



DIGITIZATION AS A MECHANISM FOR TRANSPARENCY IN PUBLIC PROCUREMENT: AN ANALYSIS OF LAW N^O 23-12

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Abstract:

The Algeria, in alignment with global trends, has prioritized the modernization of public services through digitization, supplanting physical administrative transactions with electronic processes. This shift is particularly pronounced in public procurements, where the legislative impetus has been to streamline operations and enhance transparency, thereby safeguarding public funds. Enacted under Law No. 23-12, the Electronic Public Procurement Portal (EPPP) institutionalizes digitization as a conduit for transparency, enabling the electronic dissemination of tender information and documentation between contracting authorities and economic operators.

keywords: Public procurement, Transparency, Digitization, Electronic transactions, Electronic Public Procurement Portal.

Introduction:

Public procurement constitutes a cornerstone of administrative contracts, governing the allocation of public resources to fulfill governmental functions. Given the substantial fiscal commitments inherent to such contracts, the Algerian legislature has codified principles—notably transparency—to ensure accountability and prevent misuse of public funds. Transparency operates not merely as an ancillary principle but as a foundational pillar, reinforcing corollary tenets such as equal access, non-discrimination, and competitive fairness. Moreover, it functions as a prophylactic mechanism against systemic

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corruption, a concern acutely pertinent to procurement ecosystems.

The recent enactment of Public Procurement Law No. 23-12 (5 August 2023) marks a paradigm shift, mandating the digitization and dematerialization of public procurements through the EPPP (Official Gazette No. 51 of 2023). This digital platform serves as a centralized interface, facilitating the publication of tender notices, submission of bids, and exchange of contractual documents. By eradicating physical interactions, the EPPP mitigates discretionary practices, thereby operationalizing transparency, fostering equitable treatment among economic operators and curbing administrative malfeasance.

Notably, digital procurement was initially recognized in Presidential Decree No. 10-236 of October 17, 2010, then reiterated in Presidential Decree No. 15-247 of September 16, 2015. Despite the apparent progressiveness of these regulations, their practical enforcement remained limited. The enactment of Law No. 23-12 appears to reinvigorate these commitments by instituting a more robust legislative framework aimed at rendering the electronic procurement system both mandatory and enforceable.

Thus, this study explores two interrelated questions:

1. To what extent does the digitization of public procurement effectively guarantee transparency?
2. How has this framework been materially operationalized?

To provide a structured analysis, the study is divided as follows:

- **Section I: Implementing Transparency and the Digitization of Public Procurement**
 - *Subsection 1: The Principle of Transparency in Public Procurement*
 - *Subsection 2: The Nexus Between Transparency and Procurement Digitization*
- *Section II: The EPPP: An Instrument of Digitization*
 - *Subsection 1: Conceptual Definition of EPPP*

- *Subsection 2: Procedures for the Electronic Tender Submission Through EPPP.*

SECTION I: IMPLEMENTING TRANSPARENCY THROUGH DIGITIZATION OF PUBLIC PROCUREMENT

The principle of transparency stands as a cornerstone of public procurement frameworks, ensuring accountability, fairness, and the equitable allocation of public resources. This principle is codified under Article 5 of Algeria's Public Procurement Law, which explicitly mandates procedural transparency as a fundamental tenet governing the execution of public procurements (*Subsection I*). Notably, the Algerian legislator has further reinforced this principle by linking transparency to digitization, as articulated in Section II ("Transparency of Procedures") under Articles 46 to 48 of the same law. In this regard, the digitization of public procurement processes is positioned as a pivotal mechanism for operationalizing and institutionalizing transparency, (*Subsection 2*).

SUBSECTION I: THE PRINCIPLE OF TRANSPARENCY IN PUBLIC PROCUREMENT

Transparency is widely recognized as a critical mechanism for combating corruption across governmental bodies, public institutions, and administrative systems (El Eid & Ben Khalifa, 2022, pp. 471–472). While its application extends to political, administrative, and public procurement contexts, its conceptual essence remains consistent. This analysis explores three key dimensions: the definition of transparency, its legal underpinnings in public procurement (*Subsection II*), and its significance.



