively cautious⁸.

This law, comprising **16 articles**, addresses the implementation of electronic litigation as follows:

Under **Article 1, paragraph 3**, it stipulates:

- The establishment of a **centralized information system** under the Ministry of Justice to authenticate electronic documents and oversee all judicial activities across the **ordinary judicial system, the administrative judicial system, and the Court of Jurisdictional Disputes**, thereby streamlining administrative functions within the judiciary⁹.

- The **electronic transmission** of judicial documents and records.

- The use of **video conferencing technology** in judicial proceedings.

To further advance judicial modernization, Article 2 extends this framework to include the ordinary and administrative judicial systems, as well as the Court of Jurisdictional Disputes. Additionally, Article 9 explicitly acknowledges Algeria's formal adoption of electronic litigation, particularly through electronic notification and document transmission mechanisms.

Moreover, Article 14 specifies that:

"If the geographical distance or the interests of justice necessitate, parties may be interrogated and heard via video conferencing."

Meanwhile, Article 15 delineates the scope of application for this technology across three distinct paragraphs, while Article 16 defines the venue for conducting electronic litigation.

Several other provisions within this law also address the integration of internet-based litigation, the modalities of electronic document transmission, and other related aspects.

Secondly: Law No. 22-13 (Amendment to the Code of Civil and Administrative Procedure)

The most recent amendment to the **Code of Civil and Administrative Procedure** aligns with **Law No. 15-03** in regulating electronic litigation. Specifically:

- **Article 815** introduces the possibility of filing lawsuits before administrative courts electronically.

- **Article 840** outlines methods for serving procedural documents and investigative measures, explicitly incorporating electronic notification as a recognized legal method.

Section II: The Implementation of Remote Litigation Procedures Before Administrative Courts and the Issues They Raise

The integration of electronic means in administrative litigation, relying on digital systems and the internet, significantly impacts the procedural aspects of administrative disputes, which serve as the mechanism for presenting conflicts before the judiciary.

Electronic litigation differs from traditional litigation primarily in the tools and platforms used to conduct proceedings, while maintaining the same fundamental principles and guarantees established in conventional litigation¹⁰.

To analyze the stages of electronic administrative litigation—particularly given that the practical application of administrative litigation in Algeria is currently limited to filing lawsuits without extending to other procedural aspects—we will examine the process of initiating claims before the electronic administrative court. We will then explore how these procedural concepts align with the characteristics of administrative lawsuits before addressing the adjudication and resolution of cases under electronic litigation.

A) Filing a Claim Before the Electronic Administrative Court:

An administrative lawsuit arises from a dispute between two parties: the plaintiff, who has a vested interest in initiating the claim, whether an individual or a legal entity, and the defendant, who is the opposing party. The lawsuit does not commence until it is officially registered before the administrative court. However, after registration, it is essential to notify the parties and schedule hearings using electronic means. This requirement is stipulated in Articles 815 and 840 of the Code of Civil and Administrative Procedure following their amendment.

Article 815 expressly states that “**an administrative lawsuit may be filed either in paper form or electronically.**” Consequently, the litigant or their attorney must access the designated online platform for case registration and notifications. The Algerian Ministry of Justice has established an automated electronic litigation system. In this regard, the Directorate of Judicial and Legal Affairs at the Ministry of Justice addressed the National Union of Bar Associations on November 5, 2020, requesting the updating of the database related to legal professionals in the management application of judicial officers' professions to integrate it with the automated electronic litigation system¹¹.

Under this system, attorneys log in using a username and password issued by the Bar Association. Once their credentials are verified, they gain access to the system, enabling them to submit a digitally signed claim along with their email address or phone number for electronic correspondence. They must also attach all required documents and pay court fees via electronic payment methods, including bank transfers and credit cards. Upon successful submission, the case is officially registered¹².

Regarding the payment of court fees, electronic administrative litigation has eliminated many challenges associated with traditional payment methods, particularly

given the global advancement in digital transactions. Various payment options, including credit cards, e-wallets, and mobile money transfers, facilitate seamless fee payments.

After electronically filing the lawsuit and settling the required fees, the judicial notification process follows. This phase is critical, as incorrect or incomplete notifications may prevent the case from proceeding to trial, ultimately delaying the resolution of disputes. While traditional notification methods remain the standard in many legal systems, electronic litigation employs modern techniques such as:

- Email notifications
- SMS notifications -a technology enabling litigants to track case progress via short text messages sent to their mobile phones. This method also allows courts to send summonses and legal notices without relying on postal mail.¹³

This approach is explicitly endorsed in **Article 9 of Law No. 15-03¹⁴** and **Article 840** of the Code of Civil and Administrative Procedure (as amended)¹⁵.

However, electronic notification raises a fundamental challenge regarding whether the plaintiff possesses the defendant's valid email address. While this issue is more prevalent in civil litigation, it is less problematic in administrative lawsuits, as the defendant is typically a government entity that operates within an e-government framework with an official email or website where notifications can be sent¹⁶. If the plaintiff lacks the necessary details for notification, the court registrar may resort to traditional notification methods as prescribed by the Code of Civil and Administrative Procedure.

Despite the challenges of electronic notification, its advantages include:

- Simplifying administrative procedures
- Reducing notification costs
- Ensuring the rapid and secure transmission of judicial information

To ensure the validity and effectiveness of electronic communications in judicial procedures, the following conditions must be met¹⁷:

1. Reliable identification of the parties engaged in electronic communication
2. Integrity and authenticity of transmitted documents
3. Confidentiality and security of communications
4. Data preservation, ensuring that the exact date and time of transmission and receipt are verifiable

Once these conditions are satisfied, electronically submitted documents acquire legal validity equivalent to that of original documents, as stipulated in Article 10(2) of Law No. 15-03. Furthermore, upon electronic submission, an acknowledgment of receipt is generated, specifying the exact date and time of receipt. This acknowledgment serves as a legal equivalent to a stamp, signature, or official confirmation.

