

The State of Smart Digitalization of Public Procurement in Algerian Legislation

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Abstract:

Technological development has had a significant impact on the activities of public administration in all fields, particularly in the area of public procurement. The procedures for awarding public procurement contracts have been influenced by this development, leading to the introduction of a new approach to procurement procedures that is consistent with technological advancements. This is the approach adopted by the Algerian legislator through the establishment of a dedicated electronic system (the electronic portal) to implement these procedures by issuing legislative legal provisions governing it, notably Law No. 23-12.

Keywords: Electronic Portal; Public Procurement; Law No. 23-12.

Introduction:

Today, the world is gradually abandoning traditional administrative methods, prompting states to reconsider the functions of traditional public administration, the mechanisms for delivering public services, and the implementation of administrative transactions in order to keep pace with the requirements of developments in information and communication technologies. This development has compelled states to introduce modern digital tools into administrative mechanisms and the structures of public administration. Algeria, like many other countries, has sought to modernize its public administration in line with technological advancements. Accordingly, the Algerian legislator has adapted laws and regulatory texts to align with the requirements of digitalization within the administrative and financial spheres.

The modernization of administrative bodies through the introduction of digital technologies into the administrative field has led to the emergence of e-administration, which represents a new model of administrative management based on the use of information technology in carrying out administrative activities. This is achieved by transforming administrative transactions and public services whether those conducted between administrative bodies or those involving citizens and economic operators from their traditional paper-based form into an electronic format, with the aim of saving time, effort, and costs. This modern approach has become an essential requirement for improving the quality of public services, facilitating the

fulfillment of the needs of citizens and economic operators, and achieving the objective of bringing public administration closer to users in support of social and economic development. This digital transformation has given rise to the concept of digitalization as a technical process that contributes to the integration of digital technologies into various fields, including public procurement. In this area, the Algerian legislator regulated the introduction of digitalization through Presidential Decree No. 10-236¹ of 7 October 2010 on the regulation of public procurement, which was repealed by Presidential Decree No. 15-247² of 16 September 2015 on the regulation of public procurement and public service delegations, culminating in the new Law No. 23-12³ of 5 August 2023, which establishes the general rules governing public procurement.

Accordingly, the research problem addressed in this study is: Has Algerian legislation kept pace with regulating the digitalization process in the field of public procurement?

To answer this question, the first section examines the manifestations of the dematerialization of public procurement in Algerian legislation, while the second section addresses the digitalization of public procurement award procedures under Algerian legislation.

Section One: Manifestations of the Dematerialization of Public Procurement in Algerian Legislation

As public procurement constitutes one of the most important administrative contracts concluded by the State due to its considerable significance, it represents the driving force behind local development and national economic growth, given the substantial financial resources allocated for its implementation. Consequently, the Algerian legislator has accorded it particular attention, especially in seeking to protect public funds from all forms of corruption, including by moving away from traditional procedures through the modernization of public procurement award procedures via the electronic public procurement portal. This reflects the dematerialization of public procurement.

First: Stages of the Dematerialization of Public Procurement

The legislator's intention to dematerialize public procurement first appeared in Presidential Decree No. 10-236, followed by Presidential Decree No. 15-247, and most recently Law No. 23-12, which was enacted within the framework of the reforms adopted by the State to protect public funds and ensure their rational management.

1. The Stage of the Dematerialization of Public Procurement under Presidential Decree No. 10-236

Presidential Decree No. 10-236 marked the first step toward introducing technology into the field of public procurement through the establishment of what is known as electronic publication. This was provided for in Title V, entitled "Control of Public Procurement",

¹ Presidential Decree No. 10-236 dated 07/10/2010, relating to the regulation of public procurement, Official Gazette, Issue No. 58, issued on 07/10/2010.

² Presidential Decree No. 15-247 dated 16/09/2015, relating to the regulation of public procurement and public service delegations, Official Gazette, Issue No. 50, issued on 20/09/2015.

³ Law No. 23-12 dated 05/08/2023, establishing the general rules relating to public procurement, Official Gazette, Issue No. 51, dated 06/08/2023.

specifically in the preliminary section containing the general provisions. Article 119, paragraph (3), states:

"The aforementioned information shall be published compulsorily in the Official Bulletin of Public Procurement of the Public Contracting Authority and/or on the website of the contracting authority."

With regard to electronic communication, this was addressed in Title VI, entitled "Communication and Exchange of Information by Electronic Means." Article 173 provided for the establishment of the electronic portal by stating:

"An electronic public procurement portal shall be established under the authority of the Minister responsible for Finance. Tenderers or candidates for public procurement contracts may respond electronically to invitations to compete. The procedures for implementing this Article shall be determined by a decision of the Minister responsible for Finance."