First Requirement: Definition of Transparency

From a linguistic perspective, the term "transparency" originates from the ability to perceive objects obscured behind a medium, thereby enabling the discernment of their true nature. (Khalfallah & Saadi, 2021, p. 456). In a legal and administrative context, transparency refers to the elimination of ambiguity and opacity (Bouzerbra, 2023, p. 3569). It emphasizes clarity, rational decision-making, adherence to statutory benchmarks, equitable opportunity, and procedural simplicity. For instance, transparent legislation is characterized by unambiguous drafting, accessibility, and ease of interpretation (Khalfallah & Saadi, 2021, p. 456).

In administrative governance, transparency mandates the disclosure of relevant information, the elimination of excessive bureaucratic discretion, and the facilitation of public oversight (Bouzerbra, 2023, p. 3569). Public authorities are legally obligated to ensure that the administration of public affairs is conducted in a manner that is open and subject to scrutiny, thereby strengthening institutional integrity and public trust. Consequently, public entities must operate within a framework of certainty, where their decisions, policies, and engagements are publicly accessible and subject to review. Regulatory frameworks should thus integrate mechanisms for public access to data, disclosure of administrative decisions, and procedural safeguards that uphold accountability (El Eid & Ben Khalifa, 2022, p. 471).

In legal and administrative doctrine, transparency is defined as the clarity, coherence, and accessibility of legislative and regulatory provisions, ensuring that they remain comprehensible, objective, and adaptable to socio-economic transformations. Furthermore, transparency necessitates the simplification of legal and procedural requirements, the publication of key procurement information, and the unrestricted accessibility of regulatory

frameworks, thereby ensuring that procurement-related decisions and processes are available to the public (Haimer, 2017, pp. 24–26).

Within the public procurement regime, transparency is a fundamental principle that governs the entire lifecycle of procurement procedures. It entails the clear articulation of procurement rules, prior disclosure of selection criteria to economic operators, and the mandatory publication of tender notices in accordance with legally prescribed channels. Moreover, transparency guarantees the right of bidders to submit offers, attend bid-opening sessions, access procurement results, and submit recourses to challenge decisions related to public tenders (Bouzerbra, 2023, p. 3570).

Second Requirement: Legal Foundations of Transparency in Public Procurement

The principle of transparency is firmly entrenched as a constitutional imperative under Article 9, Paragraph 5, of the Algerian Constitution, which mandates "ensuring transparency in the management of public affairs (Presidential Decree No. 20-442, 2020, Official Gazette No. 82). " Within the domain of public procurement, this principle is further codified in Article 5 of Public Procurement Law No. 23-12. The legislator has explicitly subjected the formation and execution of public procurement contracts to a set of governing principles, among which procedural transparency is paramount. This ensures not only the efficacy of public procurement processes but also the prudent stewardship of public funds.

Moreover, the principle of transparency is reinforced through Law No. 06-01 on the Prevention and Combating of Corruption, as amended. Article 1 of this law imposes a general legal obligation to uphold transparency across all public and private sector activities. Notably, Article 9 specifically addresses



transparency in public procurement, requiring that procurement procedures be grounded in principles of transparency, fair competition, and objective criteria. This is achieved through the public disclosure of information related to procurement processes; furthermore, the advance preparation of participation and selection criteria promotes fairness; moreover, the adoption of precise and objective standards for decision-making. Finally, the provision of legal recourse allows challenges to decisions that violate procurement rules.

Third Requirement: The Significance of Transparency in Public Procurement Processes

Public procurement, as a conduit for substantial financial transactions, is inherently vulnerable to corruption in its myriad forms. Consequently, transparency emerges as a vital safeguard to protect public funds from misappropriation and exploitation. By institutionalizing openness and clarity in procurement procedures, transparency facilitates the detection of collusion, bid-rigging, and other clandestine malpractices perpetrated under the guise of lawful public contracts. This not only serves as a preventive mechanism against administrative corruption (Miloudi, 2024,p,23) but also reinforces principles of fair competition and equal treatment among economic operators.

