



Equality In Access To Public Services Between The Requirements Of Digitalisation And The Guarantee Of Equitable Access

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Abstract:

The principle of equality constitutes a fundamental cornerstone in the organisation of public services, requiring that all service users have fair access to public services without discrimination on the grounds of gender, language, religion, or social status. With the advent of digital transformation, the electronic public service has emerged as a modern means of bringing public administration closer to citizens. This transformation has created new opportunities to strengthen equality in access to public services, as the principle of equality is no longer confined to traditional administrative transactions but has extended to encompass the digital services provided by the State through electronic platforms. This principle seeks to ensure that all individuals who fulfil the legal requirements enjoy the same rights and services without discrimination or preferential treatment. Despite the significant progress achieved in this field, a number of obstacles continue to impede the full implementation of this principle.

Keywords: Electronic public service; principle of equality; service users; electronic public service delivery.

Introduction

We are currently living in the information age, which requires us to adapt to its rapidly evolving demands, particularly in light of the widespread use of information and communication networks and computer technologies, which have become an integral part of everyday life. States across the world have recognised the considerable importance of establishing electronic government systems, given the public services they provide to citizens, their vital role in promoting economic development, and their contribution to

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encouraging investment in both the public and private sectors, as well as creating new employment opportunities.

Against the background of these rapid technological developments, the concept of the electronic public service has emerged as one of the outcomes of the contemporary digital revolution. The transition from the traditional public service to the electronic public service has brought about a qualitative transformation in the manner in which public services are delivered, positively affecting both the quality of such services and the speed with which they are made available to beneficiaries.

The principle of equality is regarded as one of the most important principles governing the electronic public service, as it constitutes a cornerstone in ensuring transparency and fairness in access to its services. Although the management of public services varies according to the nature and specific circumstances of each service, all public services share the obligation to adapt to emerging needs and to guarantee equal opportunities for all individuals to benefit from their services without discrimination.

The importance of the principle of equality in relation to the electronic public service lies in its legal status as an effective instrument for protecting the rights of service users in their dealings with the public administration. This gives rise to the following central research question:

To what extent is the principle of equality guaranteed within the electronic public service, in the context of digital transformation and the promotion of equitable access to public services?

The following subsidiary questions arise from this central issue:

What is meant by the electronic public service, and what are its essential components?

How should the principle of equality be understood within the framework of the electronic public service, and what are its legal and practical dimensions?

These questions will be addressed by adopting a descriptive and analytical methodology, in accordance with the following structure:

- 1- The Theoretical Framework of the Principle of Equality in the Electronic Public Service



- 2- Applications of the Principle of Equality in the Electronic Public Service

1- The Theoretical Framework of the Principle of Equality in Electronic Public Services

The subject of public services has acquired increasing importance in the modern era, given the vital role they play in developing the mechanisms through which public services are delivered. This development has been supported by the use of modern digital and technological tools, which facilitate access to public services, improve their quality, and enable public authorities to meet citizens' needs more effectively. As a result of these developments, the concept of the electronic public service has emerged as a qualitative transformation in the structure of public administration.

1.1-The Concept of the Electronic Public Service

This subsection examines the concept of the electronic public service by defining it and identifying its principal characteristics.

1.1.1- Definition of the Electronic Public Service

An electronic public service may be understood as a public service that provides its services through governmental websites and electronic portals. These services are available to citizens at any time and from any location within the national territory and, in some cases, from abroad. Among its most important advantages are the saving of time and effort, the reduction of costs, and the enhancement of effectiveness in the delivery of public services (Al-'Aydani, 2020, p. 17).

The electronic public service has been defined in several ways. One definition describes it as the use of technological capabilities to improve the performance of government bodies, increase their efficiency, and enhance their effectiveness in achieving the intended objectives (Al-Hassan, 2009, p. 5).

Ali Mukhtari defines it as:

“The transformation of the operational mechanisms of public services from traditional methods to the use of modern electronic devices, with the aim of improving efficiency and performance, saving time and effort, and achieving transparency and good governance in the management of public services” (Mukhtari, n.d., p. 3).