If we assess the reality of the dematerialization of public procurement under this repealed decree, the following observations may be made:

The mandatory nature of invitations to compete by electronic means remained uncertain, as Article 174⁴ employed permissive wording, providing that contracting authorities may make the tender documents available to tenderers or candidates electronically. This clearly indicates that electronic publication was not mandatory. Consequently, electronic invitations to compete constituted only an additional and complementary means of publication alongside the mandatory methods, namely newspaper publication and publication in the Official Bulletin of Public Procurement of the Public Contracting Authority, without replacing these mandatory publication requirements.⁵

The legislator did not specify the electronic procedure by which candidates could respond to invitations to compete or the manner in which technical and financial bids should be submitted electronically, leaving these matters to implementing regulations through a decision of the Minister responsible for Finance. However, this decision was not issued until 2013, three years after the promulgation of the Presidential Decree, and only entered into force in 2014.

The dematerialization of public procurement procedures was limited solely to electronic publication, information exchange, and electronic communication.

These shortcomings prompted the legislator to address them through the issuance of Presidential Decree No. 15-247.

2. The Stage of the Dematerialization of Public Procurement under Presidential Decree No. 15-247

The legislator addressed several legal and practical shortcomings contained in the repealed Presidential Decree No. 10-236. Under Presidential Decree No. 15-247, greater emphasis was placed on the introduction of information and communication technologies into the field of

⁴ See Article 174 of Presidential Decree No. 10-236, previously cited.

⁵ Belghoul Abbas, "Electronic Public Procurement in Presidential Decree No. 15-247," *Journal of Legal Studies*, University of Saida, Volume 6, Issue 2, December 2019, pp. 56–57.

public procurement, while expanding certain functions and features compared with those provided under Presidential Decree No. 10-236.

With regard to the function of electronic publication, the Decree required the contracting authority, at the beginning of each financial year, to prepare a list of all public procurement contracts concluded during the previous financial year, together with the names of the enterprises or groups of enterprises awarded those contracts. It also required the preparation of a provisional program of projects to be launched during the current financial year, with the possibility of amending that program.

This information must be published compulsorily in the Official Bulletin of Public Procurement of the Public Contracting Authority and/or on the official website of the contracting authority. However, this publication requirement is waived where the information is of a confidential nature.⁶

Regarding communication by electronic means, the provisions of Articles 173 and 174 of Presidential Decree No. 10-236 were amended through Articles 203 to 206 of Presidential Decree No. 15-247. Article 203 provides that:

"An electronic public procurement portal shall be established and managed by the Ministry responsible for Finance and the Ministry responsible for Information and Communication Technologies, each within its respective area of competence."

In this regard, the content of the electronic portal and the methods of its management shall be determined by a joint decision between the Minister responsible for Finance and the Minister responsible for Information and Communication Technologies, according to the powers of each ministerial department, while the methods of managing the portal shall be determined by a decision of the Minister responsible for Finance.

Through this article, it can be observed that the legislator entrusted the establishment of the electronic portal to the Ministry of Finance in coordination with the Ministry of Information and Communication Technologies through a joint decision between them, in order to ensure its operation and launch, thereby addressing the significant delay that had occurred since the issuance of Presidential Decree No. 10-236.

Regarding the exchange of information by electronic means, Article 204 reaffirmed the provisions contained in Article 174 of the repealed Presidential Decree No. 10-236, in addition to adapting all paper-based public procurement procedures to electronic methods.

Article 205 provided for the use of documents and information available on the portal to establish a database, whereby tenderers' application files are stored for use in subsequent procedures. The same article, in its third paragraph, also stipulated that tenderers shall not be required to provide documents that the contracting authority can obtain electronically. This means that the electronic portal has been made a database and an electronic archiving tool through the electronic storage of tenderers' files, as well as eliminating the requirement for

⁶ * Djelloul Mohamed and Zazoua Fatima, "Digitalization of Public Procurement in Algerian Legislation between Reality and Expectations in Light of the New Law No. 23-12," *Journal of Legal and Economic Research*, University Center of Aflou – Laghouat, Volume 07, Issue 01, 2024, p. 62.

tenderers to submit paper documents that can be obtained electronically by the contracting authority.

As for Article 206 of Presidential Decree No. 15-247, the legislator introduced the reverse electronic auction, enabling contracting authorities to resort to reverse electronic auctions in order to select the best offer at the lowest price in procurement contracts for supplies. It also allowed contracting authorities to use electronic catalogues of tenderers within the framework of a permanent procurement system, the implementation of a program contract, or an order contract. As with most provisions, the determination of the procedures for implementing these articles was left to a decision issued by the Minister responsible for Finance.

Regarding the opening of envelopes related to the application file and the evaluation of technical and financial offers, these procedures are conducted in public sessions according to ordinary paper-based submission procedures. They cannot be adapted to electronic procedures, given that they take place in public sessions.

