The Effectiveness of Electronic Arbitration as an Alternative Mechanism for the Settlement of Electronic Commercial Disputes

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Abstract:

Technological advancement and the widespread use of the Internet have significantly transformed legal and commercial transactions, leading to the emergence of electronic commerce. These changes have affected the formation and execution of contracts through modern technologies. Due to the specific and cross-border nature of electronic commerce, suitable dispute resolution mechanisms have become necessary. Electronic arbitration has emerged as a modern alternative, characterized by speed, confidentiality, and electronic procedures. It aims to efficiently resolve electronic commerce disputes and raises questions regarding its effectiveness as an alternative dispute resolution mechanism.

Keywords: electronic commerce; electronic arbitration; Electronic Arbitral Award; Disputes.

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1. INTRODUCTION

The rapid technological development that has encompassed various aspects of life has led to the emergence of a digital revolution affecting the fields of communication and the economy. This evolution has contributed to the advancement of societies and increased their openness to one another, facilitating individuals' access to international markets through the Internet via electronic shopping. Consequently, a new pattern of commercial transactions known as electronic commerce has emerged, which has necessitated the search for modern and effective mechanisms for resolving the disputes arising therefrom.

In this context, electronic arbitration has emerged as one of the alternative means for resolving commercial disputes, due to the advantages it offers that make it more suitable than traditional judicial proceedings, particularly in terms of speed, flexibility, and procedural simplification. Electronic arbitration allows the disputing parties, through an arbitration clause or submission agreement, to agree to submit their dispute to a competent arbitral tribunal for resolution.

Electronic arbitration is regarded as a form of modern international justice characterized by flexibility and efficiency, in line with the requirements of electronic commerce and international trade. This is clearly reflected in the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral

Awards[1], which established the foundations for the international recognition and enforcement of arbitral decisions.

As a result of these developments, national legislations have been compelled to reconsider their legal frameworks, including Algerian legislation, which introduced substantial amendments to the Code of Civil and Administrative Procedures of 2008 through Law No. 08-09[2], by dedicating specific legal provisions to arbitration as an alternative means for resolving domestic and international commercial disputes. This reform came in light of the relative inability of traditional courts to keep pace with the specific nature of such disputes, given the lengthy procedures they entail, thereby granting arbitration a prominent position as an effective and sound mechanism for dispute settlement.

Furthermore, the Algerian legislator reinforced this approach by enacting the Electronic Commerce Law No. 18-05 of 18 May 2018[3], to regulate the requirements of electronic commerce, which has become a practical reality that cannot be ignored.

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[1]- The 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

[2]- Law No. 09-08 dated February 25, 2008, concerning the Code of Civil and Administrative Procedures, Official Journal of the Algerian Republic, Issue No. 21, published on 23/04/2008.

[3]- Law No. 05-18 dated May 10, 2018, concerning the Electronic Commerce Law, Official Journal of the Algerian Republic, Issue No. 28, published on May 16, 2018.

Accordingly, the following research question arises: To what extent is electronic arbitration effective and efficient as a modern alternative mechanism for resolving electronic commerce disputes?

In order to address this issue, the first chapter will examine the conceptual framework of electronic arbitration in the field of electronic commerce, while the second chapter will be devoted to studying the scope of application of electronic arbitration in electronic commerce.

2. The Conceptual Framework of Electronic Arbitration in the Field of Electronic Commerce:

As a result of the increasing volume of electronic commerce transactions, electronic arbitration -also referred to as online arbitration or cyber arbitration- has emerged as a modern mechanism for resolving disputes arising from this type of transactions. Electronic arbitration does not differ in substance from traditional arbitration, except with regard to the manner in which the arbitral proceedings are conducted, as such proceedings are carried out wholly or partially through electronic means.

Electronic arbitration relies on the use of modern technological tools in the field of information exchange and communication, whether for the submission of claims, the exchange of pleadings, the holding of hearings, or the issuance of arbitral awards. This necessitates, within this context, addressing the concept of electronic arbitration and clarifying the notion of

electronic commerce as the framework within which this form of arbitration has developed.