Moreover, the effective implementation of transparency enhances trust in contracting authorities, streamlines access to procurement-related information and services for citizens and stakeholders, and incentivizes economic operators to engage with public tenders. Clear, standardized legal frameworks governing procurement processes foster confidence, attracting broader participation and ensuring compliance with equitable procedural norms (Belhaimar, 2017, P. 32).

SUBSECTION II: THE NEXUS BETWEEN TRANSPARENCY AND PROCUREMENT DIGITIZATION

The incorporation of information and communication technologies (ICT) into public procurement, replacing conventional methods of contract formation, plays a pivotal role in enhancing procedural transparency. In alignment with the state's overarching strategy to digitize governance and establish an e-administration framework, the Algerian legislator has formally institutionalized digitization within the public procurement regime (First Requirement). This legislative reform is grounded in the proven capacity of digitization to operationalize transparency, thereby reducing opacity, curbing discretionary practices, and fostering accountability (Second Requirement).

First Requirement: Institutionalizing Digitization in Public Procurement

The dematerialization of public procurement procedures was first codified in Presidential Decree No. 10-236, dated October 17, 2010, notably in Chapter Six titled "Electronic Communication and Information Exchange," marked the inaugural commitment to embedding digital operations within the public procurement sphere. The decree facilitated the establishment of the Public Procurement Electronic Portal (EPPP) under Section I ("Electronic Communication"), mandating the digitization of procurement processes. Section II ("Electronic Information Exchange") further required the electronic transmission of tender documents and bidder responses (Presidential Decree No. 10-236, Official Gazette No. 58 of 2010). However, these provisions remained largely unimplemented due to systemic challenges, including inadequate technological infrastructure and delayed regulatory frameworks.



Notably, the operational guidelines for the EPPP, defining its content and functionality, were not issued until 2013 and only entered into force in 2014 (Ben Jelloul & Zazoua, 2024).

Presidential Decree No. 15-247, enacted on 16 September 2015, which regulates public procurement and public service delegations, significantly advanced the digitization of public procurement (Official Gazette No. 50 of 2015), addressing the deficiencies of its predecessor. Notably, this decree mandated the electronic publication of two critical datasets: (1) lists of public contracts awarded in the preceding year, including the names of the awarded entities, and (2) the projected program of initiatives to be launched during the relevant fiscal year. These publications were required to be hosted on the contracting authority's official website (Art. 158, Official Gazette No. 50 of 2015).

Furthermore, Decree No. 15-247 institutionalized the electronic formalization of communication and information exchange under Chapter Six, titled "Electronic Communication and Information Exchange." Section I (Electronic Communication) mandated the establishment of the Electronic Public Procurement Portal (EPPP), delegating its administration to the Ministry of Finance and the Ministry of Information and Communication Technologies. The Minister of Finance was authorized to define the portal's content and operational protocols through ministerial decrees. Section II (Electronic Information Exchange) required contracting authorities to publish tender notices on the EPPP, ensuring their accessibility to contractors and bidders, and stipulated those responses be submitted electronically. All exchanged documents and data were to be archived in a centralized digital repository for subsequent procurement procedures (Arts. 158, 203–205, Official Gazette No. 50 of 2015).

Additionally, the decree introduced reverse electronic auctions and electronic contractor registries. These mechanisms

empower contracting authorities to optimize bid selection based on cost-efficiency and technical merit, particularly for routine supply procurements and service contracts (Article. 206, Official Gazette No. 50 of 2015).

Despite these regulatory advances, the digitization of public procurement, as initially outlined in Presidential Decree No. 10-236, largely failed to manifest effectively in practice—mirroring the challenges faced in earlier legislative efforts. This ongoing struggle highlighted the necessity for a more robust and enforceable digital framework, leading to the enactment of Law No. 23-12 on Public Procurement. This law aimed to ensure the practical application of digitization and reinforce the foundational principles of public procurement, especially transparency in procurement procedures.

Law No. 23-12 further solidified the role of digitization in public procurement in Chapter Two, "Digitization in Public Procurement." It explicitly addressed the requirements for the Public Procurement Electronic Portal in Section One and outlined detailed protocols for electronic information exchange in Section Two (Law No. 23-12, Arts. 105–107, Official Gazette of 2023).

