

Towards the Digitization of Judicial Settlement Procedures for Individual Employment Relationship Disputes of Company Managers in Algeria

نحو رقمنة إجراءات التسوية القضائية لمنازعات علاقة العمل الفردية لمسيرى المؤسسات في الجزائر

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Abstract:

There is no doubt that the digitalization of judicial settlement procedures for individual labor disputes, in accordance with the provisions of Law No. 90-04 relating to individual labor disputes and the Code of Civil and Administrative Procedures, contributes to accelerating litigation procedures before the social division and enhances their efficiency. On the other hand, it also enshrines the legal rights and guarantees of all parties to the case, especially when one of the parties is an enterprise manager, considered as an employee. All of this requires the amendment of relevant laws and the provision of a secure digital environment.

Key words: Digitalization, Digital Litigation, Individual Labor Disputes, Enterprise Managers.

الملخص:

لا شك أن رقمنة إجراءات التسوية القضائية للنزاعات الفردية العمالية وفقا لأحكام القانون رقم 90-04 المتعلق بالنزاعات الفردية في العمل وقانون الإجراءات المدنية والإدارية، تساهم في تسريع إجراءات التقاضي أمام القسم الاجتماعي، وتعزز من كفاءتها، كما أنها من ناحية أخرى تركز الحقوق والضمانات القانونية لجميع أطراف الدعوى، خاصة إذا كان أحد طرفي هذه الأخيرة مسير مؤسسة، باعتباره عاملا أجيرا، وكل هذا يستلزم ضرورة تعديل القوانين ذات الصلة، وتوفير بيئة رقمية مؤمنة.

الكلمات المفتاحية: الرقمنة، التقاضي الرقمي، النزاعات الفردية للعمل، مسيرى المؤسسات.

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Introduction:

The settlement of individual employment relationship disputes involving company managers¹ before social courts constitutes one of the most significant procedural and legal challenges that may confront this category of workers. This is due to several reasons, foremost among them being the dual legislative framework governing their employment relationship, which combines the provisions of labor law and commercial law², thereby creating an overlap between the two. Moreover, company³ managers enjoy considerable autonomy in decision-making and in organizing their working time, in addition to the fragility of their legal position vis-à-vis the company's administrative apparatus.

Accordingly, their employment relationship is regarded as being carried out within the framework of a special type of employment contract⁴. This has led the Algerian legislator to subject them, on a subsidiary basis, to the provisions of labor law⁵.

In light of Algeria's orientation toward digital transformation⁶ and the increasing reliance on information and communication technologies across various sectors, it has become necessary for the Algerian legislator to integrate digital technologies into social courts, similar to what is applied in criminal proceedings⁷, and to establish digital social divisions in order to ensure speed and transparency in handling individual labor disputes concerning company managers.

The importance of this topic is underscored by the growing number of cases related to the execution of employment contracts of company managers, as a result of recent policies adopted by the country's higher authorities aimed at creating as many economic enterprises as possible. This is further reflected in the increasing number of claims brought by managers, particularly those related to the annulment of disciplinary sanctions and the issuance of employment certificates and payslips.

The objectives of this study consist in identifying the various litigation procedures before the social division and exploring the possibility of transforming them from traditional procedures into digital ones, in a manner that ensures speed and efficiency in adjudicating disputes.

The choice of this topic is motivated by the slowness and inadequacy of current procedures before social divisions, especially in the context of rapid global technological transformation. Traditional judicial systems, particularly in the social domain, are increasingly unable to meet the expectations of company managers without undergoing digital transformation. Accordingly, this study seeks to answer the following question: **to what extent can the digitization of litigation procedures before the social division enhance the effectiveness and speed of judicial processes in resolving individual employment disputes of company managers while ensuring a fair trial for all parties?**

To address this issue, the study adopts both descriptive and analytical approaches, in order to describe the various procedures for initiating and conducting cases before the social division in the settlement of individual labor disputes relating to company managers, and to analyze the relevant legal texts. It also seeks to anticipate the necessary measures for transitioning from traditional labor courts to digital labor courts. This is carried out within a dual structure comprising two sections: the first examines the organization of social justice by the Algerian legislator, while the second is devoted to the requirements for digitizing litigation procedures before social courts.

Section I: Organization of Social Justice by the Algerian Legislator:

Courts competent to adjudicate social matters within the Algerian judicial system are considered exceptional jurisdictions in comparison with other courts and divisions, in light of their jurisdiction, composition, and the particular nature of labor⁸ disputes. These disputes encompass various categories of employees subject to the provisions of labor law, foremost among them company managers.

In addition to the jurisdiction and composition of the social division, the procedures to be followed when initiating proceedings before it, as well as the nature of the judgments it renders, differ from those applied in other divisions. This further reinforces the exceptional character and specificity of such disputes⁹. This is what we will attempt to examine by first determining the scope of jurisdiction and the composition of the social division, and then addressing the procedures followed in adjudicating individual employment disputes involving company managers.

