



## The reality of e-commerce in Algeria

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### Abstract

The Algerian legislator has focused on regulating e-commerce in Law 18-05. Nevertheless, Algeria still faces many challenges that hinder its broader adoption. This urges the country to seek to maximise its benefits and accelerate its transition by overcoming the obstacles to implementation.

This research paper therefore addresses the reality of e-commerce in Algeria. This topic is important because e-commerce is a new and general subject that offers good investment opportunities for individuals and enterprises of all sizes, not to mention the increased speed of online financial transactions, whether between individuals or organisations, which undoubtedly impacts the economy as a whole.

**Keywords:** E-commerce, Algerian legislator, Law 18/05 - Challenges

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### Introduction:

The global revolution in information and communication technology has changed many previously accepted concepts. The commercial sector has been particularly responsive to technological innovation and modern techniques, resulting in changes to thinking, production and consumption patterns. The rules of commercial transactions have transformed to become more responsive to changes in the global market, eliminating spatial and temporal boundaries through e-commerce. E-commerce has become one of the fastest-growing sectors in the global economy, providing an important means of enhancing competitiveness in product marketing and of providing information and services.

The Algerian legislator has sought to regulate e-commerce in Law 18-05, albeit belatedly. However, Algeria faces many obstacles hindering the expansion of e-commerce, so it must seek to maximise this sector's benefits and accelerate the transition by overcoming these obstacles.

Based on the above, this research paper will address the following issue: What is the reality of e-commerce in Algeria?

In the first section, we will define the concept of e-commerce. In the second section, we will highlight the most important electronic commercial practices (transactions) that the Algerian legislator has sought to regulate. In the third section, we will address the challenges facing e-commerce in Algeria.

This research is important because e-commerce is a new and general topic that offers good investment opportunities for individuals and enterprises of all sizes. Additionally, the increasing speed of online financial transactions, whether between individuals or organisations, has a significant impact on the economy as a whole.

### Through our study, we aim to:

Shed light on e-commerce as a new concept in the economic world.

- Understand the legislative regulation of electronic commercial transactions in Algeria.

- Identify the main challenges facing e-commerce in Algeria.

We will adopt a descriptive-analytical approach to our study, addressing the most important concepts and terms related to the topic to achieve an accurate and detailed understanding of the research elements, analysing them with the aim of reaching conclusions that support the future of e-commerce in Algeria.

### **Section One: The Concept of E-Commerce.**

E-commerce is a modern term that describes non-traditional commercial contracts conducted remotely using electronic means. Thus, the contract is electronic, enabling commercial exchanges between the parties despite any spatial or temporal distance between them.

The nature of e-commerce necessitates the establishment of an appropriate definition, the clarification of its forms and the identification of its characteristics.

#### **First: Definition of e-commerce:**

Several definitions have emerged, each attempting to describe and define this type of commerce. However, there is no clear or universally recognised definition<sup>1</sup>. The term 'e-commerce' encompasses several concepts in contemporary literature. Experts from the World Trade Organization define it as follows: 'A comprehensive set of processes for the production, distribution, promotion and sale of products through communication networks.'<sup>2</sup> It is also defined as processes that facilitate commercial transactions electronically through the exchange of data and information using technology<sup>3</sup>.

The Organisation for Economic Co-operation and Development (OECD) states that e-commerce 'includes all forms of commercial information exchanged between partners and individuals based on electronic data exchange, whether written, visual or audio'. Additionally, it encompasses the implications of the electronic exchange of trade data and information, as well as its impact on the institutions and processes that support and govern commercial activities<sup>4</sup>.

The European Union defines e-commerce as follows: 'All activities conducted through electronic means, whether between commercial enterprises and consumers or between either of these and government administrations.'<sup>5</sup>

Legal scholars define e-commerce as: 'The process of buying and selling via electronic networks, including information, software and other activities that facilitate commercial practice, at both the product and service levels. Some or all commercial transactions concerning goods and services are executed using information and communication technology, either between businesses or between businesses and consumers'<sup>6</sup>.

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1- Bouras Boudalia, 'The Reality of E-Commerce in Algeria', Al-Basair Journal for Legal and Economic Studies, University of Ain Temouchent, Vol. 1, Issue 1, 2021, p. 22.

