

Legal protection of electronic payment methods**الحماية القانونية لوسائل الدفع الإلكتروني**

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Abstract:

Electronic payment methods are vital tools that have contributed to facilitating commercial and financial transactions in the digital age. With their increasing use, the need has emerged to establish a legal framework that protects these methods and addresses the risks associated with them, such as fraud, theft, and transaction manipulation. Therefore, international and regional efforts are being made to develop models aimed at managing these risks. In Algeria, as in many countries of the world, the digitalization of the economy has been adopted, including the use of electronic payment. Despite Algeria's delay in adopting this type of payment, it is seriously seeking to establish appropriate legal protection for electronic transactions, especially with regard to electronic payment, although the experience of electronic payment is considered recent.

However, the Algerian legislator has issued some legislations that aim to regulate and develop this sector, such as the Monetary and Credit Law, the Trade Law, as well as some articles related to combating cybercrimes. However, there are no specific laws that protect electronic payment methods comprehensively..

Keywords : Electronic payment methods, Digital economy, Legal framework, Transaction manipulation, Cybercrime

الملخص:

تعتبر وسائل الدفع الإلكتروني من الأدوات الحيوية التي ساهمت في تسهيل العمليات التجارية والمالية في العصر الرقمي. ومع تزايد استخدامها، ظهرت الحاجة إلى وضع إطار قانوني يحمي هذه الوسائل ويعالج المخاطر المرتبطة بها، مثل الاحتيال والسرقة والتلاعب بالمعاملات. لذلك، تبذل الجهود الدولية والإقليمية لتطوير نماذج تهدف إلى إدارة هذه المخاطر. وفي الجزائر، كما هو الحال في العديد من دول العالم، تم تبني رقمنة الاقتصاد بما في ذلك استخدام الدفع الإلكتروني. وعلى الرغم من تأخر الجزائر في تبني هذا النوع من الدفع، إلا أنها تسعى بجدية لوضع الحماية القانونية المناسبة للمعاملات الإلكترونية، خصوصاً فيما يتعلق بالدفع الإلكتروني على الرغم من أن تجربة الدفع الإلكتروني تعتبر حديثة، إلا أن المشرع الجزائري قد قام بإصدار بعض التشريعات التي تهدف إلى تنظيم وتنمية هذا القطاع، مثل قانون النقد والقرض، وقانون التجارة، فضلاً عن بعض المواد التي تخص مكافحة الجرائم الإلكترونية. لكن، لا توجد قوانين محددة تختص بحماية وسائل الدفع الإلكتروني بشكل شامل.

الكلمات المفتاحية: وسائل الدفع الإلكتروني، الاقتصاد الرقمي، الإطار القانوني، التلاعب بالمعاملات، الجريمة

المعلوماتية.

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Introduction:

The world has witnessed continuous development in many sectors, particularly the economic sector, which is considered one of the fundamental domains. This development has had a significant impact on information technology, leading to the emergence of the digital economy, followed by the rise of e-commerce and electronic banking. Consequently, this evolution necessitated the creation of electronic payment tools that facilitate the completion of various online commercial transactions.¹

Electronic payment methods are tools that simplify payment operations through electronic channels, granting them distinctive features. However, they also carry specific risks, often of an electronic nature, which are difficult to manage. Therefore, international and regional efforts are being made to develop models aimed at managing these risks. In Algeria, as in many countries around the world, the digitization of the economy has been adopted, including the use of electronic payments. Although Algeria was late in adopting this form of payment, it is now making serious efforts to establish appropriate legal protections for electronic transactions, especially concerning electronic payment.

Based on the above, the following problem statement can be formulated:

What is the current state of legal protection for electronic payment methods in Algeria?

This problem raises questions about the extent to which sufficient legal frameworks are available to ensure the protection of electronic financial transactions in Algeria, as well as how to address the cyber risks that may threaten security and privacy in this field. It also prompts inquiries into the effectiveness of current laws in confronting modern electronic challenges.