A) Jurisdiction and Composition of the Labor Court:

The determination of the jurisdiction of the social division constitutes a fundamental issue in comparative legal systems, as it is a mandatory matter that restricts the division to the cases assigned to it and is considered¹⁰ a matter of public order. Consequently, recourse to any other jurisdiction is not permitted. With regard to its composition, the Algerian legislator has established an exceptional formation, presided over by a judge and assisted by representatives of both workers and employers.

1 - Scope of Jurisdiction of the Social Division:

Rules of subject-matter and territorial jurisdiction are matters of public order that cannot be derogated from by agreement. Therefore, parties to a labor dispute may not resort to any judicial body other than labor courts, whose jurisdiction is limited to both subject-matter and territorial competence.

First – Subject-Matter Jurisdiction of the Social Division:

The concept of social justice refers to the adjudication of disputes arising between salaried employees and employers by judicial bodies integrated within the judicial system¹¹, namely social courts. The Algerian labor legislator has granted these courts exclusive jurisdiction and has limited the cases¹² they may hear under Article 500 of the Code of Civil and Administrative Procedures. Furthermore, Article 20 of Law No. 90-04¹³ concerning the settlement of individual labor disputes has added other competencies, particularly those related to individual labor disputes arising from the execution, suspension, or termination of the employment relationship, training contracts, or apprenticeship contracts, as well as any matters expressly conferred upon them by law.

Accordingly, in the event of any individual dispute arising between a company manager and the administrative body of the company, the manager must bring the claim before the social division¹⁴, given that he is considered an employee subject to the provisions of labor law. This is further reinforced by the absence of any provision in the regulatory framework governing his employment relationship specifying a competent judicial body to hear such disputes.

Second - Territorial Jurisdiction of the Social Division:

Jurisdiction to hear various individual labor disputes is vested in the territorially competent social division of the court¹⁵. The procedures for initiating proceedings before this division are governed by the same rules set out in the Code of Civil and Administrative Procedures, applicable to civil and commercial cases. Accordingly, the dispute is brought before the competent social division by means of an initiating application accompanied by a certificate of non-conciliation within a period not exceeding six months from the date of receipt of such certificate, failing which the right to bring the action shall lapse¹⁶.

2 - Composition of the Social Division and Conditions for Bringing an Action:

The particular nature of labor disputes has led the Algerian legislator to establish a unique and exceptional composition for the social division, entirely distinct from other divisions at the level of courts of first instance. Furthermore, the parties to the dispute are required to comply with two formal procedural requirements when initiating proceedings.

First – Composition of the Social Division:

The social division is composed of a presiding judge and assessors, in accordance with Article 502 of the Code of Civil and Administrative Procedures, which refers to Law No. 90-04 concerning the settlement of individual labor disputes for determining the number of assessors¹⁷. According to this law, the division includes assessors representing both workers and employers.

By way of exception, hearings of the social division may be held in the presence of at least one assessor representing workers and one representing employers. In the event of the absence of one or all assessors, they are replaced by substitute assessors. If this is not possible, they may be replaced, as the case may be, by one or two judges appointed by the president of the court. Assessors have a deliberative vote, and in the event of a tie, the presiding judge has the casting vote¹⁸.

Second - Legal Conditions for Bringing an Action before the Social Division:

Under the Code of Civil and Administrative Procedures and Law No. 90-04 concerning the settlement of individual labor disputes, the Algerian legislator has established two formal requirements that must be observed when bringing a social action, failing which the claim shall be declared inadmissible on procedural grounds. The first relates to compliance with the time limits for filing the action, while the second concerns the obligation to attach a certificate of non-conciliation to the initiating application, in addition to another condition, namely the individualization of the claim¹⁹.

- Mandatory Compliance with Time Limits for Bringing an Action:

Article 504 of the Code of Civil and Administrative Procedures sets the time limit for bringing an action before social courts at six months, calculated from the date of receipt of the certificate of non-conciliation. This time limit is considered a matter of public order, and failure to comply with it results in the claim being declared inadmissible on procedural grounds.

- Obligation to Attach a Certificate of Non-Conciliation:

The certificate of non-conciliation constitutes an essential condition for initiating a social action²⁰; in its absence, the claim is declared inadmissible. This requirement differs from internal settlement procedures, the absence of which does not lead to the rejection of the claim²¹. Moreover the non-execution of a conciliation report cannot substitute for the certificate of non-conciliation for the purpose of admissibility²². Likewise, a conciliation report cannot replace the certificate of non-conciliation²³.

However, the Algerian legislator has exempted company managers from this requirement in certain cases²⁴, making conciliation optional where the defendant resides outside the national territory, or in cases of bankruptcy and judicial settlement initiated by the employer.

- Individualization of the Claim:

Since the dispute is individual in nature²⁵, concerning a specific company manager in conflict with the company's administrative body, the determining factor in such disputes is that they relate to a single manager, or to several managers due to obligations arising from the employment contract. This may give the appearance of a collective dispute; however, in reality, it constitutes a set of individual disputes, which may vary in terms of parties and underlying causes.

B) Litigation Procedures before the Social Division:

Labor disputes are characterized by their exceptional nature²⁶. Article 38 of Law No. 90-04 concerning the settlement of individual labor disputes provides that the first hearing for adjudicating a labor case must be scheduled within a maximum period of 15 days from the date of submission of the initiating application, and that the judgment must be delivered as promptly as possible, except in the case of interlocutory or preparatory judgments.