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6- Fadi Mohammed Emad Al-Din, E-Commerce Contract, Halabi Legal Publications, Lebanon, 2010, p. 21.

Meanwhile, the Algerian legislator defined it in Article 6/1 of Law 18/05, which states that: 'E-commerce is the activity whereby an electronic supplier proposes or ensures the provision of goods and services remotely to an electronic consumer through electronic communications.'<sup>7</sup>

According to Algerian e-commerce law, an electronic consumer is defined as any natural or legal person who acquires a good or service, either free of charge or for a fee, via electronic communications from an electronic supplier for final use<sup>8</sup>. An electronic supplier is defined as any natural or legal person who markets or proposes to provide goods or services via electronic communications<sup>9</sup>.

### **Second: characteristics of e-commerce:**

E-commerce is characterised by a set of features, which can be summarised as follows:

**1. The global nature of e-commerce:** e-commerce knows no spatial or geographical boundaries. Any business offering goods or services online does not need to be located in a specific geographical area. Creating a commercial website enables business owners, even those running small businesses, to access markets around the world. However, one drawback of this is that it is difficult to impose customs duties on goods and services delivered online.

**2. The interconnected nature of e-commerce:** The differences in the distribution of physical resources among institutions have become less pronounced in e-commerce. Goods and services can now be delivered through traditional methods or directly via the internet, including music, CDs, videos, and disks containing software, information, or lessons.

**3. The absence of paper transactions in e-commerce:** The completion of an electronic commercial transaction now occurs without the exchange of paper documents, which supports the objective of e-commerce. However, this raises issues concerning the proof of transactions and contracts, the documentation of rights and obligations, the verification of signatures, and the protection of intellectual property rights. Consequently, various international organisations and governments have introduced specific e-commerce legislation that gives legal status to electronic transactions, including documents, contracts and signatures<sup>10</sup>.

**4. Lack of disclosure of participants' identities:** E-commerce can lead to false information being provided, stolen credit cards being used, or information being misused during transactions, raising concerns about privacy and confidentiality. However, technological advancements are expected to ensure security, reliability, integrity and honesty in online commercial dealings<sup>11</sup>.

**5. E-commerce's adaptation to emerging changes:** Given that its activities are linked to rapidly changing electronic means, e-commerce itself is subject to rapid transformation<sup>12</sup>.

### **Third: Forms of E-Commerce**

E-commerce can take various forms.

- Business-to-business: This is conducted using communication networks and information technology.
- Business-to-Consumer (B2C): This manifests in the relationship that arises between an e-commerce business and its customers.

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<sup>7</sup>- Law No. 18-05 dated 24 Shaban 1439 (corresponding to 10 May 2018) concerning e-commerce, published in the Algerian Official Gazette No. 28 on 30 Shaban 1439 (corresponding to 16 May 2018).

<sup>8</sup>- Article 6/03 of Law 08-15, mentioned above.

<sup>9</sup>- Article 6/04 of Law 08-15 mentioned above.

<sup>10</sup>- Khalid Mamdouh Ibrahim, Logistics of E-Commerce, First Edition, Dar Al-Fikr Al-Jami'i, Alexandria, Egypt, 2008, p. 152.

<sup>11</sup>- Karima Siraa, 'The Reality and Prospects of E-Commerce in Algeria', Master's thesis, University of Oran, Faculty of Economic, Management and Commercial Sciences, 2013-14, p. 21.

<sup>12</sup>- Karima Siraa, 'The Same Reference', p. 21.

- Consumer to consumer: This involves consumers offering personal goods and services for sale on online platforms.

- Consumer to business: This occurs when individuals offer products and services to businesses<sup>13</sup>.

E-commerce can be classified according to the degree of technological involvement and the intermediary or agent's technology as follows: Pure e-commerce, which relies entirely on electronic technologies at all stages of commercial activity; and partial e-commerce, where only part of the commercial activity is conducted electronically, such as completing the purchase and payment online, while the delivery occurs traditionally due to the nature of the product<sup>14</sup>.

## **Section Two: Electronic Commercial Practices in Algeria.**

The Algerian legislator has attempted to regulate electronic commercial transactions, including electronic proof, electronic signatures, electronic authentication and electronic payments.

