

Electronic Litigation: Its Components And Guarantees

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Abstract

In recent years, the world has witnessed exceptional developments and circumstances that have affected many aspects of life, such as the Corona pandemic, which necessitated social distancing and pushed people worldwide to other choices in their lifestyles. This necessitated taking advantage of the rapid and impressive development of the technologies of the digital revolution, which resulted in the emergence of many applications that positively and significantly affected the various sectors, including the justice sector. This is by introducing the idea of remote litigation, competent litigation, or electronic litigation, which is the product of the information revolution and tremendous technological development, as we find that most international and internal legislations have adopted this system within their legal and judicial system due to its speed of adjudication of cases and reducing the burden on litigants, Improving the quality of judicial work, and achieving justice in all circumstances.

Study this vital topic; this study came to address the definition of electronic litigation, its idea and its development in different countries, and its most important legal, human and material components, then the legal organization of its procedural stages and its most essential guarantees, especially technical guarantees and guarantees related to the basic principles of litigation and then legal guarantees such as the authenticity of documents and electronic signatures.

1. Introduction

The judiciary is a vital governmental facility since it serves two functions: administrative and judicial, resolving disputes and defending rights and freedoms. Its compatibility with globalization data, as well as the incorporation of media technologies in its management, whether related to administrative or judicial activities and the Corona pandemic, which affects the entire world, have imposed a significant change in people's lives and prompted them to adopt new options and procedures. As a result of these new measures, people began to live a new lifestyle based on distance from mixing. There was no need to resort to the option of working remotely through the Internet to ensure the continuity of public interests since the start of the exceptional measures approved by various governments. The concern was clear to ensure. These procedures do

not affect people's rights, especially those interests related to the justice system. Despite the privacy that characterizes judicial work, the judicial authorities did not sit idly by and approved the remote litigation initiative, which is a new initiative of the pioneering initiatives, to use modern technology means to adjudicate cases from the stage of filing the lawsuit through pleading to the location of adjudication. The decision's issuing and execution. This initiative represented a qualitative leap in the path of digital transformation that countries seek in all their devices and institutions, in implementation of the requirements of the digital government, to catch up with the times and keep pace with the development of all forms of life and aims to achieve several goals represented in strengthening the plan's efforts. They are developing the judicial system, expediting the completion of the digital transformation, and

increasing performance efficiency to assist litigants and reduce overcrowding and overpopulation within the various courts.

Remote litigation includes the use of electronic courts, the use of information technology, and the development of modern means and systems that allow people to register cases, pay their fees, attend the parties or their agents, submit official and unofficial evidence, plead, submit appeals, and record all procedures related to conducting trials in general and obtaining and implementing judicial decisions. But by means that differ from traditional standards, it is characterized by the speed of completion of transactions and cases, accuracy in the timing of sessions, simplification of work procedures, attendance of the parties electronically from anywhere without personal attendance at the court, and contributing to the security and preservation of information with the ability to access it for authorized persons, and electronic litigation also provides guarantees relate.

2. Significance of the study:

The topic of remote litigation is of particular importance because of its modernity and the lack of what has been written in it to constitute a simple addition about electronic litigation and the establishment of electronic courts to keep abreast of developments and exceptional circumstances such as the Corona pandemic, which imposed social distancing on people. It also puts us in front of a new mechanism to implement a new judicial system. It is based on foundations, rules, legislation, and judicial rulings in the information age and digital technology. It provides a great service to many people who are unable to go to the courts due to health, security, or other reasons, requiring them to deal from a distance. It acquires particular importance for lawyers and judges. And state agencies, government departments, and litigants can deal legally through this modern system, as well as facilitate litigation procedures,

speed up disputes, maintain the security of documents submitted electronically, and save them from manipulation with the option of informing authorized persons. In addition, this research opens the door to other studies dealing with remote litigation from different perspectives, which strive to complete the topic, crystallize it into a final shape, and present more ideas to the relevant authorities.

Why did we select this study?

Several reasons led me to choose this topic, the most important of which are:

The first reason: Relates to the importance of the topic in view of its modernity, privacy, increasing importance, and the world's need for it, especially in light of exceptional circumstances.

The second reason: Studying the electronic court and working to develop this idea will contribute to drawing the attention of the legislator in all countries of the world to the need to create conditions for its application, especially since most countries of the world are taking serious steps in the field of e-government application.