Furthermore, the judgments issued by the social division are characterized by a particular nature, as some are rendered as first-instance and final judgments, while others are subject to immediate enforcement.

1 - Procedures for Bringing an Action before the Social Division:

After the company manager has exhausted all amicable means of settling the dispute between himself and the company, he is left with no option but to resort to labor courts for its resolution. The social action constitutes the principal legal mechanism through which one party to the dispute may claim their rights from the other party or seek the enforcement of obligations arising from the employment relationship of company managers.

In addition to the formal requirements for bringing a social action mentioned above, as well as the general conditions for initiating legal proceedings—namely legal standing, interest, and capacity to litigate—the litigation procedures before the social division are subject to the following conditions:

- The claim must be accompanied by a certificate of non-conciliation within a period not exceeding six months from the date of its receipt.

- The action must be brought by one of the parties to the employment relationship of company managers who possesses both legal standing and a legitimate interest²⁷.

- The action must be filed before the social division by means of an initiating application in accordance with the conditions set out in the Code of Civil and Administrative Procedures, particularly Articles 14, 15, 16, and 17 thereof.

- Prior to examining the merits of the case, the social judge may attempt conciliation between the parties²⁸. In the event of a settlement, a report is drawn up, which has the force of an enforceable judicial decision²⁹.

- The first hearing must be scheduled within a maximum period of 15 days from the date of registration of the claim, and the case must be adjudicated as promptly as possible³⁰. In practice, social courts often render their judgments after four hearings during which pleadings and responses³¹ are exchanged, and the judgments are pronounced during the hearing.

- Legal representation by a lawyer is not mandatory for the company manager before courts and judicial councils³².

2 - Nature of Judgments Issued by the Social Division:

According to the general rules established in social legislation and the Code of Civil and Administrative Procedures, labor courts issue judgments that are primarily initial judgments subject to appeal before judicial councils. Given the inherently unequal nature of labor relations and the protective character of the laws governing them, the Algerian legislator paid particular attention to these judgments, classifying some as initial and final judgments, and others as provisionally enforceable, as follows:

First – Initial judgments subject to appeal:

These are judgments issued in a first instance that may be reviewed and contested through all available remedies, whether ordinary or extraordinary. Such judgments may only be executed once they acquire the authority of *res judicata*³³, and any counterclaims are attached to the original claim on which they are based³⁴.

Second - Initial and final judgments:

These judgments are issued both initially and finally, and are not subject to appeal before judicial councils, although they may be challenged by cassation³⁵. These types of judgments primarily concern:³⁶

- The annulment of disciplinary sanctions imposed by the administrative body of the company against the manager without following disciplinary procedures³⁷ or mandatory agreements.

- The delivery of work certificates, payroll statements, or other documents legally required to prove the professional activity of the manager.

Third - Judgments Subject to Provisional Execution by Operation of Law:

As an exception to the general rule suspending the effects of ordinary remedies, the Algerian legislator has placed certain judgments issued by labor courts under provisional execution by operation of law, even though they remain subject to appeal or opposition³⁸. These include primarily:

- Cases concerning the application or interpretation of a collective agreement or labor contract.
- Cases relating to the application or interpretation of any agreement concluded under reconciliation procedures before the Conciliation Office.
- Cases concerning the payment of wages and compensations for the last six months³⁹.

Section II: Electronic Litigation Procedures and the Challenges They Face.

Some legal scholars have defined digital litigation as: the process of transmitting litigation documents electronically to the court via email, where these documents are examined by a specialized staff member, a decision is issued regarding their acceptance or rejection, and a notification is sent to the litigant informing them of the outcome concerning these documents. Accordingly, electronic lawsuits necessarily undergo a series of digital procedures, starting from registration, then case management, issuance of the judicial decision, and finally, appeals against the judgment. However, this type of litigation is not immune to certain challenges, whether legal or technical.

Moreover, the traditional litigation procedures applied before the social section have revealed a number of deficiencies and complexities in handling individual labor disputes involving enterprise managers, who constitute a cornerstone in the management and administration of economic institutions. These complexities become particularly pronounced in exceptional circumstances, such as health crises or natural disasters. Accordingly, this study addresses the issue of the necessary components for digitizing social courts, and then reviews the digital litigation procedures followed in these courts.

A) Procedural and Technical Components for Digitizing Litigation in Social Sections:

The digitization of litigation procedures before the social section, as the final stage for resolving individual labor disputes concerning enterprise managers, represents a strategic step in modernizing the professional justice system in Algeria⁴⁰. Nevertheless, this transformation can only be achieved by providing an integrated information system, supported by a flexible legal framework that ensures the rapid exchange of petitions and documents while protecting the parties to the dispute. Accordingly, this study examines the drivers behind this trend and then outlines the necessary means to achieve it.

1 - The Necessity of Digitizing Litigation Procedures in Social Matters:

Maintaining traditional litigation procedures before social courts inevitably leads to delays in the adjudication process, resulting in the accumulation of cases before these courts. Prolonged resolution of individual disputes involving enterprise managers can negatively affect the manager especially since they are obligated to achieve the results stipulated in their employment contract⁴¹. Consequently, this complex situation compels the higher authorities in the country to move toward digitizing labor courts and enhancing judicial work in social matters.