### **First: Electronic proof**

The Algerian legislator adopted the electronic proof mechanism through Article 323 bis 1 of Law 05/10, which amends and supplements the Civil Code<sup>15</sup>. This article states: 'Electronic proof in writing is considered equivalent to written proof on paper.'

It seems that the Algerian legislator emphasises the principle of equality in proof using written documents, whether on paper or electronically. This approach is consistent with that adopted by the United Nations Model Law on E-Commerce and European Union directives on electronic signatures, both of which adopt the principle of functional equivalence in proof for e-commerce and traditional commerce<sup>16</sup>.

### **Second: Electronic Signature**

An electronic signature is defined as a set of numbers generated by complex mathematical operations to create a unique code for a specific individual. However, this definition is limited as it focuses only on numbers. Electronic signatures can also take the form of biometrics, which rely on distinctive human traits and physiological and behavioural characteristics that vary from one person to another, such as fingerprints, retina patterns, voice tone and blood pressure levels. Additionally, an electronic pen can be used on a computer screen and involves software that controls and facilitates this process.

Electronic writing is considered insufficient proof unless signed by the person who created it; thus, a method must be used to sign it in a way that leaves no room for doubt<sup>17</sup>.

Article 2(1) of Law No. 15/04, which addresses electronic signatures, states: 'An electronic signature is data in electronic form that is logically associated with other electronic data and is used as a means of authentication.'<sup>18</sup>

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<sup>13</sup>- Shahrazad Abidi, 'Criteria for Evaluating the Quality of E-Commerce Websites: An Exploratory Study of Some E-Commerce Sites of Algerian Institutions\*', Master's Thesis in Economic Sciences, 2009, p. 14.

<sup>14</sup>- Sonia Zahaf, 'The Contribution of the Coronavirus Pandemic to the Flourishing of E-Commerce in Competition with Traditional Commerce: An Analytical Study\*', *Journal of Finance, Investment and Sustainable Development*, University of Ferhat Abbas – Sétif, Vol. 6, No. 2, 2021, p. 160.

<sup>15</sup>- Law No. 05-10 dated 13 Jumada al-Awwal 1426 (corresponding to 20 June 2005) amending and supplementing Ordinance 75-58 dated 20 Ramadan 1395 (corresponding to 26 September 1975) including the amended and supplemented Civil Code (Algerian Official Gazette No. 44 dated 19 Jumada al-Awwal 1426 corresponding to 26 June 2005).

<sup>16</sup>- Mokhtar Ben Kouia, 'E-commerce in Algeria: Between Necessity and Risk', *Al-Ma'arif Journal*, University of Bouira, Vol. 16, No. 2, 2021, p. 299.

<sup>17</sup>- Samia Boulaafa and Tahar Ghilani, 'Electronic Signature under Law 15-04', *Algerian Journal of Human Security*, University of Batna, Issue 1, January 2020, pp. 112–116.

### **Third: electronic certification.**

Electronic certification is a legal and technical process that aims to verify electronic messages and signatures attributed to a specific party, ensuring that they have not been altered, forged or falsified. This is achieved by an independent, neutral party issuing an electronic certificate. It performs two main functions:

#### **- Trust and security in electronic contracts**

This is achieved by verifying the identities of the parties and establishing the authenticity of the agreement and its content. This confirms the intention of the contracting parties and ensures that the nature and content of the contract are free from fraud and deceit<sup>19</sup>.

**- Confidentiality:** The certification process is linked to encryption technology.

### **Fourth: electronic payment:**

Electronic payments are used to settle accounts and transactions that occur electronically among users worldwide. Various forms of electronic payment exist, including credit cards, debit cards, smart cards, digital wallets, electronic funds transfers and electronic cheques<sup>20</sup>.

In Articles 27, 28 and 29 of Law 18-05, the Algerian legislator addresses electronic payment, stating that it should occur through electronic payment platforms established and operated by the Bank of Algeria and Algeria Post, whether the transaction is domestic or international. The legislation also emphasises the necessity of securing the electronic service provider's website with an electronic payment system through the use of digital certificates.