Based on this, we have chosen to divide this research paper into two main sections:

The first section will address the conceptual framework of electronic payment methods, and **The second section** will cover the risks associated with electronic payment methods and Algeria's experience in providing legal protection for these tools.

Section One: Conceptual Framework of Electronic Payment Methods

In the context of the digital economy and the shift toward electronic banking and e-commerce, the use of electronic payment methods has become essential to keeping pace with technological advancements and facilitating financial transactions. This field encompasses a variety of tools and technologies that enable payments to be carried out over the internet or digital networks. In this section, we will discuss the definition of electronic payment methods, their types, and the main risks associated with them.²

First: Definition of Electronic Payment Methods

Electronic payment is the process of conducting financial transactions using electronic means via the internet or digital networks, instead of traditional methods such as cash or checks.³ Through electronic payments, funds are transferred between parties using tools and technologies such as credit cards, prepaid cards, digital wallets, or online payment systems like PayPal and other technological solutions.⁴

Electronic payment allows individuals and businesses to carry out financial transactions quickly and easily from anywhere in the world. It is a fundamental element in the development of e-commerce and the digital economy. This type of payment is characterized

¹ - Mahmoud Mohamed Bou Forwa, *Electronic Banking Services via the Internet*, Dar Al-Thaqafa, First Edition, Amman, 2009, p61.

² - Basem Ahmad Al-Mubaideen, *E-Commerce*, Dar Jalees Al-Zaman, Amman, Jordan, 2010, p. 141

³ - Nouredine Jelid and Amina Barkan, *Electronic Banking and E-Banks*, Al-Ma'arif Journal, Issue No. 10, University of Bouira, Algeria, 2011, p. 263

⁴ - Waseem Mohamed Al-Haddad, *Electronic Banking Services*, Dar Al-Maysarah, Beirut, Lebanon, 2010, p.181.

by its flexibility, enhanced transaction speed, and reduced need for physical cash movement. It also contributes to improving efficiency and reducing costs in commercial operations.¹

Articles 27, 28, and 29 of Law No. 18-05 concerning E-commerce set forth provisions regarding the use of banking payment methods."²

From a legal perspective, electronic payments require a regulatory framework that outlines the rights and obligations of all parties involved in transactions, such as consumer protection, ensuring security and privacy, and resolving disputes between the interacting parties. Additionally, specific laws are needed to regulate penalties related to cybercrimes associated with electronic payments, such as fraud and electronic theft.³

It can also be said that electronic payment methods are any tools that rely on modern technology, using electronic chips or magnetic strips containing user data and the ability to load monetary balances onto them. These are considered modern payment methods, and completing transactions through them requires supporting tools such as ATMs and point-of-sale (POS) machines.

Based on the previous definitions, the following characteristics of electronic payment methods can be identified:

1.1-International Scope:

Electronic payment methods are used globally, enabling easy cross-border transactions

1.2- Internet Availability:

The use of electronic payments requires internet access, as most of these methods rely on electronic networks to complete transactions.

1.3- Use of Electronic Money:

Payments are made through various forms of electronic money, such as credit cards, e-wallets, and other digital tools.

1.4- Speed of Transaction Completion:

Electronic payment methods are known for the rapid execution of financial transactions, making the payment process fast and convenient—whether online or via physical payment devices.⁴

These characteristics make electronic payment methods a vital component in the development of the digital economy and the facilitation of e-commerce, while also necessitating consideration of the security and legal challenges that may arise from their use.⁵

Second: Types of Electronic Payment Methods

As a result of the significant expansion in the use of e-commerce, the use of electronic payment methods has also increased and diversified. Among the most prominent types are:⁶

1.1-Electronic Money (E-Money):

Electronic money is a prepaid monetary value stored on an electronic device, not linked to a bank account. It represents a modern form of electronic payment, similar to traditional money (coins or paper) in its ability to fulfill the buyer's needs, whether small

¹-Hamad Mohamed Ghoneim, *E-Marketing and E-Commerce*, Al-Maktabah Al-Asriyyah for Publishing and Distribution, Mansoura, Egypt, 2008, p242.