The third reason: Is related to dealing with the electronic court from a legal perspective. The electronic court is one of the very poor topics in terms of being dealt with in the field of legal research, due to the novelty of the subject, in addition to the fact that most of those who wrote about the electronic court were interested in the information field and viewed it as one of the outputs of the electronic government. This research will be devoted to the study of the court from a fundamental legal point of view.

The fourth reason: relates to the problem of applying the electronic court and the difficulties and criticisms leveled against it. Perhaps we will address this by asking a set of questions and then try, through this study, to find adequate answers to them.

3. Objectives of the study:

- 1- Attract attention to the significance of electronic litigation and its impact on achieving justice.
- 2- Discovering solutions to the difficulties and obstacles facing this type of judiciary and how to address them from a legal and informational point of view.
- 3- Emphasis on the commitment of electronic litigation to the main foundations and principles of litigation.

4. Study questions:

- 1- What is the concept of electronic court?
- 2- What are the main components of the application of electronic litigation?
- 3- What are the guarantees of applying electronic litigation?
- 4- Is electronic litigation committed to applying the main principles of litigation?

5. Study hypotheses:

The research discusses two hypotheses and then analyzes them to test their validity:

The first hypothesis: the application of the electronic court in the field of justice, in general, raises many controversies. While some jurisprudence sees it as an innovative method that achieves justice and has many advantages, another aspect of jurisprudence is that it wastes the spirit of the law and violates the basic principles of litigation.

The second hypothesis: The developed judicial systems have been keen to devote the electronic court as an innovative model, seeking to benefit from the technical and scientific data in the justice facility, and this appears through the application of the electronic court in those systems, while most countries are still groping the way in this field.

6. Study problem:

The main research problem crystallizes in addressing an important, new, and somewhat complex issue, which is remote litigation or electronic litigation, which needs legal adaptation and jurisprudence, especially regarding its components, guarantees, the safety of procedures, and proof of the validity of its documents, as well as the absence of supporting texts in some systems due to the novelty of the topic. The fact that the need for it increased with the emergence of the Corona pandemic, as well as the scarcity of specialized sources and references on the subject due to its modernity, has posed a major obstacle in collecting scientific material, and this resulted in the lack of studies that dealt with it while not focusing on the legal aspect in the required manner, which requires research in some of its details and addresses the position of the laws and the extent to which it deals with the problems related to it, in order to present proposals that can be relied upon and benefit from, in order to prove the feasibility and legitimacy of electronic litigation.

7. Methodology:

This study relied on the descriptive analytical method in reading, compiling, and analyzing legal texts and related information, clarifying its content, and analyzing the data contained in legislation, particularly the various pleading laws. This experiment is to answer questions and obtain results after conducting the study and scientific comparison.

Study division:

In order to complete it scientifically, the study came in an introduction and four demands addressed in two separate sections. The first section deals with the concept and development of electronic litigation and its components. This topic contains two demands, the first deals with the concept and development of electronic litigation, and the second deals with the elements

of electronic litigation. The second topic came under the title of electronic litigation procedures and their guarantees. It also consists of two demands; the first is entitled electronic litigation procedures and the second deals with the guarantees of electronic litigation.

8. Literature review:

(Mansour Abdel Rahim study 2018), Characteristics of electronic litigation, a comparative study / Mansour Abdel Rahim. In this study, the researcher focused on the characteristics of electronic litigation and the most important thing that distinguishes it from traditional litigation. In our study, we dealt with the subject more comprehensively, focusing on the concept of electronic litigation, its components, and guarantees.

(Amer Mahmoud study 2020), Litigation in the Electronic Court / Amer Rabab Mahmoud. The research dealt with the electronic court and its link to the spread of electronic commerce and the modern technological revolution and its benefit, especially regarding the exchange of information and data, forms of electronic litigation, its means, and requirements.

(Nassif Al-Karaawi 2016), The concept of remote litigation and its requirements / Nassif Jassim Al-Karaawi 2016. The study dealt with electronic litigation as an information system using computers and the international network, the Internet, and the study focused on the administrative judiciary in Jordan.

(Study without a name 2016), Characteristics and means of remote litigation. The researcher focused on the importance of the electronic court and its components and the difficulties it faces and its effects, and the study dealt with the technical aspects more than the legal aspects. While our study focused on addressing the legal aspects more.

(Bin Ayred Abdul Ghani 2021), Definition of electronic litigation, its effects, and challenges of its application. The researcher addressed the

challenges of applying remote litigation, its effects, and its procedural and substantive rules.