2.1 The Concept of Electronic Arbitration:

The concept of electronic arbitration does not differ from traditional arbitration in terms of substance; rather, the difference lies in the means through which arbitral proceedings are conducted in the virtual environment. In this form of arbitration, the use of paper and traditional writing is absent, and the physical presence of the parties or the arbitral tribunal is not required. All procedures are carried out through electronic means. Moreover, arbitral awards may be delivered to the parties in an electronic format, duly signed and authenticated through an approved electronic signature.[4]

2.1.1 Definition of Legal Arbitration[5]:

Legal doctrine has provided various definitions of arbitration depending on the perspective from which it is examined. The term *electronic arbitration* consists of two essential components:

2.1.1.1 Arbitration:

In its traditional sense, arbitration is a dispute resolution system whereby the parties agree to confer upon arbitrators, chosen by their free will, the authority

[4]- Mohammed Ibrahim Abu Al-Hija, Arbitration via the Internet, Dar Al-Thaqafa, Jordan, 2002, p. 52.

[5]- Ben Halima Leila, and Slim Ashour. The Privacy of Electronic Arbitration in Resolving E-Commerce Disputes. Al-Ustadh Al-Bahith Journal for Legal and Political Studies, vol. 4, no. 1, 2019, p. 181.

to resolve their dispute instead of resorting to state courts.

2.1.1.2 Electronic:

This refers to reliance on the Internet, through which arbitration acquires its electronic character based on the manner in which it is conducted. Accordingly, electronic arbitration may be defined as arbitration whose procedures are carried out via the Internet in accordance with specific rules, without the need for the disputing parties to meet in a particular physical location.

Electronic arbitration has also been defined as a special form of adjudication whereby the parties voluntarily agree to submit their dispute to a neutral third party (the electronic arbitral tribunal) for resolution using modern means of communication, pursuant to procedural rules appropriate to the nature of the dispute, resulting in a binding arbitral award.

2.1.2 The Legal Nature of Electronic Arbitration:

Considerable doctrinal debate has arisen concerning the legal nature of electronic arbitration. Some scholars view it as contractual in nature, while others consider it judicial. A third opinion characterizes it as having a mixed nature—both contractual and judicial—whereas a fourth perspective holds that electronic arbitration possesses an independent and distinctive legal nature.[6]

[6]- Ibrahim Ahmed Said Zamzami, The Applicable Law in E-Commerce Contract Disputes: A Comparative Study, Doctoral Thesis, Ain Shams University, Egypt, 2006, p. 315.

2.1.2.1The Contractual Nature of Electronic Arbitration:

Some jurists consider arbitration to be a consensual bilateral contract based on the principle of party autonomy, which gives arbitration its contractual character. This view is reinforced by the role of arbitration in international commercial transactions, where arbitral awards are regarded as the outcome of applying contractual terms agreed upon by the parties.[7]

2.1.2.2 The Judicial Nature of Electronic Arbitration:

Proponents of this view argue that arbitration is a form of compulsory adjudication once agreed upon, replacing state courts. Arbitrators exercise judicial functions, and their awards possess res judicata authority, similar to court judgments. Arbitration procedures are judicial in nature[8], which gives electronic arbitration a predominantly judicial character.

2.1.2.3 The Theory of the Mixed Nature of Electronic Arbitration:

According to this theory, arbitration has a dual nature. It begins with an agreement between the parties and ends with a judicial decision that has binding force. The arbitration agreement is contractual, while the

[7]- Mokhtar Berbari, International Commercial Arbitration, Dar Al-Nahda Al-Arabiya, Cairo, 1995, pp. 7-8

[8]- Oshan Hanan, The Role of Electronic Arbitration in Resolving E-Commerce Disputes, Al-Naqdiya Journal of Law and Political Science, Vol. 15, No. 02, 2020, p. 129.

arbitrator's function is judicial, making arbitration subject to both contractual and judicial rules[9].