² -Algerian Electronic Commerce Law No. 18-05, dated May 10, 2018, published in Official Gazette No. 28, dated May 16, 2018.

³- Nadhem Mohamed Noori Al-Shammari and Abdul Fattah Zuheir Al-Abdallat, *Electronic Banking – Tools, Applications, and Expansion Barriers*, Dar Wael for Publishing and Distribution, Amman, Jordan, 2008, p. 46

⁴-Ahmed Mohamed Ghoneim, *E-Management: Prospects and Challenges – Present Horizons and Future Aspirations*, Al-Maktabah Al-Asriyyah, Mansoura, Egypt, 2004, p. 244.

⁵ - Basem Ahmad Al-Mubaideen, previously cited source, p. 129–130.

⁶-Karima Siraa, *The Reality and Prospects of E-Commerce in Algeria*, Magister's Thesis in Economic Sciences, Specialization in Strategy, University of Oran, Algeria, 2013 –2014 p. 64.

or large. E-money is highly secure against duplication, forgery, or fraud. Unlike credit cards, it represents a form of digital currency that can be divided, exchanged, and stored.

1.2-Electronic Check:

An electronic check is a digital alternative to the traditional paper check. It carries the same legal obligations but is written and signed electronically. It is a secure and fast means of payment in online commercial transactions.¹

1.3-Electronic Wallet (E-Wallet):

An e-wallet is an electronic means of storing monetary value, where a certain amount of e-money can be loaded. The wallet may be a small portable device with an internal power source, a smart card, or even a CD. E-wallets aim to save users time and effort by storing all credit card information in one place, allowing payments to be made with a single click without re-entering data.

1.4-Bank Cards:

Bank cards are one of the modern manifestations of electronic money. These include plastic or magnetic cards like personal cards, Visa, or MasterCard. They are commonly used for online payments and in daily financial transactions. Cardholders can purchase most of their needs without carrying large amounts of cash, thus avoiding theft or loss. They can also withdraw cash from ATMs. Bank cards come in various types, each with different features and uses.

1.5-Credit Card:

This card grants the holder a specific credit limit to withdraw or purchase within that limit. It works on the principle of post-payment, where the full amount is not paid upfront. Instead, payments are made in periodic installments based on the cardholder's income. Delays in repayment are considered as loans with interest. These cards are issued with specific limits, saving time and effort for users while increasing revenues for the issuing bank, which carefully assesses the client's financial status to minimize default risks.

1.6-Debit Card (Bank Withdrawal Card):

This card relies on the customer's actual balance in a current account at the issuing bank to cover expected withdrawals. It provides convenience and generates revenue for the bank. To issue this card, a current account must be opened, and the withdrawn amount is deducted from the available balance, within the account's limit. Settlements are made regularly, and the client is notified via a monthly statement.

1.7-Monthly Settlement Cards (Charge Cards):

Also known as monthly debit cards or charge cards, these do not require upfront deposits in a current account. The issuing bank sends a monthly statement detailing purchases and ATM withdrawals. A credit limit is set, and the due amount must be paid within 25 to 40 days. Failure to pay on time incurs monthly interest rates between 1.5% and 1.75% (equivalent to 18–21% annually). These cards offer users flexibility and convenience,² whether online or in physical transactions.

There are also various card types depending on the issuing organization, including:

A. Visa:

Founded in 1958 in the USA, Visa is one of the leading global payment systems. It issues various types of cards such as Silver, Gold, and Visa Electron. Visa cards are widely accepted in over 24 million locations worldwide. In 2005, sales reached \$3.3 trillion, and Visa had 21,000 financial institutions in 150 countries.

¹ - Brahim Bekhti, *E-commerce*, University Publications Office, Ben Aknoun, Algeria, 2008, p. 7.