It can be said that, under this Decree, the legislator overlooked clarifying the electronic procedure for candidates' responses to invitations to compete and the method for submitting their technical and financial offers, leaving the matter to a decision of the Minister responsible for Finance (which is usually issued several years later). Furthermore, the legislator did not exclude national defense contracts from the exchange of information by electronic means in the field of public procurement, despite the fact that this administration is associated with the confidentiality of its contracts.⁷

The Algerian legislator did not provide electronic archives with special protection against hacking, theft, and unauthorized access to the information and documents contained therein through legal provisions. The legislator also did not address the obligation of the contracting authority, when resorting to the reverse electronic auction, to comply with the rules of prior publicity. The contracting authority must publish the announcement of the reverse electronic auction on the public procurement portal for a legally specified period.⁸

3. The Digitalization of Public Procurement under the New Law No. 23-12

Law No. 23-12 represented a qualitative shift toward the digitalization of public procurement when compared with Presidential Decrees No. 10-236 and No. 15-247. It reaffirmed the provisions introduced by the two previous decrees in Title VI, Chapter II of Law No. 23-12, which addresses digitalization in the field of public procurement. This was established through Article 105, which states:

"An electronic public procurement portal shall be established and managed by the competent services of the Ministry responsible for Finance. The content of the portal and the methods of its management shall be determined by a decision of the Minister responsible for Finance."

Article 106 also incorporated the provisions of Presidential Decree No. 15-247, stipulating that the information and documents transmitted through the electronic portal shall be used to establish a database and that tenderers' application files shall be stored for subsequent use.

⁷ Djelloul Mohamed and Zazoua Fatima, previously cited, p. 72.

⁸ Djelloul Mohamed and Zazoua Fatima, previously cited, p. 72.

Furthermore, Article 46 of Law No. 23-12 provided that publicity shall be mandatory through the Official Bulletin of Public Procurement of the Public Contracting Authority and through approved electronic press platforms. Its second paragraph also stipulated that publicity shall be mandatory through the electronic public procurement portal under the conditions determined by the Minister responsible for Finance.

Regarding the exchange of information by electronic means, the legislator also confirmed in Article 107 that contracting authorities shall make invitation-to-compete documents available to tenderers or candidates for public procurement contracts electronically, and that responses shall also be submitted electronically.

This new public procurement legislation contributes to strengthening integrity by ensuring free access to public procurement, equality between economic operators, and transparency of procedures. It also represents a qualitative step toward restoring the legislative authority's role in establishing the general rules governing this field.⁹ However, it still requires adaptation to technological developments and should be given priority due to its great importance, for the following reasons:

- The delay in issuing decisions and regulatory texts related to the digitalization of public procurement provided for in the new Law No. 23-12, which are necessary to ensure its effective implementation in practice, such as updating the decision dated 17 November 2013, which determined the content of the electronic public procurement portal, its management procedures, and the methods of exchanging information electronically.¹⁰
- The Algerian legislator considers the use of a digital system or the electronic public procurement portal as a complementary mechanism to traditional procedures.¹¹
- The legislator did not provide for the digitalization of all public procurement procedures; therefore, some procedures carried out in paper form cannot be completely abandoned.
- The law has not been updated in accordance with the requirements of digitalizing public procurement through the electronic portal, as there is no comprehensive legislative framework regulating the operation of the portal, and there is no mandatory requirement for public entities to conclude their contracts through the electronic portal. In addition, efforts are needed to adapt paper-based procedures to electronic procedures.

Similar to the two previous decrees, the legislator excluded, pursuant to Article 109 of Law No. 23-12, public procurement contracts related to the Ministry of National Defense from the provisions of this law with regard to the opening of envelopes and the provision of invitation-to-compete documents through electronic means. It also excluded public procurement contracts

⁹ Mehda Djelloul, "Mechanisms for Enhancing the Integrity of Public Procurement Contracts in Light of the Developments of Law No. 23-12," *African Journal of Legal and Political Studies*, Ahmed Draia University, Adrar, Algeria, Volume 08, Issue 02, 2025, p. 152.

¹⁰ Ben Djelloul Mohamed and Zazoua Fatima, previously cited, p. 76.

¹¹ Kamoun Hussein, "Electronic Contracting in the Field of Public Procurement between the Necessity of Implementation and Obstacles to Application," *Journal of Legal and Political Thought*, Amar Telidji University, Laghouat, Volume 07, Issue 02, 2023, p. 751.

relating to the acquisition and construction of equipment and facilities related to national security and defense.

This law did not repeal Presidential Decree No. 15-247. Rather, according to Article 112, only provisions contrary to this law are repealed, while regulatory provisions remain in force until the publication of new regulatory texts.

It can be observed that the digitalization of public procurement operations constitutes one of the most important achievements accomplished by the legislative authority in order to protect public funds from corruption. This is because the digitalization of procedures reveals all violations that previously occurred through paper-based methods, which undermined the principle of legality and free competition. Such practices are inconsistent with keeping pace with development and negatively affect the promotion of transparency and equality in public procurement requests. Furthermore, the registration of numerous public entities through the electronic portal is still not comprehensive.

Second: The Actual Implementation of Digitalization in Law No. 23-12 through the Establishment of Specialized Institutions in Digitalization and Innovation

Through Law No. 23-12, the legislator moved beyond the procedural aspects of the invitation-to-compete process in public procurement procedures. The legislator allowed the contracting authority to resort to direct negotiation when contracting with a startup holding a label in the field of digitalization and innovation, provided that the solutions offered are unique and innovative. This is achieved through the promotion of labeled startups operating in the field of digitalization and innovation, given their distinctive characteristics.