(Iman al-Qathami 1442), Distance litigation: An applied jurisprudential study on the Saudi system. The study dealt with the concept of remote litigation, its old and modern forms, its effects, the impact of technological development on it, and its procedural system, with a focus on the experience of the Kingdom of Saudi Arabia.

Commenting on the review of literature:

All studies agreed on the importance of electronic litigation and the inevitability of its application, especially in exceptional circumstances, and agreed that it helped facilitate litigation procedures and speed up the adjudication of disputes. Still, it faced many challenges, perhaps the most prominent of which was the need for expensive infrastructure and the need to spread societal awareness regarding electronic litigation. This study was distinguished from its predecessors by its focus on the components and guarantees of electronic litigation, as these topics were dealt with in greater depth. The study reached different results and recommendations that, in our opinion, will contribute to expanding the application of this type of litigation even under normal circumstances and encourage countries to develop their legislation to keep pace with developments.

9. The concept and development of electronic litigation and its constituents

To address the concept of remote litigation, I divided this section into two demands. In the first demand, we discuss the definition and characteristics of remote litigation, and in the second demand, we address the elements and procedures of remote litigation.

9.1. The concept of electronic litigation:

The idea of electronic litigation, electronic court, or remote litigation is relatively recent. It did not

appear until a few years ago after the spread of the term e-government, which is concerned with providing all government services electronically. In contrast, the electronic concern is explicitly concerned with court services. Electronic litigation is derived from electronic management, which means the transition from providing services and information to people in their traditional paper-based form to the electronic form via the Internet.

Electronic litigation is related to electronic court, where this term appeared with the emergence and progress of technology, especially the spread of the international network "the Internet." Attending the judicial authorities to receive the service is undoubtedly an effective way to shorten time and effort and help speed up the resolution and settling of various disputes. Many legislations have begun to pay attention to new methods of litigation that shorten and facilitate litigation procedures because the stage of standard, traditional, or so-called (paper) litigation is prolonged, in addition to the financial cost of the many strategies that cause litigants to move, driving increased costs which can be done with an only press of a button. This required that government agencies think about finding solutions before the governments and judicial regulations in a different landfall to avoid those negatives that accompany the traditional litigation process so that the severe judicial system embodies the method of exchange of the supply of the process of providing the function of provoking The judge from the beginning of litigation and reliance on remote memos, in addition to leaving the paper system and adopting the exchange of documents electronically due to its characteristics that led to the spread of the cultivation of the study industry and its use as a whole. To learn more about the concept of the electronic court, we stand on some of the different definitions mentioned by some writers and commentators and cited by researchers, then we discuss them. Then we review the most

prominent experiences of countries in applying remote litigation and then electronic litigation as an advanced step to keep pace with modern developments.

Definition of electronic litigation

Jurisprudence has dealt with many attempts to define the technology of electronic litigation, and perhaps the most important of these linguistic and idiomatic definitions are as follows:

In the language, the judge means definitive of the affairs of the arbitrator, and judge so-and-so means making a judge between people. (He has decreed) any judgment, and from that is His saying:

The judiciary is the statement of the ruling and its obligation and the separation of disputes. From this, we can define the concept of litigation from a distance, which is inseparable from the judiciary, according to the jurists.

Electronic litigation means using an electronic device (computer) to act on the human brain and help it solve some complex operations as quickly as possible and with high-precision technical capabilities. As for the name of electronic litigation, it has appeared in several names, including remote litigation, smart judiciary, and electronic court (E-Court), similar to some modern terms, including (E-Security), digital economy (E-Economy), electronic government (E-Government) and electronic education (E-Learning).

Remote litigation idiomatically: The opinions of jurists differed about the definition of electronic litigation or remote litigation, according to the rapid change and development in technology and modern technology means, as well as according to the perspective of each jurist in using technology means or according to the authority granted to judges to use technology in litigation processes.

Some jurists defined it as the authority of several statutory judges that grants them the right to consider the case and to initiate judicial

procedures through modern electronic means, within the framework of an informational judicial system that integrates itself at the level of both standards and parties; Based on the techniques of the international web, and benefiting from computerized programs; to consider and decide cases, as well as to enforce judgments; to reach a speedy settlement of cases and facilitate the litigants.

Some have criticized this definition based on the fact that it elaborated on the concept of electronic litigation and its procedures and that it would have been better if the definition had been shortened to be more comprehensive for the concept of electronic litigation and to clarify its meaning. Through the international interconnection network (the Internet) and relying on electronic systems and ultra-modern technical mechanisms, the aim of speeding up the settlement of disputes and facilitating the litigants.