A pivotal legislative development under Law No. 23-12 is the formal adoption of the term “digitization”, supplanting the prior terminology of “electronic communication and information exchange.” This lexical evolution reflects a deliberate alignment with global digital governance frameworks, signaling a shift from procedural digitization to holistic institutional transformation. Notably, the law introduces stringent normative language in digitization-related provisions, replacing permissive terms such as “may” with obligatory mandates denoted by “shall”—particularly in Section II of Chapter II (Electronic Information Exchange).



Furthermore, the law explicitly codifies the nexus between procedural transparency, electronic transactions, and digitization. Under Section II (Transparency of Procedures) of Chapter II (Procedures for Awarding Public Contracts), the legislator imposes a mandatory requirement to publish tender notices through the Electronic Public Procurement Portal (EPPP) and digital media platforms (Law No. 23-12, Arts. 46–48, Official Gazette of 2023).

Second Requirement: The Role of Digitization in Operationalizing Transparency in Public Procurement

Digitization serves as a pivotal strategy for institutionalizing the principle of transparency within public procurement frameworks. By eliminating barriers that hinder its practical implementation, digitization ensures that transparency permeates every stage of the procurement process—from the publication of tender notices to the final award of contracts. All transactions related to public procurement are conducted digitally through the EPPP (Miloudi & Zazoua, 2021, pp. 473–474). This digital transformation fosters equality and guarantees equitable access to public tenders for all economic operators, irrespective of their geographic location or nationality (Benabderrahmane, 2021).

The institutionalization of transparency through the digitization of public procurement serves as a cornerstone for the effective implementation of fundamental procurement principles. By reinforcing equal access to procurement opportunities, digitization ensures that all economic operators can submit bids under conditions of fairness and open competition. Notably, the electronic publication of procurement notices eliminates discretionary practices, enhances procedural integrity, and guarantees adherence to the principles of competition and non-discrimination.

In this regard, Public Procurement Law No. 23-12 mandates contracting authorities to ensure full transparency by making procurement-related documents and information available electronically. This requirement enables economic operators to access tender documents, submit bids, and engage in procurement procedures through digital platforms, ensuring efficiency and procedural predictability.

Moreover, digitization serves as a critical mechanism for entrenching transparency and combating various forms of corruption that threaten public procurement. Given the widespread prevalence of corrupt practices, the primary objective of digitization is to ensure greater adherence to the principles of equal access to public tenders and non-discrimination among bidders. By guaranteeing procedural transparency, digitization facilitates robust oversight and effective management of public expenditures by relevant authorities, while simultaneously curbing corruption and bribery (Benabderrahmane, 2021).

SECTION II: THE EPPP: AN INSTRUMENT OF DIGITIZATION

To institutionalize the principle of transparency in public procurement procedures, the Algerian legislator, under Public Procurement Law No. 23-12, established the Electronic Public Procurement Portal (EPPP). This initiative builds upon the foundations laid by the aforementioned presidential decrees. Article 105 of the law specifically mandates the creation of the EPPP, which is administered by the competent authorities of the Ministry of Finance. However, the portal only became operational on 23 December 2021. The content and operational protocols of the portal are defined by a decree issued by the Minister of Finance. The EPPP facilitates the electronic exchange of information between contracting authorities, contractors, and bidders involved in public procurement processes.



SUBSECTION I: Conceptual Definition of EPPP

Public Procurement Law No. 23-12 does not explicitly define the *Electronic Public Procurement Portal* (EPPP). Instead, Articles 105 to 108 address the administrative bodies responsible for its management, its operational content, and its functional scope. The law delegates the authority to define the portal's content and procedural protocols to the Minister of Finance. In this regard, a Ministerial Decree issued on 17 November 2013, specifies the EPPP's content, governance mechanisms, and electronic information exchange protocols (Official Gazette No. 21 of 2014).

First Requirement: Definition of the Electronic Public Procurement Portal

The Electronic Public Procurement Portal (EPPP) is a specialized digital platform designed to centralize information related to public procurement and provide services to contracting authorities, economic operators, and other stakeholders. Stakeholders gain access by registering on the portal, which facilitates electronic tender invitations, bid submissions, and the exchange of documents between contracting authorities and economic operators (Miloudi & Zazoua, 2021, p. 466).