1. Encouraging Digitalization through the Promotion of Labeled Startups Specialized in Digitalization and Innovation

The important role played by startups, as creative technical institutions in the field of information and communication technologies, which are concerned with developing and marketing new technologies, ¹²has led the legislator to grant them particular attention in the field of public procurement. Law No. 23-12 granted the contracting authority the power to conduct direct negotiations exclusively in specific cases provided for in Article 41. Among these cases is the promotion of labeled startups that provide services in the field of digitalization and innovation, provided that the solutions offered by these institutions are unique and innovative, granting them priority in contracting.

This article constitutes clear evidence of the Algerian legislator's intention and support for the development and introduction of digitalization in the field of public procurement, as startups aim to provide solutions to specific problems within a short period of time and at the lowest

¹² Mekhancha Amina, "Startups in Algeria: The Conceptual and Legal Framework," *Sawt Al-Qanoun Journal*, University of Khemis Miliana, Volume 08, Issue 01, 2021, p. 771.

possible cost¹³. These institutions must operate in the field of products, goods, business models, or any innovative idea. This constitutes one of the conditions for granting the startup label.¹⁴ The interest of the Algerian legislator in the field of labeled startups is also demonstrated through the principle of promoting national production and the national production tool, as provided for in Article 58¹⁵ of Law No. 23-12, which confirms that, when a startup is capable of meeting the needs of the contracting authority, a public procurement contract may be exclusively allocated to it.

2. Reasons for the Algerian Legislator's Support for Startups Specialized in Digitalization and Innovation

The transition toward the digitalization of administration from a traditional administration to an electronic administration has led the Algerian legislator, through Public Procurement Law No. 23-12, to support leading startups in the fields of digitalization and innovation. This is based on the fact that public procurement contracts are among the contracts concluded by the administration, which require practical tools for their development, taking into consideration the following factors:¹⁶

- Startups are a means of achieving and implementing digitalization.
- Improving the quality and speed of services between citizens, economic operators, and the administration.
- Developing a database on society through the adoption of mechanisms for managing and governing the Internet at the national level.
- Encouraging and supporting the establishment of cooperation and partnership relations with foreign institutions.
- Establishing a digitalization support and development institution responsible for setting the main guidelines for promoting the use of technology.

Section Two: The Reality of the Digitalization of Public Procurement Award Procedures in Algerian Legislation

The development of information and communication technology tools has affected public procurement award procedures, leading to the introduction of a new method for concluding public procurement contracts that is consistent with these technologies. This is the approach adopted by the Algerian legislator through efforts to establish a specific electronic system (the electronic portal) that implements these procedures through the issuance of legal texts regulating this matter.

¹³ See Article 41 of Law No. 23-12, previously cited.

¹⁴ See Article 11 of Executive Decree No. 20-254 dated 15 September 2020, establishing a national committee for granting the labels of "Startup," "Innovative Project," and "Business Incubator," and determining its missions, composition, and functioning procedures, Official Gazette, Issue No. 55, issued on 21 September 2020.

¹⁵ See Article 58 of Law No. 23-12, previously cited.

¹⁶ Ferdous Istambouli and Ansira Touati, "Developments in the Digitalization of Public Procurement in Light of Law No. 23-12 Establishing the General Rules Relating to Public Procurement," *Journal of Legal and Political Research and Studies*, Volume 09, Issue 02, June 2025, p. 307.

First: Digitalization of Public Procurement Award Procedures in Algerian Legislation

1. The Electronic Public Procurement Portal

Within the framework of implementing e-administration, Algeria has undertaken the modernization of the process of awarding public procurement contracts at its various stages. The first legal text addressing this matter was Presidential Decree No. 10-236 (repealed) on the regulation of public procurement, pursuant to Articles 173 and 174, as well as the ministerial decision dated 17 November 2013, which aims to determine the content of the electronic public procurement portal, its management procedures, and the methods of its operation.¹⁷ This was also addressed through Article 203 of Presidential Decree No. 15-247 relating to public procurement and public service delegations, and Article 105 of Law No. 23-12 establishing the general rules relating to public procurement. These legal texts allowed the publication and exchange of documents and information related to public procurement contracts, as well as their conclusion through electronic means.

Definition of the Electronic Portal

The electronic portal is defined as a specialized website dedicated to public procurement. It constitutes a broad space for all public operators in the field of public procurement, as well as for all those interested in this field. It aims to enable the publication and exchange of documents and information related to public procurement, in addition to concluding public procurement contracts electronically.¹⁸

The electronic portal is a unified gateway to a wide range of electronic services or applications that operate within a specific sectoral scope and are intended to serve a public with similar characteristics. It allows the aggregation of content from different sources and involves communication and information exchange on a broad regional basis, relying on the principles of participation and interaction.¹⁹

The Algerian legislator sought to dematerialize public procurement contracts through the establishment of this electronic portal and by opening the way for contracting authorities to use modern communication tools in public procurement award procedures.