Some believe that it is the process of electronically transferring litigation documents to the court via e-mail, where the competent employee examines these documents and a decision is issued regarding them to accept or reject and send a notice to the litigant informing him of what has been done regarding these documents.

Some have criticized this definition because it is not comprehensive and is limited to the process of electronically transferring documents to the competent court only, without taking into account other litigation procedures.

We see that the means of transferring and uploading information, files, and documents to the website are multiple, but perhaps not all modern applications are available. Indeed, most courts were dealing with e-mail in electronic litigation processes at the beginning.

Another opinion held that remote litigation is “an authority for a specialized group of regular judges to consider the case and initiate judicial procedures by newly developed electronic means,

within an information system or systems with integrated parties and standards, that adopt the approach of the technology of the international interconnection network (Internet) and electronic computer file programs for the consideration of cases and the adjudication of cases. and the implementation of judgments to reach a speedy settlement of cases and facilitate the litigants.

Through this definition, it is clear that the idea of electronic litigation depends on the necessity of linking the courts electronically and computerizing their work completely so that they can carry out their tasks in adjudicating disputes electronically. I see that this definition is after a clear and comprehensive definition and covers all electronic litigation procedures, including the implementation of judgments issued by the electronic court.

It is also a complete, secure, and legal information system connected to the Internet, through which the competent court and its judges consider the case, the parties to the case, and the Public Prosecution can conduct actions with the legal effect that can be proven true, such as the arrival, registration, deposit and access of the case through known persons under an authority authorizing them to these actions.

Some jurisprudence also defines the judiciary through electronic means, “as obtaining copies of judicial protection through the use of electronic aids for the human element, through technical procedures that ensure the achievement of the principles and guarantees of litigation in the light of legislative protection for those procedures that are consistent with the general rules and principles in the pleadings law, taking into account nature Others defined it as a new informational judicial system whereby all litigation procedures were implemented through the electronic court by means of computers connected to the Internet and via e-mail, for the purpose of expediting the resolution of cases and facilitating their procedures for litigants, and the implementation of judgments electronically.

It is also known as "using modern means of communication in litigation to take advantage of information technology in conducting litigation" and this benefit may be partial, which is called (electronic litigation) or (remote litigation) and it may be a full benefit, which is called (electronic justice) Or (electronic court). We note that this definition distinguished between two types of litigation using modern technology, according to the nature and type of utilization of technology and modern technology in the litigation process. Through the previous definitions, we can formulate the definition of remote litigation as an electronic judicial system through electronic chambers that can apply all litigation procedures, using all the information systems, programs, and devices provided, to reach speedy dismissal and facilitation for litigants, in addition to implementing judgments electronically.

Scrutinizing these definitions, the following becomes evident:

First: The idea of electronic litigation or the electronic court is new, but it has attracted the attention of thinkers, so multiple definitions of it have emerged from different angles and in a short period of time due to its importance and its pivotal and vital role in keeping pace with developments and finding solutions to calamities.

Second: The idea of electronic litigation or electronic court requires the availability of a huge greeting structure represented in electronic means, electronic programs, and the international network.

Third: The necessity of linking the relevant courts and justice institutions electronically so that they can perform their work in an integrated manner.

Fourth: The necessity of qualifying judges and administrative staff by holding specialized technical courses to perform their duties in electronic courts.

Fifth: The need to keep pace with lawyers' offices to move towards electronic pleading and prepare the offices for this task by creating

websites and e-mail and dealing with technology in filing electronic lawsuits (sending and receiving documents).

Sixth: The judicial protection of documents in light of electronic litigation is available and is consistent with the general principles of procedural regulations.

Seventh: For more legislative protection and for the purposes of keeping up-to-date with legislation, it is necessary to issue and amend some texts, especially procedural laws.

Eighth: The term electronic court is one of the relatively modern terms and concepts, as it did not appear until years ago after the spread of the term electronic government, which is concerned with all government services, while the electronic court is concerned with court services only.

The history and development of electronic justice in some countries

In the United States of America, the settlement of disputes through computer networks created actual applications through initiatives adopted by professional associations and organizations such as the American Arbitration Association (AAA) and prepared a virtual and legal project through the Internet and Magistrates 1995 arbitration projects. Article 34 / A of the Federal Civil Procedure Code of the United States of America expressly states that it is permissible to provide information stored electronically, including writing, graphics, photographs, audio recordings, or any data stored on any electronic means, whether directly by means of any electronic means - Or after translating it, leaving to the law the rest of the procedures related to advertising, paying fees, depositing files and exchanging documents electronically for each state that organizes it itself for electronic litigation procedures, and some of them expanded on this organization and made it comprehensive. Statistical studies conducted by the US Federal Judicial Center confirm that about 25% of the courts in the United States of America have

acquired high technology that makes the electronic court system a tangible reality.