2.1.2.4 The Independent Nature of Electronic Arbitration:

Supporters of this theory believe that arbitration, in general-including electronic arbitration- has a special and independent nature that distinguishes it from contracts and judicial rulings[10]. It is a legal tool for dispute resolution that differs from traditional contracts and aims to achieve justice through mechanisms distinct from conventional courts. Arbitration is also characterized by independence and privacy, which set it apart from other legal systems, making it the most suitable means for resolving electronic disputes, and it is difficult to classify it within any of the previously mentioned legal theories.

2.2 The Concept of Electronic Commerce:

Technological advancements in communications and information technology have led to the emergence of a new virtual information society. This development has been exploited in the commercial field, resulting in the rise of electronic commerce, which is conducted through electronic communication means, particularly the Internet.

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[9]- Bouguerk Ahmed, Arbitration Agreement in E-Carpentry Contract Disputes – A Comparative Study, PhD Dissertation in Law, Specialization: Advanced Civil Law, Abdelhamid Ibn Badis University, Mostaganem, 2018–2019, pp. 59–60 .

[10]- Lazhar Ben Said, International Commercial Arbitration, according to the Code of Civil and Administrative Procedure and Comparative Laws, Houma Publishing, Printing and Distribution, Algeria, 2012, p. 24

2.2.1 Definition of Electronic Commerce:

The definitions of e-commerce vary according to different perspectives. This variation is due to the diversity of its application areas and the continuous development of its methods and objectives, which in turn affects its definition. Some have defined it as a type of buying and selling transactions between consumers and producers, or between companies themselves, using information and communication technology.[11]

From the perspective of communication experts, e-commerce is considered a means of delivering information, services, or products via telephone lines, the World Wide Web, or any technological medium. From the viewpoint of business professionals, it is the application of technology to make commercial transactions operate automatically and quickly. It is also defined as a tool to meet the needs of companies, consumers, and managers by reducing service costs, increasing efficiency, and speeding up service delivery. Finally, internet experts describe it as commerce that provides opportunities for buying and selling products, services, and information over the Internet[12].

Perhaps the most accurate definition of e-commerce is the one provided by the World Trade

[11]- Raafat Radwan, E-Commerce, first edition, Arab Administrative Development Organization, Cairo, 1999, p. 14.

[12]- Barich Abdelkader and Hamdi Maamer, The Role of Electronic Arbitration in Resolving E-Commerce Disputes, New Economy Journal, Issue 02, January 2010, p. 102.

Organization (WTO), which defines it as: "the process of conducting transactions and establishing products through communication networks.[13]

2.2.2 The Field of E-Commerce:

E-commerce is a broad concept that includes any commercial activity or transactions carried out between multiple parties through electronic means, most importantly the Internet. Therefore, any e-commerce model involves the main parties engaged in commercial dealings. Accordingly, e-commerce can be classified based on the nature and identity of the primary parties involved in the commercial transactions as follows:[14]

2.2.2.1 Transactions between a Business and Another Business (B2B: Business to Business):

This involves the exchange of products, services, and information between business organizations. It often occurs at the international level in import and export operations. This type is considered one of the oldest forms of e-commerce, where the internet is used for placing purchase orders with suppliers and issuing invoices[15]. In this type of e-commerce, transactions include buying, selling, and exchanging information within an electronic marketplace[16] between commercial

[13]- Ben Halima Leila & Ashour Salim, op cit,, p. 188.
[14]- Barich Abdelkader & Hamdi Maamer, op cit, p. 103.
[15]- Makhloufi Abdelwahab, E-commerce via the Internet, Doctoral Dissertation (unpublished), University of Batna 1, Semester 2011–2012, p.37.
[16]- It is used to distinguish between the electronic marketplace, where e-commerce transactions take place, and the concept of the traditional physical marketplace, where traditional commerce is conducted. This relates to the concept of market space.