It contributes to saving time and effort and facilitates access to information, as well as the exchange of documents by both contracting authorities and the economic operators dealing with them in a more secure manner.

¹⁷ Decision dated 17 November 2013 determining the content of the electronic public procurement portal and the methods of exchanging information electronically, Official Gazette issued on 09 April 2014, Issue No. 21.

¹⁸ Ben Salem Bouabdallah Oudan and Mohamed El Bachir Mekran, "The Electronic Public Procurement Portal: Towards Improving Public Service within the Framework of Electronic Administration," *Journal of Finance and Markets*, Abdelhamid Ibn Badis University, Mostaganem, Volume 02, Issue 02, 2015, p. 111.

¹⁹ Hicham Messaoudi, "A Reading of the Laws Regulating the Content of the Work of the Algerian Electronic Public Procurement Portal," *Comparative Legal Studies*, Hassiba Ben Bouali University, Chlef, Volume 07, Issue 02, 2021, p. 279.

Functions of the Electronic Portal

The electronic portal contains functions that enable economic operators, contracting authorities, and those interested in public procurement to access it in order to meet needs and requirements of the public interest. These functions are as follows:

1- Publication:

Electronic publication refers to the digital storage of information, its adaptation, dissemination, transmission, and presentation electronically or digitally through communication networks. This information may take the form of texts, images, or graphics that are processed automatically.²⁰

It is also defined as the use of electronic devices in various fields of administrative production and the distribution of information to users, which is consistent with publication through traditional methods.²¹

The aforementioned decision dated 17 November 2013 provided, in Article 3, that the portal includes the publication of the following information and documents:

- Legislative and regulatory texts relating to public procurement.
- Legal consultations related to public procurement.
- The list of economic operators prohibited from and excluded from participating in public procurement contracts.
- Any document or information related to the subject matter of the portal.
- The provisional programs of contracting authorities' projects and the lists of contracts concluded during the previous financial year, as well as the names of the beneficiary institutions.
- Reports of contracting authorities relating to the implementation of public procurement contracts.
- The list of institutions whose classification and qualification certificates have been withdrawn.
- Price index numbers.

2- Registration:

The electronic portal provides both contracting authorities and economic operators with an electronic account on its own network, enabling them to carry out their transactions electronically through the registration process provided for in ****Article 4 of the decision of the Minister responsible for Finance dated 17 November 2013****, which includes:

- Registration of contracting authorities through the portal.
- Registration of economic operators through the portal.
- Coding of documents.

²⁰ Badr Ahmed, *Library and Information Science: Studies in Theory and Thematic Relations*, Dar Al-Gharib, Cairo, 1996, p. 309.

²¹ Ahmed Nafeh Al-Madadhah, *Electronic Publishing and Information Protection*, Dar Al-Safa for Publishing and Distribution, Jordan, 2011.

- Electronic signature on documents and any other function necessary for the proper functioning of the portal.

3- Information Collection:

The same decision provided for the establishment of a database allowing the collection of information through the portal, pursuant to Article 5, including information relating to:

- Contracting authorities.
- Economic operators and their administrative files.
- Public procurement contracts.
- Economic statistical forms.
- The exchange of documents and information through portal publications.

4- Management:

The management of the electronic portal, pursuant to Article 6 of the same decision, includes, in addition to hosting the information infrastructure, the management of systems, networks, and databases, management of access to the portal, maintenance of the portal, ensuring the sustainability, continuity, and availability of access to the services provided by the portal, as well as managing technical developments through the integration of new functions.

In addition, the electronic portal allows users benefiting from its services to subscribe to an information broadcasting service concerning a specific service-related topic or several topics, and to determine the means of receiving such information, such as email, mobile phone, and other various modern means.²²

It also enables users to search for and access the content they wish to consult or obtain.

2/ Electronic Announcement of Public Procurement Contracts

Electronic announcement is considered one of the most important procedures that the administration is required to follow when awarding public procurement contracts, while respecting the fundamental principles such as the principle of transparency and equality in awarding public procurement contracts, in order to open the door to competition among contracting operators. These principles constitute among the most important foundations ensuring the proper and lawful conclusion of public procurement contracts, as well as their effective implementation. This was established through Articles 105 to 107 of the new Law No. 23-12 dated 5 August 2023, which establishes the general rules relating to public procurement. As a result of the requirements imposed by technological transformation, the administration has become able to rely on electronic means in the process of announcing and receiving applications or offers electronically. This is because free competition in electronic public procurement means providing an opportunity for all those who meet the required conditions to submit their applications according to the conditions announced by the contracting authority. Therefore,

²² Farouk Mohamed Ahmed Al-Abasiri, *The Subscription Contract to Information Databases via the Internet*, Dar Al-Jami'a Al-Jadida for Publishing, Egypt, 2002, p. 20.

electronic announcement constitutes a genuine guarantee for attracting the largest possible number of competing economic operators.²³