² - Mounir Mohamed Al-Janbayhi, Mamdouh Al-Janbayhi, *Electronic Money*, Dar Al-Fikr Al-Jamii, Cairo, Egypt, 2006, p.42

B. Master Card:

Second in popularity after Visa, MasterCard is based in the USA and accepted in over 4.9 million commercial establishments. It issues several types of cards like Gold, Silver, and Business Cards. MasterCard cards are similar to Visa in being issued under global licensing agreements with banks.

C. American Express (AmEx):

A global financial institution founded in 1850 and based in New York, AmEx issues cards directly to customers. It caters to financially stable clients and handles all card-related processes, including issuance and merchant settlements. Some banks are authorized to deduct payments directly from the customer's account.

D. Diners Club:

Owned by Citibank Group, Diners Club issues three types of cards: ATM cards for regular users, business cards for entrepreneurs, and special co-branded cards with major companies like British Airways or Volvo. Diners Club cards are considered premium and are issued by leading financial institutions.

E. Store-Issued Credit Cards:

Some commercial companies issue their own credit cards, usable only at their branches. These cards aim to build customer loyalty and simplify financial transactions within the company's network.¹

These various types of credit and bank cards offer a wide range of options for consumers, providing them with flexibility in daily purchases, online payments, travel, and professional transactions.

Third: Advantages and Disadvantages of Electronic Payment Methods

Although electronic payment methods offer many advantages that contribute to improving efficiency and reducing costs, they are not without drawbacks and risks. These drawbacks range from technical issues to concerns about privacy and security. Therefore, it is essential to understand both the benefits and limitations of these methods to ensure their safe and effective use.²

1. Advantages of Electronic Payment Methods:**1.1- Convenience and Ease:**

Users can carry out financial transactions anytime and from anywhere, saving time and making the payment process more seamless without the need for physical presence or handling cash.

1.2- Speed:

Transactions are processed almost instantly—whether it's an online purchase or a money transfer—helping to accelerate business operations.

1.3-. Security:

Electronic payment methods use advanced encryption technologies to protect financial data and personal information, reducing the risk of fraud or tampering.

1.4- Global Accessibility:

Users can make payments across different countries via the internet, which facilitates international purchases and boosts e-commerce.

1.5- Reduced Need for Cash:

Electronic payments minimize the reliance on physical money, reducing the risks associated with theft or loss.

1.6- Tracking and Documentation:

¹ - Ben Ali Ben Aziz and other., *Risk Management, Financial Derivatives, and Financial Engineering*, Al-Warraq Publishing and Distribution, Amman, Jordan, 2013, p. 188.

²- Jalal Ayed Al-Shoura, *Electronic Payment Methods*, Dar Al-Thaqafa for Publishing and Distribution, Amman, Jordan, 2009, p. 126.

These methods provide accurate records of financial transactions, making it easier to track payments and expenses, thus contributing to better financial management.

1.7- Improved Efficiency:

Electronic payments help reduce the costs associated with traditional banking transactions (e.g., bank fees) and save time for both company employees and financial institutions.¹

2. Disadvantages of Electronic Payment Methods:

2.1- Internet Dependency:

Since electronic payments rely heavily on internet connectivity, any disruptions or technical issues can lead to delays or interruptions in transactions.

2.2 -Limited Access for Some:

People in certain regions or those with low income may lack access to the necessary technology to use electronic payment systems, leading to digital exclusion.²

2.3- Online Fraud:

Despite advanced security systems, electronic payments remain vulnerable to cyber fraud, such as credit card data theft or malware attacks targeting sensitive information.

2.4- Technical Risks:

Users may experience technical problems such as system errors or transaction failures, which could result in the loss of funds or transaction delays.

2.5-Debt from Credit Spending:

When using credit cards, users might be tempted to spend beyond their means, leading to debt accumulation and potentially high interest rates.

2.6- Legal Challenges:

Regulations governing electronic payments vary from country to country, which can pose difficulties in international trade or when legal disputes arise.