Some scholars define the EPPP as a comprehensive digital space for all public procurement stakeholders, enabling the publication, exchange, and electronic execution of procurement-related documents and information (Weddan & Merkan, 2015, p. 111). In essence, the EPPP functions as a centralized database that simplifies access to information, streamlines sector-specific services, and facilitates the collection and exchange of data primarily between contracting authorities and economic operators (Kadi & Boualakaa, 2022, p. 205).

Thus, the EPPP serves as a pivotal mechanism for operationalizing the digitization of public procurement. It is a

specialized electronic platform managed by the Ministry of Finance, designed to publish and exchange procurement-related documents and information between contracting authorities and economic operators, as well as to facilitate the electronic execution of public contracts (Ministerial Decree of November 17, 2013, Art. 2).

Second Requirement: Content, Functions, and Management of the Electronic Portal

The EPPP serves as a centralized platform for publishing information and documents related to public procurement, including:

- Legislative and regulatory texts governing public procurement;
- Legal advisories on procurement matters;
- Lists of economic operators excluded or banned from participating in public tenders;
- Estimated project programs of contracting authorities;
- Lists of public contracts awarded during the previous fiscal year, including the names of beneficiary entities or consortia and indicative pricing benchmarks;
- Reports by contracting authorities on the execution of public contracts; and
- Lists of entities whose qualification and competency certificates have been revoked.

The portal's functions, as outlined in Article 4 of the Ministerial Decree dated 17 November 2013, include:

- Registration: Enabling contracting authorities and economic operators to register on the platform;



- Multi-Criteria Search: Facilitating advanced search functionalities with alerts for updates;
- Bidding: Supporting electronic bid submission and providing training modules for e-procurement processes;
- Information Exchange: Managing the electronic exchange of documents between contracting authorities and economic operators; and
- Document Management: Ensuring the encoding, dating, and timestamping of all documents.

To ensure the effective operation of the portal and the fulfillment of its legally mandated functions, management responsibilities are assigned to the competent authorities within the Ministry of Finance. These responsibilities encompass overseeing network systems and databases, managing user access to the portal, and implementing technical upgrades, including the integration of new functionalities. Additionally, they involve maintaining the portal by ensuring robust cybersecurity measures to mitigate electronic threats, as well as guaranteeing the continuity, reliability, and accessibility of the portal's services. Furthermore, the portal's management is responsible for ensuring the publication of procurement-related information and documents, as stipulated in Article 3 of the aforementioned Ministerial Decree (Ministerial Decree of November 17, 2013, Art. 6).

Third Requirement: Principles of the Electronic Public Procurement Portal

The documents and information exchanged through the Electronic Public Procurement Portal form a comprehensive database, which archives all bidder submissions for use in subsequent procurement procedures. This database includes:

- Information related to contracting authorities and economic operators, including their administrative records;
- Details of public procurement contracts;
- Economic statistics on public demand; and
- Publications, documents, and information exchanged between economic operators and contracting authorities
Law No. 23-12, Arts. 106(2), 107–108; Ministerial Decree of November 17, 2013, Art. 5).

The legislator has emphasized the necessity of safeguarding the information system supporting the EPPP and its database, in compliance with applicable laws and regulations. This protection is grounded in the following principles (Ministerial Decree of November 17, 2013, Art. 7):

1. **Integrity of Electronically Exchanged Documents:** The digitization of written documents must ensure their integrity through secure electronic signatures and the verification of economic operators' identities.
2. **Confidentiality of Electronically Exchanged Documents:** Documents exchanged electronically are protected through encryption systems, in accordance with legislative and regulatory provisions. Document encoding, a protective mechanism, assigns a classification code to each document for systematic archiving and retrieval, facilitating easy access when needed (Meloudi & Zazoua, 2021, p. 476).
3. **Event Tracking:** This is achieved through the creation of event logs that track electronic information exchanges, as well as the timestamping of electronically exchanged documents. A receipt confirming the date and time of



receipt is issued for each electronically submitted bid or digital medium.