companies. Business-to-business (B2B) transactions constitute the majority of e-commerce activities, accounting for approximately 80% of the total volume of e-commerce worldwide.[17]

2.2.2.2 Transactions between a Company or Business and the Consumer:

This type of e-commerce involves buying and selling between business organizations and individuals or consumers. This market includes retail sectors that sell products and services to consumers via the Internet. Transactions between the company and individuals can occur at both the local and international levels. The consumer places an order for a product or service on the company's website and pays for it, for example, by card. Afterward, the consumer receives the product or service either immediately if it is a digital product, or via traditional mail.[18]

2.2.2.3 Transactions between a Business Organization and the Government:

This involves all transactions that take place between companies and the government, as well as between individuals and various government departments, using electronic means, especially the Internet. It includes the publication of government departments' procedures, regulations, fees, and

[17]- Mohammed Saeed Ahmed Ismail, Legal Protection Methods for E-Commerce Transactions: A Comparative Study, Unprinted Edition, Al-Halabi Legal Publications, Beirut, 2009, p. 38.

[18]- Ben Halima Leila & Achour, Slim, op cit., p. 189.

transaction forms online, allowing both companies and individuals to access them and carry out transactions electronically.[19]

2.2.2.4 Transactions between Consumers Consumer to Consumer:

In this type, e-commerce transactions occur directly between individual consumers. The buying and selling take place between one consumer and another, often through posting advertisements on personal websites or platforms on the Internet with the aim of selling personal items or offering skills and expertise to others. This also includes online auctions where commercial transactions are conducted between individuals.[20]

3. Scope of Application of Electronic Arbitration in E-Commerce:

E-commerce is considered one of the new global developments that have strongly imposed themselves during the latter part of the twentieth century. Consequently, it has become one of the pillars of the new global economic system and one of the important mechanisms relied upon by the globalization of commercial and economic enterprises

3.1The Scope of Application of Electronic Arbitration in E-Commerce:

Electronic arbitration, as the most important alternative mechanism for resolving disputes arising from e-commerce contracts, has become a fertile field

[19] - Raafat Radwan, op cit., p. 32.
[20] - Berrich Abdelkader & Hamdi Maamer, op cit., p. 104.

frequently resorted to compared to other alternative methods. The parties to a dispute voluntarily turn to electronic arbitration to resolve existing or potential disputes under an electronic arbitration agreement, due to the advantages it offers. However, despite these benefits, it cannot be applied in all cases, as its scope is limited to specific types of disputes.[21]

3.1.1 Contractual Disputes:

Disputes arising from electronic commercial transactions are numerous and varied, due to the broad scope of these transactions, their diversity, and the differences in their nature depending on the contractual framework on which they are based. From this perspective, the scope of electronic arbitration concerning disputes arising from a contractual act can be defined in the following points.

3.1.1.1 Electronic Commercial Contracts:

These are considered the most common forms of electronic commerce, in which all commercial transactions are conducted electronically, including the exchange of documents electronically. Business organizations that implement electronic commerce submit purchase orders to their suppliers, issue invoices, and carry out payment processes through various electronic means, such as using an electronic payment gateway.[22]

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[21] - Oshan Hanan, op cit, p. 131.

[22]-Osama Ahmed Badr, Protection of Electronic Contracting: A Comparative Study, Dar Al-Kutub Al-Qanuniya, Cairo, 2008, p. 30.

The disputes arising from these contracts have been classified by legal scholars according to the parties involved in the contract as follows:

- Contracts related to the infrastructure of electronic commerce.
- Contracts concluded between internet service providers and the companies licensed to use their services.
- Contracts concluded between commercial enterprises that use the internet.
- Contracts of a closed nature limited to a specific group of commercial enterprises.