### **Section Three: Challenges Hindering E-Commerce in Algeria..**

The Algerian legislator has attempted to legislate a new law related to e-commerce, published in the official gazette on May 16, 2018, which has long been awaited by online shoppers. However, there are several challenges facing the development of e-commerce in Algeria, which are represented in:

#### **First: Technical challenges:**

These challenges include:

Weak electronic infrastructure: There is a lack of robust electronic infrastructure to support e-commerce activities.

- Low technology and electronic awareness: deficiencies remain in areas such as reliance, measurements, and communication protocols.

- Advertising market: the advertising market in Algeria is still in its early stages, as many institutions do not adopt information and communication technology<sup>21</sup>.

- Production shortcomings: Algeria suffers from a significant weakness in producing goods and services related to ICT, as well as a lack of a skilled workforce to support this industry. Transitioning from scientific research to industry is also difficult, especially given the rapid pace of technological innovation.

- Information illiteracy: There is widespread illiteracy regarding the correct use of information technology in the business sector and consequently in online purchasing processes due to a low level of awareness.

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<sup>18</sup>- Law No. 15-04 dated 11 Rabi al-Thani 1436 (corresponding to 1 November 2015) establishing general rules relating to electronic signatures and certifications (Algerian Official Gazette No. 6, published 20 Rabi al-Thani 1436, corresponding to 10 February 2015).

<sup>19</sup>- Mokhtar Ben Kouia, 'The Previous Reference', p. 301.

<sup>20</sup>- Abdel Hakim Boujani, 'E-Commerce', Al-Basair Journal for Legal and Economic Studies, University of Ain Temouchent, Special Issue, December 2021, pp. 177-178.

<sup>21</sup>- Bouras Boudalia, 'The Previous Reference', p. 32.

- Lack of electronic payment systems: It is almost impossible to discuss Algerian e-commerce without electronic payment methods. The payment cards issued by the Bank of Algeria and Algeria Post have not yet reached international standards. Most banks have yet to grant international status to their cards, and many users prefer to conduct transactions in cash<sup>22</sup>.
- Inadequate communication lines and slow internet speeds: The limitations of the communication infrastructure further impede the growth of e-commerce<sup>23</sup>.

### **Second: Legislative Challenges Raised by E-Commerce Law.**

Traditional trade laws and e-commerce laws differ significantly, particularly with regard to the difficulty of legal prosecution for many electronic commercial transactions. This is especially pertinent in relation to the prohibition of certain goods, such as narcotic drugs (electronic pharmacy).

It is challenging to determine the identity of the supplier and establish their address and legal entity, especially since a supplier can easily conduct electronic commercial operations online without needing to travel to the consumer's country<sup>24</sup>.

Imposing taxes on e-commerce in Algeria is a significant challenge for the Algerian legislator, as the recent law does not clarify how taxes should be imposed. This violates one of the principles of taxation: fairness. This is because some goods traded online do not pass through regular customs barriers, unlike traditional trade. In Law No. 18-05, the Algerian legislator completely neglected to establish tax regulations that align with the development of information and communication technologies.

Thus, Law 18-05 concerning e-commerce raises many questions about electronic transactions, and the issue of tax evasion remains. If governments do not impose taxes on e-commerce, consumers may shift their purchases online, reducing the state's tax revenue. Additionally, merchants may transfer a significant proportion of their sales online to evade taxes<sup>25</sup>. The tremendous growth of e-commerce increases individual welfare and represents significant revenue for countries, provided they master the methods of tax collection. This aspect has been overlooked by the Algerian legislator in Law 18-05 on e-commerce<sup>26</sup>.

### **Thirdly, there are commercial challenges. These include:**

- Weak commercial expertise and technical assistance: There is a lack of the necessary expertise and support to transition traditional businesses into electronic ones.
- Underdeveloped capital markets: The capital markets in Algeria are insufficient to support e-commerce projects. Without capital, individuals with innovative ideas and creative projects find it difficult to start their e-commerce ventures.
- Lack of competitive pricing: Prices in most online stores are similar to those in traditional shops, so users have no incentive to purchase items online instead of going to the store<sup>27</sup>.
- Absence of intermediary companies: There are no companies providing mediation services for the transportation and delivery of goods sold online.
- Lack of supportive websites: There is a scarcity of websites that support economic and commercial activities among Algerian companies, as well as a lack of informational sites involving the government and the private sector.