4. **Interoperability of Information Systems:** This principle involves adopting standards and protocols that enable different information systems to communicate and exchange data.
5. **Secure Archiving of Digital Documents:** Electronically exchanged documents are archived and stored, with precise records of their receipt dates and times, as well as the submission timelines for bids. These documents can be retrieved and used as needed.

SUBSECTION II: PROCEDURES FOR AWARDING PUBLIC CONTRACTS THROUGH THE ELECTRONIC PORTAL

The EPPP aims to eliminate the physical aspects of public procurement procedures and institutionalize transparency. By enabling registered economic operators and contracting authorities to issue and respond to tender invitations electronically, the portal facilitates the exchange of documents and information until the public contract is formally awarded.

First Requirement: Publication of Tenders on the Portal and Registration Procedures

The principle of transparency in public procurement necessitates the public announcement of tenders. The legislator mandates contracting authorities to publish tender notices through the Official Bulletin of Public Procurement, written press, and approved digital media. Additionally, publication on the EPPP is compulsory (Law No. 23-12, Art. 46).

Thus, contracting authorities are required to publish tender notices on the EPPP, making all tender documents electronically

accessible to contractors and bidders within a timeline specified by a decree issued by the Minister of Finance (Law No. 23-12, Art. 107).

Access to the EPPP is contingent upon registration by both contracting authorities and economic operators. Registration involves completing and signing a form, which is then submitted to the portal administrator via email or delivered in person. Economic operators and contracting authorities must also designate an authorized legal person to access the portal's functionalities on their behalf (Ministerial Decree of November 17, 2013, Art. 10).

Second Requirement: Exchange of Information via the Electronic Portal

The EPPP enables the digital exchange of procurement-related documents and information between contracting authorities and economic operators. These exchanges encompass (Ministerial Decree of November 17, 2013, Art. 9):

1. Documents Issued by Contracting Authorities:

- Terms of reference, subscription declarations, commitment letters, integrity statements, and, where applicable, investment pledges.
- Tender announcements, prequalification invitations, consultation requests, and clarifications or withdrawals of bids.
- Notifications of provisional contract awards, declarations of procedural invalidity, or tender cancellations.
- Clarifications on tender specifications, bid evaluation outcomes, and adjudication of appeals.



2. Documents Submitted by Economic Operators:

Economic operators must electronically respond to tenders via the EPPP, adhering to timelines set by the Minister of Finance. Required submissions include:

- Subscription declarations, integrity statements, and letters of commitment.
- Proof of investment pledges, where applicable.
- Additional information or explanations regarding tender terms, if required.
- Requests to withdraw tender documents or supplementary materials, if necessary.
- Applications for procedures involving preliminary selection stages.
- Detailed bids, including any amended submissions, if applicable.
- Challenges to bid evaluation outcomes or procedural irregularities.

Conclusion

This study yielded several key results, the most important of which are:

- A robust correlation exists between the principle of transparency and the digitization of public procurement. Digitization serves as a conduit for operationalizing transparency by ensuring the public accessibility of procurement-related information and documents via the Electronic Public Procurement Portal.

- The EPPP is instrumental in institutionalizing transparency, fostering equitable competition, and mitigating corruption and bribery risks through standardized electronic procedures that curtail discretionary practices.
- Despite the formal legal recognition of procurement digitization in 2010 and the establishment of the EPPP, Algeria has faced significant delays in operationalizing digitized procurement.
- The ministerial decree mandated under Article 105(2) of Public Procurement Law No. 23-12—to define the EPPP’s content and operational protocols—remains unimplemented. Consequently, the outdated 2013 ministerial decree, issued under the repealed Presidential Decree No. 10-236, persists.

Recommendations:

- Promptly issue the regulatory texts governing the digitization of public procurement, particularly the ministerial decree specifying the content and operational protocols of the *Electronic Public Procurement Portal* (EPPP), as mandated under Article 105(2) of Public Procurement Law No. 23-12.
- Implement robust cybersecurity protocols, including data encryption, access controls, and intrusion detection systems, to safeguard the EPPP’s database.
- Formalize service-level agreements (SLAs) to guarantee the EPPP’s operational continuity, including during maintenance windows.



- Engage certified IT professionals or accredited firms specializing in digital governance to oversee the EPPP's technical stewardship.

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