3.1.1.2 Mixed-Character Contracts:

Contracts related to consumers in the field of electronic commerce are among the most common types of such transactions. On the World Wide Web, there are websites belonging to various commercial centers where consumers and business entities can complete buying and selling operations electronically. These websites provide all kinds of goods and services and also display all available products and services.[23]

3.1.1.3Contracts Concluded Between a Business Entity and a Government Administration:

The state presents procedures, requirements, fees, and transaction forms on the Internet so that business entities can access them through electronic means and carry out transactions electronically without dealing directly with the offices of institutions or government

[23]- Hossam El-Din Fathi Nasif**,** Electronic Arbitration in International Trade Disputes**,** Dar Al-Nahda Al-Arabiya, Cairo, 2005, p. 33.

departments. This type of interaction between businesses and local administration covers all transactions and transfers that take place between business entities and administrative authorities.[24]

3.1.2 Non-Contractual Disputes:

This type of dispute is no less important than disputes of a contractual nature when resorting to arbitration. The term 'dispute' is used here, and these disputes are specifically defined with regard to actions or activities related to domain names, as briefly explained in:

3.1.2.1 The Concept of Domain Names:

What distinguishes domain names is that they are of recent origin, which has had a significant impact on their legal system. Their definition is inferred from sources other than legal documents, as there is no provision in Algerian legislation specifically referring to domain names.[25]

3.1.2.2 Examples of Domain Name Disputes:

- Registering a domain name identical to a trademark.
- Registering a domain name similar to a trademark.
- Registering a domain name that contains a trademark with added promotional phrases.
- Registering someone else's trademark.

[24]- Ocean Hanan, previous reference, p. 135.

[25]- This title refers to the dedicated server of the official website of the Algerian Official Journal: joradp.dz.

– Registering a domain name that contains a trademark belonging to a competing company.

3.2 Procedural Rules of Electronic Arbitration:

Electronic arbitration shares the same legal value as traditional arbitration but differs in procedures due to its electronic nature. Motivations for resorting to electronic arbitration include procedural efficiency, economic considerations, and technical expertise.[26]

3.2.1 The Legal Framework of E-Commerce in Light of Electronic Arbitration:

Electronic arbitration enjoys the same legal value as traditional arbitration; however, it differs from the latter in certain procedural aspects due to the specific nature of the medium through which it is conducted[27]. Accordingly, this section will address the motivations for resorting to electronic arbitration, followed by an examination of its procedural framework.

3.2.1.1 Motivations for Resorting to Electronic Arbitration:

In order to settle disputes arising from electronic commerce, there are several motivations that distinguish electronic arbitration from other dispute resolution mechanisms, namely:

[26]- Seddiki Samia, and A. Belouata El Said, Electronic Arbitration as a Means of Resolving E-Commerce Disputes, Al-Bayan Journal for Legal and Political Studies, Volume 03, Issue 01, June 2018, p. 150.

[27]- Houari Sabah, Electronic Arbitration and Its Effectiveness in Resolving Disputes Arising from Electronic Commerce Contracts, Journal of Studies and Research – The Arab Journal of Research and Studies in Humanities and Social Sciences, Vol. 14, No. 3, July 2022, p. 81.

a- Procedural Motivations :

These include speed and cost-efficiency in procedures, the achievement of judicial protection both prior to and during enforcement, in addition to the desire to avoid the publicity of judicial proceedings.

b- Economic Motivations :

These are reflected in the needs of international trade, as well as in the encouragement of international investments.

c- Technical Motivations :

These consist in the desire to submit the dispute to individuals possessing specific technical expertise or who are trusted, as well as the desire to avoid the slowness and costs of judicial proceedings, thereby achieving a rapid and cost-effective resolution of the dispute.[28]

3.2.1.2 The Procedural Framework of Electronic Arbitration:

It raises a series of issues primarily related to the fact that existing legal systems regulating arbitration procedures generally require the use of paper-based documents and the physical presence of the parties. Therefore, the procedural rules established by arbitration centers to organize the conduct of arbitration play a fundamental role in ensuring the success of the process. These rules encompass a sequence of procedures, starting