2.7-Privacy Concerns:

Large amounts of personal and financial data are collected when using electronic payment methods, raising concerns about data theft or unauthorized use of information.

¹ - Mayada Belaayach, previously cited reference, p. 102

²- Fadila Aqqali, *Cybercrime and Procedures for Combating It through Algerian Legislation*, paper presented at the International Conference on Cybercrimes, Beirut, Lebanon, March 24–25, 2017. Available at: <http://jilrc.com>

Section Two: Risks of Electronic Payment Methods and Algeria's Legal Protection Efforts

Electronic payment has become an essential part of our daily lives amid technological advancement and the widespread use of the internet. Despite the conveniences and speed it offers in completing financial transactions, it also carries several risks that can affect both individuals and businesses.¹

First – Risks of Electronic Payment Methods

While electronic payments offer numerous and significant advantages, they also come with various risks, which include:

1. Fraud and Theft:

2. Electronic payment methods may be exposed to online fraud or theft, such as phishing attacks or the theft of credit card data.

3. Security Breaches:

Despite the use of encryption technologies, cyberattacks like data breaches can compromise users' financial information, putting them at financial risk.

4. Insecure Technologies:

If proper security updates are not in place or if weak technologies are used, payment systems can be vulnerable to hacking, leading to the loss of funds or sensitive data.

5. Legal Issues Related to Cross-Border Transactions:

Individuals and companies may face difficulties in applying electronic payment systems across borders due to differing regulatory laws from one country to another.

6. Exposure of Personal Data to Theft:

If data is accessed by attackers, users' personal information may be misused or sold illegally.

From these points, we can conclude that electronic payment methods offer many advantages such as convenience, speed, and security, as well as saving users time and effort. However, they also carry certain disadvantages and risks related to security, privacy, and technology. It is crucial for users to be aware of these risks and to take proper security measures, such as using strong passwords, verifying the safety of websites, and staying informed about legal regulations concerning electronic payments.²

Second – Algeria's Experience in the Legal Protection of Electronic Payment Methods

Algeria's experience in the field of electronic payment is relatively recent, having evolved gradually from initial attempts to establish a legal framework to the creation of laws regulating the electronic payment system. The development of this system in Algeria began with Monetary and Credit Law No. 01/03, which served as the legal starting point for advancing electronic payment methods in the country. However, the actual implementation began in 2006 with the issuance of the first electronic withdrawal card in Algeria, followed by nationwide adoption starting in 2007.

In the same context, the Algerian legislator introduced a set of legal provisions governing the operation of bank cards through Commercial Law No. 02/05, issued in 2005, which designated banks as the sole issuers of such cards. Nevertheless, this law presented some shortcomings, particularly in clarifying the mechanisms for managing this type of electronic payment and ensuring legal protection for digital transactions in general.

¹- Taneja, B. (n.d.). Risk in Electronic Payment Systems. Retrieved from <https://drbtaneja.com/risk-in-electronic->

²- Rahali, Saif Eddine. (2022). *Risks of Electronic Payment on the Electronic Consumer*. Journal of Legal and Political Studies, 11(2), 160-172.

Despite these legislative efforts, Algerian laws related to electronic payment are still under development and require further enhancement and clarification to ensure adequate legal protection for electronic transactions in line with international standards. Moreover, the laws related to e-commerce and electronic financial transfers need to be updated to offer a more secure and transparent legal framework.

Despite these challenges, Algeria is striving to develop a modern digital legislative environment that aligns with the rapid digital transformation. This would guarantee the rights of all parties involved in the electronic payment system and contribute to improving the safety and protection of financial transactions.

The Algerian legislator has not yet enacted specific laws solely dedicated to the protection of electronic payment methods. Instead, various legal provisions are applied from the Civil Code and the Commercial Code. In addition, the provisions of Law No. 09-04 are applied, which include rules related to the prevention and combating of crimes involving information and communication technologies.