Definition and Importance of Electronic Announcement

The process of concluding a public procurement contract begins with the announcement of the contract conditions. This refers to informing all those wishing to enter into a contract, particularly those who meet the financial and technical conditions previously determined by the contracting authority, and notifying them of the procedures for obtaining the specifications documents, the nature of the required specifications, as well as the time and place for carrying out any form of public procurement procedure.²⁴

Electronic announcement of an administrative contract can also be defined as:

"The issuance of an invitation to the public by the administrative authority that intends to conclude a specific contract, in accordance with the conditions contained in this invitation to contract, with the aim of submitting bids that comply with these conditions within a specified period, using an electronic means."²⁵

The announcement of public procurement is considered mandatory as it constitutes a formal and essential procedure that reflects the neutrality and transparency of the administration. It opens the field of competition among those wishing to contract with the administration by reaching the largest possible number of persons interested in public procurement who meet the required conditions, in order to express their desire and intention to conclude specific public procurement contracts using electronic means. These electronic means vary and develop according to the advancement of communication systems and information technologies.²⁶

Article 46 of the new Law No. 23-12, which establishes the general rules relating to public procurement, clearly provides that publicity shall also be carried out obligatorily through the electronic public procurement portal, under the conditions determined by a decision of the Minister responsible for Finance, with regard to the forms of concluding public procurement contracts referred to in Articles 39 and 42 of this law.

In application of this provision, Article 107 of Law No. 23-12 stipulates that:

"Contracting authorities must make invitation-to-compete documents available to tenderers or candidates for public procurement contracts electronically, according to a timetable determined by a decision of the Minister responsible for Finance."

²³ Khair Eddine Faiza, "Electronic Announcement as a Means of Attracting the Largest Possible Number of Competitors for Public Procurement Contracts in Algeria," *Journal of Legal and Economic Research*, University Center of Aflou, Laghouat, Volume 106, Issue 02, 2023, p. 849.

²⁴ Abdessalam Nour Eddine, "The Role of Announcement in Strengthening the Principle of Transparency of Public Procurement Contracts as a Mechanism for Preventing Corruption," *Journal of Legal and Economic Research*, University Center of Aflou, Laghouat, Volume 04, Issue 02, 2021, p. 323.

²⁵ Khair Eddine Faiza, same reference, p. 859.

²⁶ Abdessalam Nour Eddine, previously cited reference, p. 327.

The legislator went even further by obliging the contracting authority to publish announcements in the electronic press, which was not expressly mentioned in Presidential Decree No. 15-247. In this regard, Joint Ministerial Decision No. 194 dated 9 July 2025²⁷ provided that:

"Candidates or tenderers for public procurement contracts must respond to the invitation to compete electronically, according to the timetable mentioned above."

Here, the mandatory nature of the principle of announcing competition can be observed. This is reflected in the legislator's requirement to resort to publicity through the publication of calls for tenders in their various forms, including the announcement of calls for tenders through the electronic portal, in order to provide competition opportunities for all candidates and to ensure the implementation of the principle of equality among them.

Electronic announcement is considered an effective means of reaching and achieving the intended outcome from its use in disclosing the various contracts of individuals. The objective sought through its use is to attract the largest possible number of economic operators or users interested in the procurement contract to be announced, by browsing the electronic public procurement portal either through electronic means or by using an online platform.²⁸ By comparing electronic public procurement announcements with traditional announcements, their great importance becomes evident through the following points:

1- Speed of delivering announcements and saving time:

Electronic announcement procedures are now carried out through registration on the electronic portal account created for this purpose, through which economic operators communicate with contracting authorities via their accounts. They receive all new information related to procurement contracts, including sufficient data, with the possibility of storing it for use in contracting procedures or as a reference and proof.²⁹

2- Preservation of public funds and reduction of contracting authorities' budgets:

Electronic announcement relies on the use of communication networks without resorting to paper documents and files, which leads to reducing costs and storage spaces. It also enables the satisfaction of public needs with fewer resources, thereby contributing to the preservation and sustainability of public funds.

3- Shortening the interaction period between contracting authorities and economic operators:

Under traditional announcements, interaction between contracting authorities and economic operators takes place over a long period of time. However, with electronic announcements, interaction occurs within shorter periods, as contracting authorities can send announcements and communicate with the largest possible number of economic operators easily and in less time.

²⁷ Joint Ministerial Decision No. 194 dated 09 July 2025, determining the conditions and procedures for contracting authorities to publish announcements through approved electronic press platforms when concluding public procurement contracts.

²⁸ Khair Eddine Faiza, previously cited reference, p. 851.

²⁹ Abdessalam Nour Eddine, previously cited reference, p. 324.

4- Ensuring the continuity of the announcement period:

Electronic announcements remain available continuously, day and night, meaning that the distance between contracting authorities and candidates does not hinder this interaction.

5- Greater reliability and data protection:

Electronic announcements provide greater reliability and protection of data compared with traditional announcements, which may be subject to damage or alteration.

6- Freedom of access to announcements:

Electronic announcements achieve the principle of competition in transactions, as they remain available and accessible to all interested parties automatically and continuously, based on information integrated through the Internet.