First – Institutionalizing the Digital Dimension in the National Judicial System:

The justice sector in Algeria has kept pace with the continuous expansion of information and communication technologies across various sectors and domains. The sector has exerted

considerable effort to integrate into the digital world by providing the technical means necessary to facilitate the tasks of judges and judicial personnel, as well as offering electronic services such as the online issuance of nationality certificates and criminal records. Additionally, remote video conferencing has been used in criminal procedures⁴², and competent judicial authorities have been permitted to use modern electronic technologies to protect victims and witnesses⁴³. In the same context, the Algerian legislator adopted mechanisms for electronic signature and certification⁴⁴ in judicial work. However, these mechanisms and others still fall short of meeting the expectations of a large segment of society-namely, wage earners in general and enterprise managers in particular. Therefore, it has become imperative for the legislator to expedite the digitization of social courts.

Second - The Role of Digital Justice in Enhancing the Work of Social Courts:

The Algerian legislator has endowed labor law with a set of legal provisions necessitated by the particularity of social matters⁴⁵. Undoubtedly, this particularity⁴⁶ extends to the field of labor disputes. Accordingly, the Code of Civil and Administrative Procedures allocated independent provisions for social sections. However, this remains insufficient when considering the need to keep pace with rapidly evolving digital transformations, particularly in judicial work, which aims to integrate the electronic dimension into the judicial system and to leverage the benefits of digital litigation in social matters. These benefits can be summarized as follows:

- Replacement of paper documents with electronic records, across all stages of judicial procedures, electronic documents provide enhanced security and credibility, as they facilitate the detection of any alterations or tampering with judicial records. This impact also extends to judicial archives, which can be replaced with compact electronic archives stored on CDs or other media for easy retrieval.

- Acceleration of litigation procedures⁴⁷, digital processes eliminate the need for physical court visits, as documents and petitions can be submitted and received electronically⁴⁸. This contributes to bringing justice closer to citizens.

- Creation of specialized courts and simplification of procedures, digital justice allows for the simplification and standardization of procedures, considering the diversity of individual labor disputes, which, despite differences, are united by breaches of obligations or failures in law enforcement. Moreover⁴⁹, social courts handle disputes involving multiple labor categories, such as foreign workers, aviation and maritime employees, journalists, artists, and other groups.

- Reduction of burdens, costs, and time, digital social justice streamlines electronic transactions, reduces operational costs, and saves time, thus easing the workload of judges and assistants. It also facilitates access for litigants to copies of judicial rulings without the need to travel to courts.

2 – Means of Digital Litigation in Social Matters:

The success of digitizing social courts requires the availability of a legal framework governing digital litigation procedures, qualified human resources, as well as an advanced information infrastructure, without which the implementation of this mechanism would be unfeasible.

First – Legal Components:

Current legal provisions are insufficient to establish a digital social judiciary. In the absence of a legal basis regulating electronic litigation, it is impossible to oblige the justice system to implement it. This highlights the necessity to enact new legal texts or amend⁵⁰ existing ones to legitimize digital litigation. Additionally, legal recognition of the evidentiary value of digital records is essential⁵¹.

Second - Human Components:

Establishing a digital social judiciary requires not only legal legitimacy but also the upgrading of human resources (judges, assistants, lawyers, and justice sector employees, particularly court clerks) to keep pace with modern technologies. This entails providing intensive training⁵² programs to equip them with the skills necessary for optimal use of these technologies.

Third - Technical (Material) Components:

The creation of digital social sections requires the provision of computing devices and their integration with courtrooms to allow judges and assistants to access case files. It also necessitates the establishment of a dedicated website enabling all parties involved in a case to attend sessions virtually.

Digital courts must also provide email services⁵³ to allow litigants to send and receive messages domestically and internationally. One of the most important technical tools for this system is the creation of an electronic platform enabling parties to file their cases and monitor their progress until judgment and enforcement.

In this context, it is also essential to employ technical⁵⁴ staff outside the social section to manage these platforms, oversee sessions, address technical faults, and protect digital systems from hacking attempts⁵⁵.

B) Electronic Litigation Procedures and the Challenges They Face:

Some legal scholars have defined digital litigation as: “the process of transmitting litigation documents electronically to the court via email, where these documents are examined by a specialized staff member, a decision is issued regarding their acceptance or rejection, and a notification is sent to the litigant informing them of the outcome concerning these documents.”⁵⁶ Accordingly, electronic lawsuits necessarily undergo a series of digital procedures, starting from registration, then case management, issuance of the judicial decision, and finally, appeals against the judgment. However, this type of litigation is not immune to certain challenges, whether legal or technical.

1– Electronic Litigation Procedures in Social Matters:

The Algerian legislator has not specifically regulated digital litigation procedures in the social domain; therefore, they are inferred from the general provisions outlined in the Code of Civil and Administrative Procedures, by analogy with practices in criminal matters, and by drawing on the experiences of some Arab countries, such as the Kingdom of Saudi Arabia, which can serve as a roadmap for digitizing litigation procedures in social courts⁵⁷.