It may also be defined as:

“Administrative units, projects, and bodies managed directly by the State or operating under its supervision, within the framework of public law, in order to carry out public economic, social, or administrative activities and achieve public objectives that satisfy material or non-material needs through an electronic government portal” (Ben Tali, 2019, p. 2).

It has further been defined as:

“The regular provision of a public service to the public in a manner that meets citizens’ needs and serves the public interest remotely through the use of digital technology” (Ben Tali, 2019, p. 2).

1.1.2- Characteristics of the Electronic Public Service

The electronic public service relies primarily on modern digital technology. It comprises a range of specialised institutions and administrative departments responsible for providing public services to users.

Electronic public services are characterised by high standards of privacy, security, and confidentiality. They must also demonstrate credibility, which contributes to building trust between public-service providers and service users.

The principal advantages of the transition from traditional public services to electronic public services include the following:

- Public services can be accessed easily and conveniently at any time and from any location.
- Services can be provided in a more accessible manner to persons with disabilities, including persons with visual impairments and persons with reduced mobility.



- Public services can be accessed around the clock and throughout the week.

- Transparency in administrative performance is one of the most significant advantages of electronic public services. Transactions and administrative procedures become subject to scrutiny, accountability, and review by service users. This strengthens social oversight and contributes effectively to combating manifestations of administrative corruption, including bribery, favouritism, and other forms of misconduct (Jarrāh&Maḥmūd, 2012, p. 95).

1.2- The Concept of the Principle of Equality

1.2.1- Definition of the Principle of Equality

The principle of equality before electronic public services may be defined as the prohibition of discrimination between individuals belonging to the same category when they occupy identical legal positions (Ghubriyāl, 2005, p. 23).

In her book *The Management of Public Services and New Transformations*, Nadia Drifi defines this principle as:

“The obligation of a public service to provide services to users without any unjustified discrimination” (Drifi, 2012, p. 35).

The principle of equality before public services is regarded as one of the classical principles of administrative law. It has been identified, developed, and affirmed by the administrative judiciary in comparative administrative-law systems.

Consequently, the administrative authorities responsible for organising and managing public services are required to respect and apply this principle rigorously, given its vital role in protecting and achieving the public interest.

Since the primary purpose of an electronic public service is to meet the needs of the public through technological and electronic means, it is required to provide public services to all users on an equal basis and without any form of discrimination. This obligation reflects the principle of equality recognised in various international instruments and constitutional texts.

The adoption of electronic systems in public-service delivery has made it possible to provide services objectively, efficiently, and effectively. Government portals and websites are made easily accessible to all service users, thereby removing the need to wait in physical queues in order to obtain public services (Suleiman, 2017, p. 114).

1.2.2- The Legal Basis of the Principle of Equality before Electronic Public Services

The principle of equality in access to public services is founded on well-established legal principles at both the international and domestic levels. At the international level, it has been recognised in several international instruments concerning human rights and fundamental freedoms.

At the domestic level, the principle has been affirmed in national constitutions and legislative provisions governing public services. These legal texts require administrative authorities to respect and apply the principle of equality when providing services to citizens, without discrimination.

Equality of service users before public services constitutes one manifestation of the broader principle of equality. Public authorities must observe this principle on a continuous basis. It has received extensive legal and constitutional recognition and has been expressly incorporated into the constitutional texts of numerous countries, including the French Constitution.

The principle was also recognised in the 1789 Declaration of the Rights of Man and of the Citizen and was subsequently affirmed in the Universal Declaration of Human Rights adopted by the United Nations General Assembly. Constitutions generally recognise the principle of equality in one form or another. Algeria, in particular, has accorded considerable importance to equality in access to public services within its national legal system. The principle was expressly recognised in several Algerian constitutions, including those of 1963, 1976, 1989, and 1996.



Accordingly, the principle of equality must be respected and incorporated into the various legislative and regulatory texts. Any unjustified departure from it may constitute an infringement of the principle.