After the court registrar receives the claim and supporting documents, a hearing date is scheduled, and the case file is electronically transferred to the competent administrative court's system.

B) Consideration of Administrative Lawsuits in the Electronic Litigation System and Adjudication of Them:

Once a case is filed before the administrative court, the parties proceed to the adjudication stage. Administrative litigation procedures are characterized by several distinctive features, including the written nature of proceedings and the legal inequality between the parties. To uphold the rule of law, the administrative judge assumes a directive role in guiding and managing the proceedings. Administrative judicial procedures function as investigative measures, with the judge playing an active role in the litigation process to ensure a fair balance between the parties: the administration, with its public authority privileges, and the individual litigant, who is often the claimant. This role manifests from the submission of the initial petition, where the judge orders its notification to the defendant, mandates the exchange of memoranda among the parties, sets deadlines for submitting required documents, and determines whether the case is ready for adjudication.

In essence, the features of the electronic litigation system do not alter the fundamental characteristics of traditional administrative justice, which are designed to uphold the rule of law and ensure justice despite the disparity in legal standing between the parties. The adoption of an electronic court administration system in Algeria has led to the advancement of administrative evidence mechanisms. Given that administrative documents—including electronic ones—serve as the primary means of proof in administrative litigation, this aligns with the written nature of administrative proceedings. Since many jurisdictions, including Algeria, legally recognize the evidentiary value of electronic documents, full implementation of electronic evidence procedures in administrative cases remains a challenge.

The principle of adversarial proceedings is a cornerstone of fair trials and can only be realized if all parties are afforded the opportunity to participate in hearings. Video conferencing technology, used in remote court proceedings, is a modern communication tool that enables real-time interaction between parties through the internet, facilitating the confrontation of adversaries. This technology allows the transmission of audio and visual feeds from one location to the courtroom in another.¹⁸

For the effective implementation of this technology, several prerequisites must be met, including high-speed internet, high-quality microphones and speakers, webcams, and digital repositories for storing pleadings. This innovation enhances efficiency by reducing time and effort, enabling virtual discussions among parties who may otherwise face logistical challenges in convening at a single location. Additionally, it allows the exchange of files and documents without necessitating physical presence in court¹⁹.

Upon the conclusion of all trial sessions under the electronic litigation system, the case proceedings, supporting documents, and parties' statements are digitally recorded and stored on the court's electronic platforms. Each judge on the adjudicating panel retains access to these records, facilitating deliberations conducted through electronic

means. This process enables the panel to reach a final verdict, which is then signed electronically. Following the issuance of the judgment, the court clerk promptly notifies the parties and simultaneously archives the decision within the case file, ensuring official notification of the ruling. Consequently, the judgment becomes enforceable for the prevailing party, while the losing party retains the right to appeal in accordance with the general rules and procedures governing appeals²⁰.

Despite Algeria's extensive legislative framework aimed at modernizing the justice sector and transitioning toward electronic litigation, the implementation of this system - particularly in administrative cases- remains sluggish and largely theoretical, with its practical application limited primarily to remote access to case updates.

Conclusion:

This study has examined the legal framework governing electronic administrative litigation in Algeria, highlighting key legislative reforms introduced by the Algerian legislator to facilitate the adoption of electronic tools within the judiciary. These reforms range from the enactment of Law No. 15-03 on judicial modernization to amendments in procedural laws, particularly the Code of Civil and Administrative Procedure. The primary objective of these reforms is to streamline litigation processes, benefiting not only litigants but also the judicial system as a whole, especially in document management and the gradual transition from paper-based case files. Furthermore, these changes enhance judicial efficiency by accelerating case resolution through improved communication and document exchange, thereby reducing case backlogs and minimizing procedural delays.

Despite the unique nature of administrative litigation procedures compared to civil and criminal cases, a transition from traditional to electronic litigation is feasible. The mechanisms of electronic litigation, including electronic filing of petitions and supporting documents, digital notifications, virtual hearings, and electronic issuance of judgments, align with the inherent characteristics of administrative litigation. These features do not undermine the rule of law or judicial fairness, particularly given the disparity in legal standing between parties and the administrative judge's role in managing litigation procedures.

After analyzing the electronic litigation system as a manifestation of digital transformation in the judicial sector -particularly in administrative justice- and assessing its implementation within the Algerian legal framework, we propose the following recommendations:

- Legislative reforms should be introduced to the Code of Administrative Judicial Procedure to establish a comprehensive legal framework governing electronic administrative litigation procedures.
- The implementation of electronic administrative courts should be reinforced by leveraging video conferencing technology, particularly for remote hearings.

- Effective deployment of electronic administrative litigation in Algeria requires the development of human resources capable of managing the transition to digital judicial processes. This can be achieved through regular training programs in electronic litigation and the adoption of technological solutions for judicial personnel, lawyers, and legal professionals. Such measures will ensure the judicial sector remains aligned with technological advancements while enhancing cybersecurity to safeguard the confidentiality of electronic litigation proceedings.

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¹² - Majed Ahmad Saleh Al-Adwan, *Op. cit.*, p. 84.

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¹⁴ - The text states: "In addition to the methods provided for in the Code of Civil and Administrative Procedure and the Code of Criminal Procedure in this regard, the notification and transmission of judicial documents and records may be carried out electronically in accordance with the conditions and procedures specified in this law..."

¹⁵ - It further stipulates: "All measures taken and investigative procedures shall be communicated to the parties by all legally available means, including electronic means."

¹⁶ - Majed Ahmad Saleh Al-Adwan, *Op. cit.*, p. 100.

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