Based on the above, digital social lawsuits undergo a series of procedures that primarily rely on modern technological tools and mechanisms, as outlined below:

First – Registration of the Social Lawsuit:

After the manager of the institution has completed all amicable settlement procedures obtained the certificate of non-conciliation, and fulfilled the general conditions for filing a lawsuit they or their legal representative can submit the initial complaint to the social section via its official website. They can also pay the court fees using various electronic payment methods.

This system allows for judicial notifications to be sent through electronic means, whether via email or through the social section's online platform.

Second – Digital Pleadings:

The digital litigation system enables the social judge to manage the session through the court's online platform⁵⁸, which serves as a technical and informational interface connecting the court to the communication networks or digital channels of the parties involved. This system allows the parties to submit motions and legal documents that were not included in the initial complaint.

Third – Issuance of Judgments in Digital Cases:

After the legal deliberation between the presiding judge and the assistants, the president reads the judgment through the live video link provided on the court's website. Given the ease with which litigants can follow the issuance of these judgments, it is assumed that they have been automatically notified of the decision, without the need for traditional notification procedures

Fourth – Appeals Against Digital Judgments:

Similar to all judicial rulings, judgments issued in social matters are subject to appeal through ordinary and extraordinary legal remedies, including objection, motion, appeal, cassation, and third-party interventions⁵⁹. Accordingly, one or both parties to the lawsuit may challenge these judgments for reconsideration through the court's online platform that issued the ruling, or before higher judicial authorities.

2 – Challenges in Implementing Digital Litigation in Social Matters:

The digital litigation mechanism in social matters faces a range of legal and technical challenges that may hinder its practical application. These challenges can be classified as follows:

First – Legal and Administrative Challenges:

The main legal and administrative difficulties that may obstruct the implementation of digital social courts arise from the multiplicity of parties involved in the lawsuit (unlike criminal cases). Employment contracts of company managers often include, besides the manager and the commercial company, external parties such as the supervisory ministry and management companies of contributions⁶⁰. Consequently, integrating this technology into social matters can be more complex than in criminal matters⁶¹.

Additionally, the absence of a legal framework regulating electronic litigation procedures in social cases, as well as rules for protecting documents and data from tampering or cyber-attacks constitutes a significant barrier. Establishing digital social courts also requires substantial budgets to build the necessary infrastructure⁶² and to train judges, assistants, and judicial staff.

Second – Technical Challenges:

Besides legal and administrative difficulties, the creation of digital labor courts faces several technical obstacles, including:

- Frequent internet disruptions, which may interrupt live streaming of hearings and distract judges, assistants, and lawyers.
- Weak digital infrastructure and ICT capabilities, explaining the low adoption of these technologies and the high costs associated with their use.
- The vulnerability of digital systems to hacking, which may result in data falsification, unauthorized access to confidential information of the parties, or the spread of viruses that could damage case management software.

Conclusion:

Through this brief study, we conclude that the transition to digital litigation in social matters represents a qualitative leap in the modernization and development of the justice sector. However, in Algeria, this type of litigation is still conducted in the traditional manner, despite the pressing need to adapt national legal and judicial systems to advancements in information and communication technologies. Such adaptation aligns with the inherent flexibility of social laws and the requirement for rapid resolution of individual disputes involving company managers.

After addressing the core of this discussion, we conclude by offering the following results and recommendations:

First –Results:

Through this research paper, we have reached the following conclusions:

- 1- Algeria has made significant efforts to modernize its justice sector through the adoption of modern information and communication technologies to enable digital litigation. Notably, this includes the enactment of the Law on the Modernization of Justice and amendments to the Code of Criminal Procedure to establish remote video-conferencing techniques.
- 2- Digital litigation in social matters constitutes a more advanced and efficient alternative to traditional courts, as it facilitates the judicial process with maximum speed, minimal costs, and less effort, while also enhancing litigants' confidence in the justice system.
- 3- Despite the substantial benefits of digitizing labor courts, its implementation may face numerous legal challenges, such as the absence of specific laws regulating digital litigation procedures. It also encounters technical difficulties, including weak ICT infrastructure and vulnerability to hacking.

Second –Recommendations:

To address the difficulties mentioned earlier, we propose the following:

- 1- Amend the Code of Civil and Administrative Procedure and Law No. 90–04 on the settlement of individual labor disputes, or enact a new law specifically regulating digital litigation procedures in social matters.
- 2- Establish a national electronic portal, supervised by the Ministry of Justice, allowing the parties to a dispute-or their legal representatives-to follow the progress of social cases from registration to adjudication.
- 3- Implement training programs for judges, lawyers, and judicial staff on handling modern technologies required for digital litigation, while keeping them updated on any developments in this field.
- 4- Provide the necessary technical resources for implementing digital litigation in social matters and ensure robust information security measures.