The principle of equality is also grounded in several legislative provisions. The Algerian legislature expressly recognised it in the 2006 General Statute of the Civil Service. Article 27 of Ordinance No. 06-03 of 15 July 2006 provides that:

“No discrimination may be made between civil servants on the grounds of their opinions, nationality, origin, or any other personal or social circumstance” (Ordinance No. 06-03, 2006, art. 27).

This provision relates specifically to equality among civil servants. It demonstrates that the prohibition of discrimination constitutes one of the principal legal consequences of applying the principle of equality (Al-Tamawi, 1982, p. 377).

2- Applications of the Principle of Equality in Electronic Public Services

The principle of equality constitutes a fundamental basis for ensuring the continuity and credibility of electronic public services. Electronic systems treat all users on an equal footing, as they do not distinguish between them on a personal basis or identify them through direct personal interaction; rather, they process identification codes, confidential numbers, and electronically submitted data.

Electronic public services operate by facilitating and simplifying the delivery of services to all eligible users on an equal basis, provided that they satisfy the prescribed legal and regulatory requirements. The principle of equality strictly prohibits discrimination, favouritism, and the use of personal influence in service delivery. It consequently seeks to ensure equal opportunities for all individuals wishing to benefit from electronic public services, whether in obtaining those services or in bearing the obligations associated with their use, without discrimination on the grounds of origin, religion, opinion, sex, or any other consideration (Ounissi, 2021, pp. 203–218).

2.1- Manifestations of the Principle of Equality in Access to Public Services within Electronic Public Services

Public services, by virtue of their purpose of serving the public interest, are required to provide their services to all citizens on an equal basis. This obligation reflects the principle of equality before the law, which has been affirmed in various international instruments and constitutional texts, including the Algerian Constitution.

Article 32 of the Algerian Constitution provides that:

“All citizens are equal before the law. No discrimination may be invoked on the grounds of birth, race, sex, opinion, or any other personal or social condition or circumstance” (Presidential Decree No. 20-442, 2020, art. 32).

The principal applications of the principle of equality before public services include the following.

A- Equality of Service Users before Public Services

Equality of service users means that the authorities responsible for managing a public service are required to provide services to all applicants who satisfy the conditions of eligibility, without discrimination on the grounds of sex, colour, language, religion, or social or economic status (Ben Yeken, 2018, p. 600).

This principle requires fairness and equity in enabling users to access public services on an equal basis, while respecting the dignity and rights of every individual without distinction.

Eligibility for public services requires the user to satisfy the conditions established by the applicable legislation and regulations governing access to those services. The user must therefore occupy the legal position entitling them to benefit from the service. Once these requirements are met, the user is entitled to equal treatment, both in accessing the service and in bearing the obligations associated with its use (Boudiaf, 2007, p. 332).

The principle of equality does not prevent a public service from imposing conditions required by legislation and regulations, such as the payment of fees, compliance with prescribed procedures, or the submission of specific documents. Such requirements do not constitute discrimination provided that they are objective, lawful, and applied equally to all individuals occupying comparable legal positions.



B- Equality of Access to Public Employment

The principle of equality in access to public employment first gained prominence during the French Revolution. Before that period, access to public office was frequently determined by political and family inheritance. The Revolution therefore called for the abolition of these distinctions and for the recognition of equality before the law and public obligations.

Article 74 of Ordinance No. 06-03 provides that:

“Recruitment shall be governed by the principle of equality of access to public employment” (Ordinance No. 06-03, 2006, art. 74).

Nevertheless, this principle is subject to certain restrictions and exceptions that may affect its application. The most significant conditions include the following.

- **Nationality**

Proof of nationality constitutes an essential condition for admission to public employment. Civil servants must also retain the nationality status required by law, including where nationality has been acquired through naturalisation.

- **Enjoyment of civil and political rights**

Applicants must enjoy their civil and political rights and must not have been convicted of an offence involving dishonour or one that is incompatible with the nature or level of the responsibilities associated with the position.

- **Adequate physical and mental health**

The applicant's state of health must be compatible with the requirements and duties of the position concerned.

- **Age requirements**

The legislation and regulations may establish minimum and maximum age limits for entry into public employment.