[28]- Ben Halima Leila & Assour, Salim**,** op. cit., pp. 191–192 .

from the pre-arbitration stage and continuing until the dispute is resolved and the award is rendered.[29]

a- Pre-Arbitration Procedures for Electronic Arbitration:

Legislation stipulates that there should be a single arbitrator; if there are multiple arbitrators, their number must be odd. Electronic arbitration generally follows the same procedures as conventional arbitration, with the addition of, by agreement of the parties, specific rules applicable to electronic arbitration. The most notable of these include how the parties and arbitrators communicate remotely via the Internet, how documents are submitted electronically, and the importance of maintaining the confidentiality of commercial and industrial information relevant to the dispute.

Parties may define the procedures for electronic arbitration within the arbitration agreement, as follows:[30]

- Submitting an application to the designated arbitration center using the form provided on its website.
- Each party specifies the names of its representatives for the dispute.
- Determining the method of notification (e-mail, fax, or telex).
- Submitting documents, records, and evidence in advance.

[29]- Seddiki Samia & A. Boulouata, Al-Saïd**,** op cit, p. 154.

[30]- Eid Abdelhafid, The Principle of Party Autonomy in the Choice of Applicable Law in International Commercial Contracts. Master's Thesis, Faculty of Law, Mouloud Mammeri University, 2005, p. 20.

The date of arbitration proceedings begins upon the center's receipt of the arbitration request. The electronic arbitration tribunal then designates the names of the arbitrators, and the center sets the hearing date. The center notifies the other party of the dispute and the commencement of the arbitration. A dedicated website is created for each arbitration case (with a username and password provided to the parties). All arbitration procedures are conducted electronically on the center's platform.[31]

b- Post-Submission Procedures in Electronic Arbitration:

Arbitration procedures via the Internet commence before the arbitral tribunal on the date previously announced, which has been communicated to the parties by the electronic arbitration center. The center provides the opposing party with the submitted data and allows a sufficient period for response. Representatives of the parties, whose names have been previously submitted to the center, may participate in the arbitration sessions regardless of their nationality or qualifications.

The arbitration procedures are limited to specific data submitted with the claim and its response, or as requested by the arbitral tribunal[32]. In cases involving witnesses, remote arbitration centers allow the parties to

[31]- Houari Sabah, op cit, p. 8.

[32]- Hamadouch Anissa**,** The Specificity of Electronic Arbitration in Resolving E-Commerce Disputes, Journal of Human Sciences, No. 48, 2017, p. 234 .

call witnesses freely, provided the arbitral tribunal is notified of the witnesses' names and addresses and of the facts on which testimony is sought. Upon the tribunal's approval, the method of hearing the witnesses is determined, either by telephone or by summoning them to a private session via closed-circuit video to examine and discuss the points relevant to the dispute. The costs of hearing a witness are borne by the party requesting it.

For technical expertise, electronic arbitration centers permit the parties to request expert evaluations to establish facts relevant to the dispute.

After all submissions are completed, the tribunal deliberates and issues a written award. A majority of the arbitrators is sufficient for the award to be issued, and it is signed by the chair and the members, with the dissenting member's opinion noted if the award is not unanimous. The award includes, in addition to the decision, its date and place of issuance, arbitrators' fees and expenses, experts' fees, and any other costs. The tribunal provides the award to the center for delivery to the parties, and the award becomes binding upon receipt.[33]

3.2.2 Rules of Electronic Arbitration and Their Enforcement in the Field of E-Commerce:

Electronic arbitration procedures conclude with the arbitral tribunal issuing a final award in the ongoing dispute, which thereafter becomes enforceable.

[33] - Seddiki Samia & Boulouata, Al-Saïd**,** op cit, p. 155.

3.2.2.1 Issuance of the Electronic Arbitration Award:

The electronic arbitration award does not differ from the traditional award in its form, except with regard to the medium through which it is issued, as it is conducted via electronic means and the Internet.[34] It is therefore defined as: *"*the award issued by the arbitral tribunal through electronic means, which concludes the dispute without requiring the physical presence of the tribunal members in a single location for its issuance.*"* This definition is confirmed by Article 1/1006 of Law No. 09-08.