Citations:

¹-A friendly settlement of individual employment disputes for corporate managers refers to the resolution of a conflict between the manager, on the one hand, and the commercial company, on the other, within the company itself, prior to submission to the Conciliation Office. Failure to comply with this procedure results in the formal dismissal of the case before the competent court. *See:* Benabderrahmane Toufik, *The Legal System of Corporate Managers in Algerian Legislation* PhD Thesis in Law, specialization in Labor Law and Corporate Management, Faculty of Law and Political Science, University of Dr. Moulay Tahar Saïda, Algeria, Academic Year 2022–2023, p. 202.

Definition of Manager: According to Article 2 of Executive Decree No. 90-290 dated September 29, 1990, regarding the special employment regime for corporate managers (Official Gazette No. 42, October 3, 1990, Algeria, p. 1318), a manager includes: The main salaried manager, such as the General Director, Agent, or any other salaried manager bound to the company by an employment contract, directorate staff who acquire managerial status by operation of law, managers who combine social agency powers with an employment contract, as provided by Article 615 of Executive Decree No. 75-59 dated September 26, 1975, establishing the Commercial Code amended and supplemented (Official Gazette No. 101, December 19, 1975, Algeria, p. 1306).

The Algerian legislative framework recognizes various types of managers who are not subject to labor law provisions, including: social agent managers, occasional managers (such as liquidators deputy administrators, judicial agents, and judicial trustees), a *de facto* manager is one who intervenes in the operation of the company without legal authority, managing the company in practice. Algerian law acknowledges their existence without formally defining it, using terms such as “apparent *de facto* manager” in Article 224 of the Commercial Code, and “managers by law or fact” in Article 262 of the same code.

² Koriche, Mahammed Nasr-eddine, *Droit du Travail*, Vol. 1, Office des Publications Universitaires Algiers, 2009, p. 102.

³ Article 15 of Executive Decree No. 90-290, mentioned above, provides that: "The termination of the employment contract of the principal manager is decided by the competent bodies of the capital company in accordance with the provisions of Decree No. 75-59 dated September 26, 1975, establishing the Commercial Code", Upon reviewing Articles 579 (first paragraph), 640, and 645

(first paragraph) of the Commercial Code, it becomes clear that these provisions permit a commercial company to dismiss its manager at any time. This represents a notable deviation from standard labor law, under which an employment contract can only be terminated if one party breaches its provisions, for reasons beyond the parties' control, by mutual agreement, or due to serious misconduct by the manager. Any other dismissal would constitute arbitrary termination.

When a manager is bound by an employment contract with the company, removal from membership in the board of directors does not automatically terminate their employment contract. Rather, the manager must be reinstated to their original position or placed in an equivalent position as stipulated in Article 645 (second paragraph) of the Commercial Code, on the other hand, Article 15 of Executive Decree No. 90-290 reflects the view that the employment contract of corporate managers is, in terms of termination, an ancillary contract to their agency agreement. This is due to the nature of these contracts, which are subject to a distinct set of legal rules. Some scholars argue that this provision specifically applies to managers who combine social agency powers with employment contracts, allowing the board of directors to terminate their agency under the Commercial Code and then proceed with the termination of their employment contracts according to labor law. The reasoning is that their employment relationship enjoys precedence over the agency relationship, making the agency subordinate to the employment contract; thus, terminating the agency does not automatically terminate the employment contract, which remains governed by labor law.

This interpretation has led some French legal scholars to exclude certain managerial executives from the category of salaried employees, due to the fact that their appointment contracts are subject to the dismissal rules established in the Commercial Code. Nevertheless, subjecting corporate managers' employment contracts to the termination provisions of the Commercial Code does not deprive them of the legal protections afforded to salaried employees, which may be expressly included in their employment contracts, See: Ksal Al-Arabi, *The Special Regime of Employment Relations of Managerial Executives in Economic Enterprises in Algerian Legislation*, Journal of Legal and Political Studies, No. 09, Vol. 02, Mohamed Boudiaf University, M'sila, Algeria, 2018 p. 1252, and Jean Mouly, *Droit du Travail*, 4th edition, éditions Bréal, France, 2008, p. 38.

⁴ Leila Borsali Hamdan, *Droit du Travail*, Berti édition, Algiers, 2014, pp. 87–88.

⁵ Article 04, Law No. 90-11 dated April 21, 1990, on Labor Relations, amended and supplemented Official Gazette No. 17 dated April 25, 1990, Algeria, p. 562.

⁶ Law No. 15-03 dated February 1, 2015, on the Modernization of Justice, Official Gazette No 06 dated February 10, 2015, Algeria, p. 04.

⁷ Articles 441 bis to 441 bis-11 of Order No. 20-04 dated August 30, 2020, amending and supplementing Order No. 66-155 dated June 8, 1966, establishing the Code of Criminal Procedure Official Gazette No. 51 dated August 31, 2020, Algeria, p. 09.

⁸ Ben Azzouz Ben Saber, *Procedures Followed Before the Social Section under the New Code of Civil and Administrative Procedure*, Legal Studies Journal, Issue 07, Vol. 03, Al-Bassira Center for Research, Consultations and Educational Services, Algeria, 2010, p. 69.

⁹ Daikh, Samia, *Procedures for Litigation Before the Social Section*, Ma'arif Journal, Issue 16, Vol. 09, Faculty of Arts and Languages, Department of Legal Sciences, Akli Mohand Oulhadj University, Bouira, Algeria, 2014, p. 03.