As usual, it was the one who included the precedent countries in all fields, especially the technical fields, as an electronic court in the city of (Zebu) in the city of (Shandong) has issued a thousand judicial rulers be approved by the authority of the authority, which has been approved. Also opened on 8-18-2017 in the city of Hangzhou, the first court, which specializes in the view of the balanced issues and the conflicts related to the Internet, and the issues that the court considers on the Internet, and the city of Hangzhou is the electronic trading, which is the electronic of the e -regionalization of the electronic regulations, which will be done to the electronic. The giant Ali Baba. China is conducted by conducting the entire litigation process in what is called (Court Net), and the Internet crossed what is in that legal documents, and the actual trials and the actual trials themselves, and it should be noted that as well as the rulers, and the rule of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, and the provisions of the provisions, China is currently this smart litigation system with its huge potential after the expansion of the scope of the Internet courts from one city to three major cities, including the capital, Beijing.

9.2. Foundations and constituents of electronic litigation

The application of electronic litigation requires the availability of basic ingredients to enable people to carry out all litigation procedures without the need to go to the court's headquarters by themselves or through their representatives to initiate procedures of any kind. Electronic litigation depends on a set of pillars, without

which the application of electronic litigation cannot be reached, and these components are represented in the legal, human, and material components.

A- Legal components: it means the legislative and regulatory framework on which electronic litigation can be applied, which are no less important than the technical components, whether related to procedural issues and controlling the legal and technical concepts of electronic litigation, as well as deterrent penal provisions related to confronting the crimes resulting from its use. Legislation is one of the most important foundations for establishing a remote litigation system.

The existence of legislation that approves and regulates electronic litigation is a very important and necessary matter for the control and integrity of procedures. The legislative basis depends on the existence of a set of written legal rules that are issued by a competent authority in the state, which is the legislative authority. So that it is appropriate to the state of scientific-technical progress through the use of modern means of communication to apply litigation procedures electronically and via the international communication network (the Internet) because the special nature of the electronic environment requires appropriate rules for it, and this is in two ways, the first is to exclude traditional rules and to issue a new law regulating those rules, and the second is to adapt and develop The existing rules of traditional jurisdiction, so we find that many countries have worked to make the necessary amendments to their systems, especially procedural to organize and use electronic means in litigation, as the existence of the legislative framework for electronic litigation is the basis of the process and the essence of its success and ensuring its continuity.

B- Human Constituents: After we have discussed the legislative basis and the integration of the system required to complete the work, the immediate stakeholders of the tasks must be

present, who are the persons specialized in the practice and application of litigation procedures, in order to complete the foundations of establishing a judicial system of a new type of pleadings in judicial systems, and the human components include the human framework. Represented by the total of specialists in the technical, technical, and legal fields, who implement electronic litigation, so that the concerned judges, lawyers, clerks, clerks, and all concerned employees must be aware of how to use and operate electronic means, and this may require Thinking about the procedures of special training courses in computer science, communication systems, website creation programs and preparing and equipping their offices with the latest devices and equipment that enable them to perform their tasks as judges remotely in electronic courts to implement the electronic litigation system and deal with the means of technology, modern technology and the Internet. Familiar with these tools of modern developments, he is not able to work as a judge in an electronic court.

C- Physical components or technical requirements for electronic litigation: It means the appropriate infrastructure and technical requirements for electronic litigation in terms of electronic devices and equipment. Remote litigation requires the availability of the technical basis for this system in addition to the legislative basis, where technical requirements must be prepared for its application, the most important of which is the establishment, design, and programming of a judicial system. My information includes websites that provide administrative and judicial services, in addition to courtrooms equipped with communication lines, computers, and software that enables information judges to consider cases and reach appropriate judgments regarding them.