- **Regularisation of the applicant's position in relation to national service**

Applicants must clarify and regularise their position with regard to national service, in accordance with the applicable legislation.

These requirements are reflected in Articles 74, 75, 78, and 79 of Ordinance No. 06-03 on the General Statute of the Civil Service (Ordinance No. 06-03, 2006, arts. 74–75, 78–79).

Certain exceptions may also be introduced, often for political or institutional reasons, in order to achieve customary, geographical, linguistic, or religious representation. Such considerations may be reflected in the internal composition of the civil service. Nevertheless, they must remain legally justified and must not undermine the fundamental requirement of equality in access to public employment (Kharfi, 2010, p. 130).

C- The Principle of Equality in Bearing Public Burdens

The principle of equality in bearing public burdens is recognised as a general principle of law and appears in several forms, including:

- equality in bearing public financial costs, under which each individual contributes through taxation according to their financial capacity, in accordance with the principle of tax justice; and
- equality in the performance of national or military service, which is imposed equally on individuals who satisfy the relevant legal conditions.

The first paragraph of Article 64 of the 1996 Algerian Constitution provided that:

“All citizens are equal in the payment of taxes, and each person shall contribute to the financing of public expenditure according to their taxable capacity” (Presidential Decree No. 96-438, 1996, art. 64).

This principle means that individuals whose economic and social circumstances are comparable must bear the tax obligations imposed by law on an equal basis, in return for benefiting from the services provided by the State.

The principle of equality before tax burdens aims to achieve tax justice among all taxpayers, regardless of whether the taxes imposed are direct or indirect. Taxation may take various forms and may apply differently across the various sectors of production, but any differences in treatment must be based on objective and legally justified criteria.

2.2- The Impact of Electronic Administration on the Principle of Equality

Electronic administration has brought about a fundamental transformation in the methods used to deliver public services. Nevertheless, this transformation may also produce new forms of



inequality as a result of the digital divide and the limited access of certain social groups to digital devices, internet connectivity, and the technical skills required to use electronic services.

The effective realisation of equality therefore requires the provision of appropriate alternatives and the adoption of measures ensuring that all citizens can access electronic services fairly and equitably. Digital transformation must not lead to the exclusion of individuals who lack the necessary technological resources or skills (Ounissi, 2021, pp. 203–218).

2.2.1- Benefits of the Principle of Equality in Electronic Public Services

Individuals in developing countries often place considerable expectations on electronic government as a means of achieving the principle of equality before public services, both in formal legal terms and in practice. The main benefits of electronic interaction with public services include the following.

A- Achieving the Neutrality of Electronic Public Services

The principle of neutrality prohibits public services from discriminating between individuals on the grounds of sex, religion, opinion, or personal relationships.

The implementation of electronic government systems, sometimes described as electronic neutrality, can contribute to reducing bureaucracy and administrative corruption. The use of personal influence or intermediaries constitutes a persistent social problem, as some individuals seek such assistance before approaching public administrations or public-service institutions.

Favouritism similarly undermines public administration and the proper functioning of public services, particularly in contexts where administrative corruption and bribery have become widespread. These practices conflict with the principles of equality, neutrality, and objectivity and are inconsistent with the protection of human rights (Al-Hassan, 2020, p. 106).

By reducing direct personal intervention in the processing of applications, electronic systems may limit opportunities for favouritism, bribery, and the arbitrary prioritisation of certain users. However, neutrality can only be achieved where electronic procedures are transparent, secure, accessible, and subject to effective oversight.

B- Assisting the State in Guaranteeing Equality

The State is required to assist disadvantaged groups that do not possess computers, lack reliable internet access, or are unable to use digital technologies effectively, so that they may benefit from electronic public services.

This may be achieved by establishing public-access kiosks, digital service centres, or cultural and community centres in residential areas. Such facilities should be equipped with internet connections, computers, and appropriately trained staff to assist users in accessing electronic services.

These centres must therefore be provided with the necessary technical equipment and support mechanisms to enable all individuals to benefit from public services easily and conveniently. The State's obligation is not limited to creating electronic platforms; it also includes ensuring that citizens possess genuine and effective means of accessing them (Ounissi, 2021, pp. 203–218).