7. It ensures the principle of equality among economic operators without discrimination in their relationship with contracting authorities, in terms of rights and obligations, as it is made available to everyone through electronic means that allow the largest possible number of operators, whether national or foreign, to access it.

8- Establishing the principle of transparency:

This is achieved through the adoption by public administration of clarity and publicity by providing information to everyone (such as access to the subject matter of the contract, its date, its amount, and other related information).

Electronic Announcement as a Mechanism for Attracting the Largest Number of Competitors

Electronic announcements are designed by experts with competencies in artificial intelligence who possess advanced capabilities in using global software for preparing electronic advertisements in accordance with the objectives of the contracting authority. The latter may use multiple means for electronic announcement, including websites, email, and text messages. This contributes to achieving the principles upon which public procurement is based, namely transparency of procedures, the generalization of the principle of equality in access to public procurement opportunities, and the preservation of public funds.

What further contributes to reducing abuses and arbitrary practices in the awarding of public procurement contracts is the use of the electronic public procurement portal through electronic registration, which closes the door to many unlawful practices.³⁰

Article 15 of the 2013 Ministerial Decision determining the content of the electronic portal clarified the method of announcing public procurement contracts through the following:

The publication of the announcement on the portal takes place at the same time as the sending of the announcement to newspapers and the Official Bulletin of Public Procurement of the Public Contracting Authority.

The publication through the portal is the first to reach economic operators, as publication in newspapers and the Official Bulletin of Public Procurement of the Public Contracting Authority takes a longer time than publication on the portal. Therefore, the publication does not reach recipients at the same time due to the time difference between the sending process and the actual time of publication.

³⁰ Khair Eddine Faiza, previously cited reference, pp. 849–879.

Through the process of announcing a public procurement contract on the electronic portal, economic operators become aware of it before its publication in newspapers and the Official Bulletin of Public Procurement of the Public Contracting Authority, as the latter requires a longer period for publication. This highlights the advantage of speed in electronic contracting, as announcements are published within a short period, allowing any interested party in this field to access and consult them.

This experience of electronic announcement of public procurement contracts in Algeria has achieved success and received significant attention in bringing together various local and international economic operators with the administration during the announcement process, through the disclosure of its intention to contract.³¹

Second: The Conclusion of Public Procurement Contracts through the Electronic Portal

After registration on the electronic portal, which ensures access to the electronic public procurement portal, this registration constitutes the means enabling contracting authorities and economic operators to exchange information electronically between the two parties. This is provided for in Article 10 of the decision dated 17 November 2013, which stipulates that access by contracting authorities and economic operators to the functions assigned to them is subject to their registration on the electronic portal.

The next stage is the electronic announcement of the public procurement contract, which is considered a means of publicity and has been previously addressed. Through this announcement, contracting authorities express their intention to conclude the contract while respecting all the conditions provided for in the provisions of Presidential Decree No. 15-247, pursuant to Articles 62 and 65, followed by the subsequent stages:

1/ Exchange of Information by Electronic Means

Article 107 of Law No. 23-12 provides that contracting authorities shall make the documents referred to in Articles 63 and 64 of Presidential Decree No. 15-247 available to candidates. These documents may be withdrawn and sent to the candidate who requested them in accordance with Article 63 of Decree No. 15-247.

Furthermore, Article 204 of the same Decree stipulates that contracting authorities shall make invitation-to-compete documents available to tenderers or candidates for public procurement contracts electronically, according to a timetable determined by a decision of the Minister responsible for Finance.

The same article, in its second paragraph, as well as article 107 of Law No. 23-12 in its second paragraph, provide that:

"Tenderers or candidates for public procurement contracts shall respond to the invitation to compete electronically according to the timetable mentioned above.

Any procedure carried out on a paper medium may be adapted to procedures conducted electronically."

Article 12 of the decision dated 17 November 2013 also stipulates that when tenderers or candidates for public procurement contracts respond electronically to calls for competition, they

³¹ Khair Eddine Faiza, previously cited reference, p. 864.

may additionally submit, within the legal deadlines, a copy of the offer on a physical paper or electronic medium. This copy of the offer shall be placed in a sealed envelope bearing the words "alternative copy."

After competing tenderers withdraw the specifications documents electronically from the public procurement portal, they may submit their applications and offers to the contracting authority electronically. This allows contracting operators to avoid the burden of travelling to the contracting authority to withdraw, receive, or submit documents, thereby saving effort, time, and expenses.

Electronic exchange also contributes to preventing corruption and bribery offences by reducing human intervention in the process of concluding public procurement contracts.³²

2/ Opening of Envelopes and Evaluation of Offers

The envelopes containing the offers are sent to the precise address to which the bids must be submitted, as specified in the electronic call for tenders announcement. Subsequently, the role of the Committee for the Opening of Envelopes and Evaluation of Offers begins. Within the framework of internal control over public procurement contracts, this committee is responsible, pursuant to Article 96 of Law No. 23-12 and Articles 71 and 160 of Presidential Decree No. 15-247, for opening envelopes, analyzing offers, alternatives, and provisional prices where applicable.