10. Electronic Litigation Procedures and Guarantees

10.1. Electronic litigation procedures

The competent judicial authorities in many countries of the world that have implemented electronic litigation have issued procedural guides for the service of remote litigation or smart litigation “electronic litigation” to complete the digital transformation system, and in response to any emergency circumstance that prevents the provision of judicial services directly, and in line with the requirements of the provisions of electronic transaction systems that include Remote litigation service in procedural evidence. All electronic litigation procedures starting from filing an electronic petition containing the main details of the traditional lawsuit, which are specified by law, and after determining the competent court, the specified fees are paid electronically if the lawsuit is with fees, then it is registered. The lawsuit is considered valid from the date of payment Its fees, and then determines the date of its consideration, and informs the litigants to attend remotely, verify the identity of the parties and representatives, the effect of absence from attending the session, exiting the session, attendance controls, the most important data, and information, exchanging notes, answering requests, submitting documents and editorials, holding an electronic dispute session, and remote pleading via video communication and special controls. To perform by testimony, the oath, the evidence of the experts, and the right of the parties to the lawsuit to Examine the details of the case, the mechanism for notifying them, how to discuss them, pronounce the judgment, receive a copy of the judgment, and object to it before the higher court.

In the Kingdom of Saudi Arabia, for example, the procedural guide for electronic litigation provided details related to procedural issues, including:

1- Remote litigation procedures are exclusively through the remote litigation platform or the systems approved by the Ministry, and the department may not, in any case, conduct it through other means.

2- The date of the sessions shall be remote during working hours, and the circuit may hold them outside the working hours during the official working days, no later than eight o'clock in the evening after the approval of the Supreme Judicial Council.

3- Submission of memos shall be through the fields shown in the service, taking into account promises and shortening as much as possible, not exceeding the specified space.

4- A text message shall be sent to the parties to the case a day before the date of the hearing, containing a link to enter the hearing.

If one of the parties to the lawsuit fails to enter or does not know the entry mechanism, he must contact the technical support phone. The parties to the lawsuit can also choose e-mail as a means of communication.

5- Judicial agents shall prepare the parties to the case and verify their identities and their capacity in the case before the hearing begins.

6- Judicial officers shall prepare the systems used in the hearing. It was activating the technical system before the start of the session and ensuring its safety and the absence of any defect or obstacle.

7- Judicial agents verify the correctness of writing the full name in Arabic and make sure that the parties to the case are ready, which is the sound and the image.

8- If the session cannot be held or completed for a reason related to the circuit, the parties to the case shall be notified, and a later date shall be set after explaining the justifications for the postponement.

9- The deliberation session between the circuit members shall be held electronically in the service of (remote litigation) while maintaining

its confidentiality and the entry or participation of only the judges who heard the pleading.

10- The judgment is pronounced through remote sessions via video communication, and the judgments are delivered to the parties electronically.

The procedural steps of the electronic lawsuit begin with filing the lawsuit, where communication occurs between the plaintiff and the lawyer. Such as fax, telex, and the Internet, which emerged as a result of scientific progress in information technology, and it is also known as "the documents and documents that are created, merged, stored, sent or received, in whole or in part, by electronic means, including electronic data exchange, e-mail, telex or paper copies, and carried electronic signature.

The electronic signature earns the necessary authentic documents and documents, as the laws recognize the authenticity of the electronic signature to take the place of the traditional signature.

(8) of the provisions of this regulation. As the system indicated that the electronic signature has its conditions of proof and also equated it with the written signature, as it stipulated that "if a written signature is required on a document, contract, or the like, then the electronic signature that takes place in accordance with this system is considered fulfilling this condition, and the electronic signature is considered a written signature, and it has The same legal effects. After verifying the validity of the documents, the lawyer enters the court's website with the official code. The computer checks the validity of the data and allows him to enter so that the lawyer sends the electronic newspaper from his site to the court's website. The data is reviewed again by the specialized staff to ensure that the requirements are met legally, then the fees are paid electronically and the computer distributes the case to the court or to the competent department, and determines the date of the first session. The court undertakes the preparation

through the electronic record, and the procedures follow from hearing the accusation or the prosecution, the defense and witnesses, the exchange of memoranda, and the submission of requests. The case is initiated electronically until the judgment is pronounced, appeals and appeals are received, and the judgment is executed.