The impact of electronic government is also evident in the elimination of separate queues for men and women seeking access to the civil servant responsible for delivering a particular public service. Electronic access may therefore promote equality between men and women in the manner in which public services are obtained.

2.2.2- Legal Consequences of Violating the Principle of Equality among Public-Service Users

As a general rule, public authorities establish public services by unilateral decision when they determine that a public need requires their creation.

The administration enjoys discretionary authority in relation to the establishment of optional public services. Individuals cannot ordinarily compel the administration to create such services, nor can service users require the administration to organise or manage a public service in a particular manner.

Nevertheless, where the legislature requires the establishment of a public service, the administration becomes responsible for its creation, organisation, and operation. It must ensure that the service functions regularly and continuously in order to achieve the public benefit for which it was established.



Accordingly, the administration is required to guarantee equality among all users of public services and to refrain from unjustified discrimination between them (Al-Hassan, 2020, p. 106).

Where the administration infringes this principle, legal consequences may arise, including the following.

- **Action for Annulment**

An administrative decision that violates the principle of equality before public services may be annulled through an action for annulment brought by the person adversely affected by that decision.

An example would be an administrative decision depriving an individual of a benefit or service to which they are entitled under legislation or regulations. Such deprivation constitutes an infringement of the individual's rights and may justify the initiation of appropriate judicial proceedings.

The action for annulment enables the competent administrative court to review the legality of the contested decision. Where the court finds that comparable individuals have been treated differently without an objective and lawful justification, it may annul the decision for violating the principle of equality.

Conclusion

The principle of equality is one of the most fundamental principles governing public services, and its importance has increased significantly with the digital transformation currently taking place within public administration. Through the use of modern technological tools, electronic public services have become an effective means of giving practical effect to this principle by ensuring that all citizens can access public services without discrimination and in a manner characterised by transparency, speed, and fairness.

Electronic public services contribute to enhancing transparency and combating administrative corruption. They also save citizens time and effort, reduce bureaucracy and negative administrative routines, and promote the regular and continuous functioning of public services. Nevertheless, further efforts remain necessary to assist those who are unable to use digital technologies effectively, including persons with disabilities and individuals with limited digital literacy.

On the basis of this study, several findings may be identified:

•Legal recognition of the principle of equality:

National and international legal instruments have recognised equality as a fundamental rule governing the organisation and operation of public services, including electronic public services, with the aim of ensuring equal treatment for all citizens.

•Improved access to public services: The transition towards electronic public services has created broader opportunities for citizens to access services and has contributed to reducing discrimination associated with sex, geographical location, or social status.

•The continuing impact of the digital divide: Despite the advantages of digitalisation, inequalities in internet access and the limited digital competence of certain groups, including older persons and residents of rural areas, continue to restrict the effective realisation of equality.

•Equality and legal eligibility requirements: Equality does not require the abolition of the legal conditions governing access to public services. Rather, it requires all individuals occupying comparable legal positions to be subject to the same criteria when benefiting from services and bearing the obligations associated with their use.

•Equality in electronic recruitment: The development of recruitment systems through electronic platforms requires the continuous modernisation of selection procedures in order to guarantee transparency, equal opportunity, and objective assessment.

Recommendations

In light of the findings reached in this study, the following recommendations may be proposed:

•Efforts should be intensified to bridge the digital divide by extending digital infrastructure to all regions, particularly remote and rural areas, and by ensuring universal access to appropriate electronic tools and reliable internet services.

•Citizens, particularly vulnerable and disadvantaged groups, should be supported through digital training and



awareness programmes that enable them to benefit effectively and equally from electronic public services.

- Government electronic portals should be designed in a manner that accommodates the needs of persons with disabilities and supports multilingual access, thereby strengthening equality among citizens.

- National legislation should be developed to provide explicit recognition of the principle of equality in electronic public services and to establish effective legal remedies where this principle is infringed.

- Independent bodies should be established to monitor the extent to which public administrations respect the principle of equality in the delivery of digital services and to publish periodic reports evaluating their compliance.

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