¹⁰ Ahmiya Suleiman, *Concise Guide to Labor Relations Law in Algerian Legislation*, 2nd ed., National Office of University Publications, Algeria, 2015, p. 176.

¹¹ Koriche, Mahammed Nasr-eddine, *op.cit.*, p. 71.

¹² Article 32, paragraph 04, of Law No. 08-09 dated February 25, 2008, concerning the Code of Civil and Administrative Procedure, amended and supplemented, Official Gazette No. 21 dated April 23, 2008, Algeria, p. 02.

¹³ Law No. 90-04 dated February 6, 1990, concerning the Settlement of Individual Labor Disputes amended and supplemented, Official Gazette No. 06 dated February 7, 1990, Algeria, p. 240.

¹⁴ Before resorting to judicial settlement, the manager of the institution must first submit the dispute to the company's administrative body for an amicable resolution within the organization, in accordance with the procedures agreed upon in his employment contract or those provided for by law, as he is not subject to the provisions of collective agreements or the company's internal regulations. This is pursuant to Articles 09 and 16 of Executive Decree No. 90-290 mentioned above, which may regulate internal settlement procedures. In the event of failure of the internal settlement, or if the manager is dissatisfied with its outcome, he must submit the dispute to the Conciliation Office, which constitutes a mandatory procedure before initiating any judicial action.

¹⁵ Articles 20 and 21 of Law No. 90-04 on the Settlement of Individual Labor Disputes, as amended, and Article 500 of Law No. 08-09 on Civil and Administrative Procedures, as amended establish the framework for judicial competence. Territorial jurisdiction is determined, pursuant to Article 501 of the Civil and Administrative Procedures Code, by the court within whose territory the employment contract was concluded or executed, regardless of the defendant's place of residence. Exceptionally, territorial jurisdiction lies with the court in whose jurisdiction the plaintiff resides in cases of termination or suspension of employment due to a work-related accident or occupational disease.

¹⁶ Articles 503 and 504 of Law No. 08-09, as amended, further regulate procedural deadlines and formal requirements for bringing a claim, *op. cit.*

¹⁷ Social laws enacted after 1990 introduced a new concept in labor relations, emphasizing the principle of equality between workers and employers within the composition of labor courts. See: Mahammed Nasr-eddine Koriche, *op.cit.*, p. 74.

¹⁸ Article 8 of Law No. 90-04, on the Settlement of Individual Labor Disputes, as amended, *op. cit.*

¹⁹ Hamdi Bacha Omar, *Social Justice: Labor Disputes and Social Security*, 17th edition, Dar Houma for Printing, Publishing, and Distribution, Algiers, 2012, p. 140.

²⁰ Article 19, first paragraph, of Law No. 90-04 on the Settlement of Individual Labor Disputes, as amended, *op. cit.*

²¹ Ben Azzouz Ben Saber, *op. cit.*, p. 73.

²² Daikh Samia, *op. cit.*, p. 14.

²³ Hamdi Bacha Omar, *op. cit.*, p. 142

²⁴ Article 19, paragraph 2, of Law No. 90-04 of 6 February 1990, on the Settlement of Individual Labor Disputes, as amended and supplemented, *op. cit.*

²⁵ Khalifi Abdelrahman, *Lectures on Labor Law*, Dar Al-Ulum for Publishing and Distribution Algiers, 2014, p. 140.

²⁶ Said Tarbit, *Lessons in Labor Law and Social Security*, Dar Houma for Printing, Publishing, and Distribution, Algiers, 2019, p. 100.

²⁷ Article 4 of Law No. 08-09 of 25 February 2008, on Civil and Administrative Procedure, as amended and supplemented, *op. cit.*

²⁸ Aissani Mohamed, *Individual Labor Dispute Resolution Systems*, doctoral thesis submitted for the degree of Doctor of Law, Faculty of Law and Political Science, Mouloud Mammeri University Tizi Ouzou, Algeria, Academic Year 2016–2017, p. 209.

²⁹ Article 505 of Law No. 08-09 of 25 February 2008 on Civil and Administrative Procedure, as amended and supplemented, and Article 38 of Law No. 90-04 of 6 February 1990 on Settlement of Individual Labor Disputes, as amended and supplemented, *op. cit.*

³⁰ Article 505 of Law No. 08-09 of 25 February 2008 on Civil and Administrative Procedure, as amended and supplemented, and Article 38 of Law No. 90-04 of 6 February 1990 on Settlement of Individual Labor Disputes, as amended and supplemented, *op. cit.*

³¹ Aissani Mohamed, *op. cit.*, p. 209.

³² Article 538, paragraph 2 of Law No. 08-09 of 25 February 2008 on Civil and Administrative Procedure, as amended and supplemented, *op. cit.*

³³ Khelifi Abdelrahman, *op. cit.*, p. 143.

³⁴ Article 23 of Law No. 90-04 of 6 February 1990 on Settlement of Individual Labor Disputes, as amended and supplemented, *op. cit.*

³⁵ Aissani Mohamed, *op. cit.*, p. 226.