10.2. Electronic litigation guarantees

The insecurity of the electronic environment constitutes a real problem and impediment in the issue of smart litigation, as websites are largely insecure, despite the measures taken in terms of protection and security. This sparked a sharp legal debate among some concerned, considering that the visible trial constituted a major violation of fair trial guarantees, a violation of the rights of the accused, and some important principles related to the profession and organization of the judiciary. The electronic litigation process is as follows:

A- Guarantees related to technical aspects

First: Protection of the technical system: Technical protection in the electronic litigation process means that it is the guarantees that can be referred to in the face of violations that may affect the mechanism of the electronic court's work. Where the electronic court relies on accounts linked to each other through internal networks linked to the Internet through modern means of communication, and through these networks, data and information are exchanged and it enjoys a high degree of confidentiality and privacy to ensure facing violations that could affect the technical system of the electronic court. The pilgrimage to the governorate is highlighted by the technical protectors with a greater degree in the information networks about it when dealing with the personalized personalities that work in a resigned image, and that is due to the multiplicity of the seeds of the danger that the information faced by the fact that it is available through the

ways so that it can be made by the information because it is possible for the sake of it In the same place, the threat to information security takes more than one form, as the network and its resources may be exposed to hacking, espionage, and theft, or the information may be damaged, distorted or sabotaged.

Second: encrypting electronic court information on the Internet, where the written content is converted into numbers or digital images whose content is difficult to know for others, and these ciphers can only be decoded by the data receiver who is able to restore the message content before encryption through a reverse process of the encryption process called the (solution process) .

Third: Securing data confidentiality by providing protection for all electronic lawsuit information against attempts to change, modify, or forgery during the electronic exchange stages. Obtaining lawsuit information is only possible for the parties to it. Therefore, the electronic court determines the identity of the persons who have the right to access the information and provides them with the data. Confidentiality of logins such as password and user name. The success that awaits the e-court depends on the appropriate confidentiality and the high degree of insurance for all its transactions while ensuring a reasonable degree of privacy in what is stored or circulated of these transactions' private data.

Since most information systems and information technologies are the basis for the work of the electronic court, only authorized employees should be allowed to access and use the information systems in order to avoid misuse of information and information.

Fourth: Providing security protection for the court's website from the risk of penetration and destruction in order to maintain the confidentiality of the site and the privacy of its content and to ensure the regularity and sustainability of its services, by taking the necessary measures such as protection against viruses and making the necessary updates to the

site and working to find what is known as a firewall to protect websites. As well as protecting e-mail as a method that can be used to exchange opinions and debate on a specific topic between a group of people, which is similar to the Internet Chat Relay system, meaning that e-mail is used as a repository for storing documents, papers, and correspondences that have been digitally processed in a private and personal box for the user, which cannot be Access it with a password.

Fifth: Taking the necessary measures to achieve cyber security for the electronic court networks, which is the activity that secures the protection of human and financial resources related to communication and information technology to limit damages in the event of threats and risks, which allows things to return to normal as soon as possible and eliminates the idea of permanent losses. Perhaps the most important pillar of cybersecurity is the permanent availability of resources, with the need to provide an alternative, backup resources that enable rapid access to operational services. It is also necessary to provide confidentiality and safety to preserve data through strict monitoring and protection of devices from viruses and hacking programs and maintaining the confidentiality of data from modification, forgery, and change to remain as it is. As well as the need to define identity and powers in order to determine the beneficiaries and those who have the right to access the information. Finally, controls and audits, where controls and directives must be established to deal with devices, systems, and services, especially with regard to passwords, and setting Internet browsers to a certain level of protection while browsing.

B- Guarantees related to the basic principles of litigation

First: Public and attendance of sessions: Public sessions mean that the doors of the courtroom remain open in front of everyone so that whomever he wants from the public attends

without discrimination, and he is a watchdog over the work of the judicial authority, trusting it, and aware of everything that is happening in front of it. Meaning that the session held by the court must take place in a hall open to everyone, and the public may attend the sessions and discussions related to them, and what is meant here is a tangible physical presence, not remote visible attendance. The principle of publicity constitutes an important guarantee for consolidating the impartiality of the judiciary and oversight over it. The remote trial may violate this principle, especially in the absence of the public, which leads to a lack of confidence in the existence of popular oversight over the judiciary, and it is known that the presence of the accused does not affect him only, but even affects the judge against His dismissal in the file, where the physical presence of the accused plays a major role, so can the judge form his own conviction for an accused who does not appear before him? Especially since enabling the accused to attend his trial closely plays a major role in reassuring him, and vice versa and the physical presence enables the judge to have optimal contact with the facts by examining the accused's movements and emotions to form his emotional conviction.