It is noted that most national and international laws, as well as electronic arbitration bodies, agree that the arbitral tribunal must issue a final and conclusive award in the dispute between the parties. The award is generally issued by a majority of votes and must be reasoned unless the parties agree otherwise or the law applicable to the arbitration procedures does not require stating the reasons for the award.

All laws regulating arbitration require that the award be issued in writing. National laws further require that the electronic arbitration award relating to the dispute be filed with the registry of the court where the competent judge for enforcement is located, so that the award can obtain the form of an enforceable order.

The true outcome of electronic arbitration lies in the award reached by the arbitrators, which must be

[34]- Houari Misbah, op cit, p. 81.

communicated to the parties immediately upon its issuance by the arbitral tribunal, thereby concluding the electronic arbitration process.

3.2.2.2 Enforcement of the Electronic Arbitration Award:

The enforcement of an electronic arbitration award does not differ from its enforcement in traditional arbitration; it is carried out according to certain conditions and procedures, which can be summarized as follows:

- Filing the arbitration award with the registry of the competent court and the expiration of the period for filing an annulment action.
- Obtaining an order for the enforcement of the arbitration award by submitting a petition to the competent judge to issue the enforcement order.
- Attaching the necessary documents for enforcement (the original award, a copy of the arbitration agreement, and copies of documents proving the filing of the award with the court registry).

However, this does not affect the binding effect (res judicata)[35] of the arbitration award, which is established once the award is issued. Its enforcement requires recognition by the national legal system for the electronic arbitration award to become enforceable.

[35] - Hamadouch Anissa**,** op cit, p. 136.

a- Procedures to Be Followed for the Recognition and Enforcement of an Electronic Arbitration Award:

The arbitration dispute concludes with the issuance of the electronic arbitration award by the arbitral tribunal; however, the award will have no legal effect unless it is enforceable. The crucial factor, therefore, is enforcement rather than merely the issuance of the award. To achieve enforcement, the award must first be recognized and then executed, making the judge's approval of the electronic arbitration award subject to appeal[36].

- **Recognition of the Electronic Arbitration Award:**

The enforcement of an electronic arbitration award requires its recognition by the national legal system in order for it to become enforceable. Considering that most e-commerce contracts are international in nature, the most important feature of recognizing an electronic arbitration award is that it must not violate international public policy. Although Article 3 of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards provides that the award shall be recognized and ordered to be enforced in accordance with the rules and procedures of the country where enforcement is sought.[37]

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[36]- Fatima Al-Zahra Qallawaz, The Role of Online Arbitration in Resolving E-Commerce Disputes, Journal of Comparative Legal Studies, Vol. 08, No. 01, 2022, p. 309.

[37]- See Article 03 of the New York Convention 1958.

We find that Algerian legislation has given more attention to international public order at the expense of national public order, according to the provisions of Article 1051-01 of the Code of Civil and Administrative Procedure, which states the following: "International arbitration awards are recognized in Algeria if their existence is proven by the party concerned, provided that such recognition does not conflict with international public order.[38]

b- Enforcement of the Electronic Arbitral Award:

Electronic arbitration differs from classical arbitration in the method by which it is conducted, which consequently leads to some differences in their enforcement in terms of conditions and the manner of execution, which, as a general rule, must be voluntary.

- **The conditions that must be met for the enforcement of electronic arbitration:**

The enforcement of an arbitral award is considered a legal procedure that ensures the arbitral award enjoys executive authority. However, some scholars view it as an offensive procedure that requires the judge to grant it the same force as a court judgment in terms of enforcement.