³⁶ Article 21 of Law No. 90-04 of 6 February 1990 on Settlement of Individual Labor Disputes, as amended and supplemented, *op. cit.*

³⁷ The Algerian legislator did not specify whether the annulment issued against the employee occurs due to the non-observance of all disciplinary procedures or in the case of violation of only a single procedure; regardless of the procedural rule breached, the sanction itself remains the same. Therefore, the annulment affects the sanction itself, not the disciplinary procedures. See: Leila Borsali Hamdan, *op. cit.*, p. 178.

³⁸ Rachid Wadh, *Labour Relations in Light of Economic Reforms in Algeria*, Dar Houma for Printing, Publishing and Distribution, Algiers, 2005, p. 185.

³⁹ Article 22 of Law No. 90-04 on the Settlement of Individual Labor Disputes, as amended and supplemented, *op. cit.*

⁴⁰ Soumia Remmache, *Towards Digitizing Reconciliation Procedures in Labor Disputes in Algeria: A Legal and Economic Approach for Enterprise Sustainability*, Journal of Labor Law and Employment, No. 01, Vol. 11, Faculty of Law and Political Science, University of Abdelhamid Ben Badis, Mostaganem, Algeria, 2026, p. 179.

⁴¹ Article 08 of Executive Decree No. 90-290, *op. cit.*

⁴² Article 01, Paragraph 03 of Law No. 15-03 on the Modernization of Justice, *op. cit.*

⁴³ Article 65 bis 19 of Order No. 15-02 dated 23 July 2015, amending and supplementing Order No 66-155 dated 8 June 1966, containing the Code of Criminal Procedure, Official Gazette No. 40 dated 23 July 2015, Algeria, p. 28.

⁴⁴ Law No. 15-04 dated 1 February 2015, setting out the general rules regarding electronic signatures and certification, Official Gazette No. 06 dated 10 February 2015, Algeria, p. 06.

⁴⁵ Hamdi Bacha Omar, *op. cit.*, p. 148.

⁴⁶ The specificity of social litigation lies primarily in the composition of the social chambers, the simplicity of the litigation procedures before them, their urgent nature, the requirement of prior conciliation for the admissibility of the claim, as well as the nature of the judgments they issue. See: Aissani Mohamed, *op. cit.*, pp. 165–166.

⁴⁷ Hazem Mohamed Al-Shar'a, *Electronic Litigation and E-Courts*, Dar Al-Thaqafa for Publishing and Distribution, Jordan, 2010, p. 57.

⁴⁸ Mahdi Asma & Ilham Fadel, *Activating the Electronic Litigation Mechanism in Algeria*, Al-Basa'ir Journal of Legal and Economic Studies, Issue 03, Vol. 01, Faculty of Law, Belhadj Bouchaib University, Ain Temouchent, Algeria, 2021, pp. 340-341.

⁴⁹ Aḥmiya Suleiman, *op. cit.*, p. 169.

⁵⁰ Nasif Jassim Muhammad Abbas Al-Kar'awi, *Remote Litigation*, 1st edition, Al-Halabi Legal Publications, Lebanon, 2017, p. 97.

⁵¹ Soumia Remmache, *op. cit.*, p. 181.

⁵² Hazem Mohamed Al-Shar'a, *op. cit.*, p. 62.

⁵³ Abdulaziz Saad Al-Ghanem, *The Electronic Court*, Naif University for Security Sciences Press Saudi Arabia, 2017, p. 43.

⁵⁴ Hazem Mohamed Al-Shar'a, *op. cit.*, p. 62.

⁵⁵ Nasif Jassim Muhammad Abbas Al-Kar'awi, *op. cit.*, p. 97.

⁵⁶ Nasif Jassim Muhammad Abbas Al-Kar'awi, *op. cit.*, p. 23.

⁵⁷ Soumia Remmache, *op. cit.*, pp. 181-182.

⁵⁸ Lakart Farida & Houam Alaa, *Electronic Litigation*, Journal of Research in Contracts and Business Law, Issue 04, Vol. 06, Laboratory of Contracts and Business Law, University of Frères Mentouri Constantine 01, Algeria, 2021, p. 191.

⁵⁹ Khalifi Abdelrahman, *op.cit.*, p. 143

⁶⁰ The employment contracts of enterprise managers have come to be referred to as efficiency contracts, which emerged in the early 1990s as a mechanism for the rehabilitation of economic enterprises. These contracts are multi-party agreements, involving, in addition to the two primary parties (the candidate for the managerial position and the enterprise), external parties, namely the state represented by the relevant ministry and the shareholding management companies. The contract must clearly specify the rights and obligations of all parties, the objectives to be achieved within a defined timeframe, the methods and extent of implementation, and the responsibilities and powers of the manager in this regard. These contracts aim to increase production levels, improve quality, and correct the functioning of the enterprise through an evaluation plan prepared by the managerial candidate, who exercises control over the core functions of the enterprise, especially those related to its managerial aspects, See: Benabderrahmane Toufik, *op.cit.*, p. 89

⁶¹ Mahdi Asma & Ilham Fadel, *op.cit.*, p. 345.

⁶² Lakart Farida & Houam Alaa, *op.cit.*, p. 193.

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