This committee is established by a decision of the contracting authority. It is composed of qualified employees affiliated with the contracting authority, selected on the basis of their competencies, in accordance with Article 96 of Law No. 23-12 and Article 160 of Presidential Decree No. 15-247, which grant contracting authorities the power to establish a technical committee responsible for preparing a report on the analysis of offers.

In electronic procurement procedures, the documents transmitted through the electronic portal are used to establish a database, and in this capacity, tenderers' application files are stored. At this stage and subsequent stages, pursuant to Article 205 of Presidential Decree No. 15-247, and in order to protect data, Article 7 of the decision dated November 2013 provides that this process shall be carried out through a coding system.

The envelopes relating to the application file and the technical and financial offers are opened by the Committee for the Opening of Envelopes and Evaluation of Offers during a public session, after inviting candidates to attend the session through the competition announcement or by letter.

However, Article 12 of the decision dated 17 November 2013 provides that the alternative copy placed in a sealed envelope bearing the words "alternative copy" shall not be opened unless the offer submitted electronically:

- Contains a virus.
- Has not been received within the legal deadlines.
- Cannot be opened.

³² Belghoul Abbas, previously cited reference, p. 48.

If the documents relating to the administrative file contain a virus, the candidate shall be requested to submit them again, or the alternative copy shall be opened, or both shall be repaired if they both contain viruses.³³

3/ Awarding of the Contract or Provisional Award

After the Committee for the Opening of Envelopes and Evaluation of Offers completes its administrative and technical work, it records the evaluation process in a special register that is numbered and endorsed by the authorizing officer. This work is then submitted to the contracting authority, which in turn proceeds with awarding the contract or declaring the procedure unsuccessful.

For the contract to become final and acquire legal validity, it must be approved. Approval is carried out through the signature of the competent administrative authorities. The signature may be carried out either through the traditional method or electronically following the enactment of Law No. 15-04.³⁴

The process of announcing the provisional award of the contract is carried out in the electronic newspapers that published the call for tenders announcement whenever possible, while specifying the price, the completion deadlines, and other elements that justified the selection of the successful bidder. This announcement may also be published in the Official Bulletin of Public Procurement of the Public Contracting Authority, in the press, or on the public procurement portal,³⁵ as provided for in Article 82, paragraph 3 of Presidential Decree No. 15-247 and Article 8, paragraph 7 of the decision dated 17 November 2013 mentioned above in the case of electronic procurement procedures.³⁶

Conclusion:

The field of public procurement in Algeria has undergone several stages within the framework of public procurement regulations and laws. More than a decade has passed since the establishment of this feature. Recently, the legal framework relating to public procurement has been strengthened by a new Law No. 23-12, whose objectives include simplifying concepts and procedures in the field of public procurement, as it constitutes the legal framework that facilitates access to public procurement with clarity and transparency and allows everyone to benefit from it, particularly through the use of digitalization and the continuation of the electronic portal as a mechanism for digitalization in this field.

It can be said that there is a political and legislative willingness, but without establishing a clear strategy in this area, due to the weakness of the digital infrastructure within various public administrations and institutions, especially with the lack of qualified personnel in this field. There is also a real delay in the complete transition toward electronic contracting in the field of public procurement, relying on technical mechanisms such as electronic signatures, encryption

³³ Kadouj Hamama, *The Process of Concluding Public Procurement Contracts between Law No. 23-12 and Decree No. 15-247*, Beit Al-Afkar, 2023, Dar El Beida, Algeria, p. 71.

³⁴ Law No. 15-04 dated 01 February 2015, establishing the general rules relating to electronic signature and electronic certification, Official Gazette issued on 10 February 2015, Issue No. 06.

³⁵ Kadouj Hamama, previously cited reference, p. 78.

³⁶ See paragraph 3 of Article 2 of Joint Ministerial Decision No. 194 dated 09 July 2025, previously cited.

systems, and electronic archiving, as is the case in the field of private electronic contracts (such as electronic commerce) in various developed countries, particularly the European Union, and even some developing countries, including Arab Gulf countries, which have made significant progress in this field.

This situation is due to hesitation and the lack of providing adequate electronic and legal protection for such transactions. Therefore, the Algerian legislator, particularly the competent services of the Ministry of Finance, must work on accelerating the issuance of decisions and regulatory texts related to the digitalization of public procurement, as provided for in the new Law No. 23-12 relating to the regulation of public procurement, in order to ensure their effective implementation in practice. This includes updating the decision dated 17/11/2013, which determines the content of the electronic public procurement portal, its management procedures, and the methods of exchanging information electronically, while also ensuring a connection between administration, universities, and scientific research in order to develop the digitalization of public procurement.

Accordingly, it can be said that Algeria is still in the foundational stage in the field of public procurement digitalization, despite the noticeable developments achieved in this area. This means that the legal and legislative system relating to public procurement in Algeria is still undergoing improvement, with a focus on strengthening transparency and integrity in order to protect public funds.

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