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<sup>22</sup>- Nadjwa Hamri and Nawal Hamri, 'The Previous Reference', p. 20.

<sup>23</sup>- Nadjwa Hamri and Nawal Hamri, 'The Previous Reference', p. 20.

<sup>24</sup>- The Previous Reference, p. 10.

<sup>25</sup>- Ibrahim Kamel Al-Shawabkeh, 'Sales Tax on E-Commerce', Studies in Shari'ah and Law Sciences, Vol. 34, Deanship of Scientific Research, Amman, Jordan, 2007, p. 518.

<sup>26</sup>- Nadjwa Hamri and Nawal Hamri, 'The Previous Reference', p. 21.

<sup>27</sup>- Nabila Djaidjia, 'E-commerce in the Arab world and the main obstacles to its development', Horizons of Management Sciences and Economics Journal, University of M'sila, Vol. 2, Issue 2, 2018, p. 289.

- Insufficient number of buyers and sellers: The limited number of sellers and buyers prevents e-commerce from achieving the necessary prominence and competitive advantage in the market<sup>28</sup>.

#### **Fourth: Social and psychological challenges**

These challenges relate to the characteristics of Algerian society<sup>29</sup> and include:

- **Illiteracy:** Algeria struggles with illiteracy, which makes it difficult to transition to a knowledge-based economy and adopt online commerce.

- **Language barrier:** Language is a significant challenge in e-commerce, as most commercial transactions are conducted in English, which poses a barrier for many.

- **Psychological challenges:** Consumer behaviour and Algerian society's perspective on openness to the outside world are characterised by several factors.

- **Lack of consumer trust:** consumers often distrust anonymous sellers whom they cannot see directly.

- **Preference for tangibility:** many Algerians prefer to examine goods and services up close, touching and possibly tasting them before completing a transaction.

- **Fear of risk:** Algerian consumers are apprehensive about the risks associated with e-commerce, such as dishonest information from sellers regarding product specifications and prices.

- **Concerns about data theft:** There is a fear of data and information theft related to bank card numbers.

- **Shopping habits:** Algerian consumers tend to prefer traditional markets, viewing shopping as a form of entertainment.

#### **Conclusion:**

The Algerian legislator has attempted to regulate e-commerce by enacting provisions relating to electronic commercial transactions, such as proof, signatures, certifications and electronic payments. However, this does not mean that there are no obstacles or challenges to e-commerce in Algeria.

In order to overcome these challenges and promote e-commerce in Algeria, we make the following recommendations:

1. Widespread internet access: expand internet access in a competitive and affordable way.
2. Awareness campaigns: educate individuals and institutions about the necessity and importance of e-commerce for the national economy, and the benefits it can provide to individuals, organisations and society as a whole.
3. Secure infrastructure: Build a secure infrastructure to ensure the flow of information across the global information network and gain users' trust.
4. Liberalisation of the communication services market: Create a competitive environment in this market to enhance information technology and increase connectivity rates, thereby contributing to the development of e-commerce in Algeria.
5. Public-private partnerships: Activate partnerships between the public and private sectors to build an information society in which each sector plays its part in creating mechanisms to accelerate the transition to e-commerce.

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<sup>28</sup>- Mourad Rais and Abdel Hadi Masaoudi, 'Obstacles to Trade in the Arab and Islamic World', Fifth International Scientific Conference on Virtual Economy and Its Impact on International Economies, held 13–14 March 2012 at the University of Khemis Miliana, Algeria, p. 13.

<sup>29</sup>- Bouras Boudalia, 'The Previous Reference', p. 34.

6. Increased R&D spending: Focus on research and development activities. Entering a digital economy and building e-commerce requires viewing the research sector as one that adds value to the development of information technology.

7. Legal and regulatory framework: establish the necessary legal and regulatory framework for adapting tax to e-commerce; otherwise, the state will be at greater risk of losing additional tax revenues.

8. Facilitate electronic payment usage by addressing all material and technical difficulties for bank card users in the context of electronic withdrawals and payments, and widely expanding their usage.

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