Given the unique nature of digital transactions adopted by the Algerian system, the Penal Code was amended through Law No. 15-04, which modified and supplemented Ordinance No. 66-156. This amendment introduced Section Three, dedicated to cybercrimes (Articles 394 bis to 394 bis 7), reflecting increased attention to legal issues related to cybercrime and electronic payment systems.

Furthermore, there are several bodies responsible for combating cybercrime in Algeria, including crimes associated with electronic payment methods. These bodies include law enforcement and judicial institutions that aim to address the growing threats associated with the illegal use of technology, such as online fraud, data theft, and financial cybercrimes.

Key Institutions Involved:

1. The National Body for the Prevention and Combating of ICT-Related Crimes:

Established under Law No. 04-09 of August 5, 2009, this body focuses on judicial and international security cooperation, managing preventive operations, and providing technical assistance to judicial and security institutions. It can also be tasked with conducting forensic investigations in the event of cyberattacks, particularly if they target state institutions, national defense, or strategic sectors of the national economy.

2. Specialized Criminal Judicial Bodies:

Created under Law No. 04/14 of November 10, 2004 (amending the Code of Criminal Procedure), these courts handle crimes affecting automated data processing systems, according to Articles 329, 37, and 40. Their jurisdiction was extended by Executive Decree No. 06/348 of January 5, 2006, allowing them to consider cases involving ICT crimes committed outside the country, provided they target state institutions or national defense.

3. The National Institute of Forensic Science and Criminology:

This institute comprises eleven specialized departments involved in technical expertise, training, and support. Among them is the Department of IT and Electronics, which analyzes and provides digital evidence crucial for judicial cases. It also assists investigators by conducting digital forensic analyses.

4. The General Directorate of National Security (DGSN):

The DGSN tackles cybercrime from various angles, including prevention and awareness. It conducts awareness sessions at all educational levels and participates in national conferences and seminars. It also works to educate citizens about the dangers of cybercrime and how to prevent it.

Despite the progress Algeria has made in the field of electronic payment, the legislator has yet to enact specific, comprehensive laws governing the use and protection of such payment methods. While several institutions work to combat electronic crimes related to payment

systems, there remains a pressing need to establish a detailed and unified legal framework to ensure effective protection of this critical sector.

Conclusion:

In conclusion, it can be said that Algeria has taken significant steps toward adopting electronic payment as part of its digital economic system. However, challenges remain regarding the legal protection and security of such operations. Although the Algerian legislator has made some efforts to lay the legal foundations through various laws, the need for dedicated legislation on electronic payment remains urgent to ensure the protection of individuals and businesses from electronic risks.

The ongoing technological development and increasing reliance on electronic payment methods demand continuous updates and improvements to the legal systems. These updates should aim to keep pace with rapid digital changes and to provide a secure and trustworthy environment for electronic transactions.

Recommendations:

-Enact Special Legislation:

It is essential to issue specific laws regulating electronic payment methods in Algeria, with clearly defined rules regarding privacy and security in digital transactions.

-Enhance International Cooperation:

Strengthen cooperation with international and regional organizations in the fields of data protection and combating cybercrime related to electronic payments, to benefit from shared expertise and technologies.

-Strengthen the Role of Regulatory Bodies:

Increase the efforts of national regulatory bodies to monitor and audit the systems used in electronic payments, ensuring their compliance with relevant safety and protection laws.

-Improve Awareness and Training:

Raise awareness among individuals and companies about the importance of cybersecurity and the need to protect their personal data from theft or misuse, through comprehensive educational and training programs.

-Encourage Banks and Financial Institutions:

Motivate banks and financial institutions to improve the security technologies used in electronic payment operations, including software updates and tools that address emerging cyber risks.

-Enforce Penalties for Cybercrime:

Activate and enforce penalties against cybercrimes that target electronic payment systems, and develop legal mechanisms that serve to deter such crimes and protect individuals and institutions from increasing threats.

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