Article 01/03 of the New York Convention clarified that the enforcement of an arbitral award can only be carried out with the approval or issuance of an order by the competent arbitrator to enforce the arbitral award. It also stipulated that, for the enforcement of an arbitral award, the award must include specific

[38]- See Article 1/1051 of Law No. 09-08.

information outlined in Article 04, which are as follows.[39]

- The original arbitral award or a copy thereof.
- The original arbitration agreement or a copy thereof.
- An official certified translation or a translation made by a sworn translator, in cases where the arbitral award to be enforced is in a language other than the official language of the country where enforcement is sought.

As for Article 1052/01 of the Algerian Civil and Commercial Procedures Code, its text is as follows:

"They shall be considered enforceable in Algeria under the same conditions, by an order issued by the arbitrator who rendered the arbitral awards within their jurisdiction, or by the court of the place of enforcement if the seat of the enforcement court is located outside the national territory.[40]

Article 1052 also added the requirement to submit the original award accompanied by the arbitration agreement, or copies thereof, provided they meet the conditions of validity.[41]

[39] - See Article 04 of the New York Convention.
[40] - See Article 2/1051 of the Algerian Code of Civil and Administrative Procedure.
[41]- See Article 1052 of the Algerian Code of Civil and Administrative Procedure.

- **The Necessity of Ensuring Voluntary Enforcement of the Electronic Arbitral Award:**

Given the novelty of electronic transactions compared to traditional ones, the enforcement of an electronic arbitral award is presumed to be difficult due to the shortcomings of regulations governing e-commerce, such as Algerian legislation. This necessitates finding alternative methods of enforcement that are compatible with this type of commerce, which has become a tangible reality.

For this reason, some scholars have argued that it is essential for an electronic arbitral award to be enforced voluntarily immediately upon its issuance by the arbitral tribunal by the party against whom the award was rendered, in order to protect and support both electronic and international commerce, as well as to preserve the commercial reputation of the opposing party.

4. Conclusion:

Through our study, we conclude that the effectiveness and efficiency of electronic arbitration in resolving e-commerce disputes have become among the best methods compared to other alternative dispute resolution mechanisms, due to its procedural simplicity, speed of resolution, and confidentiality, which is one of its most important features. Based on this, we have reached in this research some key findings, the most important of which are:

- **Findings:**
  - E-commerce is considered the foundation for the emergence and existence of electronic arbitration.

The Effectiveness of Electronic Arbitration as an Alternative Mechanism for the Settlement of Electronic Commercial Dispute.

- Electronic arbitration is a means of resolving disputes arising from e-commerce, electronic addresses, and other related matters, through the selection of an arbitrator or panel of arbitrators who decide such disputes via the Internet with a binding decision on the parties.
- Electronic arbitration represents an effective mechanism for resolving e-commerce disputes, especially in the field of international trade, due to its key features, which include saving both time and effort. It provides flexible justice that aligns with the will of the disputing parties and the requirements of e-commerce.
- Electronic arbitration does not differ from traditional arbitration except in the use of tools provided by the modern information and communication technology revolution at all stages of the arbitration process.
- One of the most important advantages of electronic arbitration is the increased speed of dispute resolution and cost efficiency, in addition to the expertise it brings in the field of e-commerce.
- Electronic arbitration can only take place if all stages, from its conclusion to the issuance and enforcement of the arbitral award, are conducted via electronic means.

Despite the effective role of electronic arbitration in resolving e-commerce disputes, some shortcomings remain, for which we have outlined the following.

- **Recommendations:**
  - We suggest that the Algerian legislator enact a specific law regulating electronic arbitration or amend the provisions related to electronic arbitration in the Code of Civil and Administrative Procedures, to align with e-commerce rules and disputes arising from e-commerce contracts.
  - We recommend that the Algerian legislator follow the example of developed countries, particularly in the field of e-commerce, to foster an electronic culture that may contribute to consolidating the practice of electronic arbitration and ensuring the freedom of disputing parties in e-commerce.
  - We recommend establishing international or Arab cooperation regarding e-commerce, especially concerning electronic arbitration, and adopting a unified legal framework to regulate it in line with current technological developments.

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