Where it is necessary to consider the case through a public session, which requires allowing the attendance of others for court sessions, and this main principle in traditional litigation is the subject of the consensus of legal scholars for that is stipulated by all the different systems and laws, and it is also a fixed and unanimous principle in Islamic jurisprudence, for example, Judicial organization in the Kingdom of Saudi Arabia, as the system stipulates the principle of public hearings in Article (32) "Court sessions are public unless the court decides to make them secret in order to observe public morals and the sanctity of the family or to preserve public order." The legal pleadings system also stipulated in Article (61) that "the pleading shall be public unless the judge decides on his own or at the

request of one of the litigants that it be conducted in secret in order to preserve order or in consideration of public morals or the sanctity of the family.” In electronic litigation, this main principle can be achieved through direct broadcasting from the electronic courtrooms to the court’s website. This is available to everyone involved in the case and to the public to view the proceedings of the litigation. The accurate and perfect viewing that the actual attendance may achieve. It is also possible to display the case file on electronic links on the court's website and on the Internet for the purpose of achieving the principle of publicity. In addition to the possibility of creating a channel for direct broadcasting of electronic sessions, which enables the public to attend and follow up, and to achieve the principle of openness and attendance of electronic court sessions. Presence means the attendance of all the litigants in the final investigation work, and it follows from this principle that the litigants have the right to attend all the final investigation works so that each of them sees and hears the pleadings and the statements of witnesses, and they are all equal in the right to present their evidentiary evidence, and each litigant has the right to discuss the evidence that is presented has his opponent.

The electronic judiciary better guarantees the public and attendance of the sessions, as it guarantees the attendance of the litigants and the public as soon as the session is announced electronically, which avoids the court by physically searching for the addresses of the parties through the bailiffs and the advertising representatives. Judicial, obtaining information and inquiring about procedures. Publicity is available through the courtroom (the American model), where the trial proceedings are shown before the lawyers in a hall with a large screen for projection.

Perhaps remote litigation through electronic chambers is better than traditional litigation in many types of disputes, especially in border and

criminal cases, for what this type of case needs. Perhaps remote litigation through electronic chambers is better than traditional litigation in many types of disputes, especially in Borders and criminal cases, because this type of case needs insurance and fuels feelings of hatred and revenge, so it is better to deal with them remotely with regard to litigants, in addition to the fact that there are usually some crimes in which the registered or those dealing with the community pose a danger to the community. Of course, they are imprisoned in the case, so it is best to deal with them through video conferencing as they are in their prisons without the need to bring them to the courtroom in person.

Based on the foregoing and by reviewing the images of remote litigation represented in electronic arbitration and electronic court and the nature of each of them, we can say that the electronic chambers make the absent a witness. Or electronic presence, which differs from the tangible real presence in the matter of physical presence only, but its effects represented in sound, image, and interaction in its various colors and forms do not differ in it.

Second: The principle of orality: means presenting evidence, lawsuits, and complaints in an audible and recorded voice by the litigants or their representatives. The wisdom of the principle of orality is the application of the "principle of confrontation between the litigants" so that each of the parties to the case has the opportunity to hear and confront his opponent, and let him know what the opponents have his opponent from statements and evidence, and in order for the judge to hear and be emotionally convinced of the arguments of the parties that were presented before him in the session. Oral sessions are a major principle of the judicial organization in Islamic jurisprudence and in all laws. For example, in the text of the legal pleadings system in the Kingdom of Saudi Arabia, Article (62) states: “The pleadings shall be oral, provided that this does not preclude the presentation of

statements and defenses in written memoranda exchanged images of them.” between the litigants, and its origin shall be kept in the case file with a reference to it in the record. In the electronic court system, the system takes into account this principle and allows for oral arguments, as lawyers have the right to plead audio and video through the electronic room before the judge and the parties to the case. the same time.

The writing and recording on which electronic litigation depends and is recognized as a means that stipulates the various laws take the place of the oral one that is adopted by traditional litigation. Sheikh Wahba Al-Zuhaili stated: “The jurists unanimously agreed that the contract is concluded between absentees, as in modern communication machines, as soon as acceptance is announced, and knowledge does not require acceptance for the positive party who made the affirmative. The car was so, and the other said: I accepted, the contract was concluded, as soon as the acceptance was announced, and if the obligor did not know the acceptance, that communication between them was cut off. The contract was concluded after the arrival of the telegram or the letter and the like, and the announcement by the other of its acceptance, without the need for the offeror to know or hear of the acceptance.

Orality and publicity are also achieved simultaneously by hearing the statements of the litigants from the plaintiff and the defendant through electronic rooms. Closed circuit television technology known as video conferencing can be used to listen to the statements of litigants and witnesses, and to make interrogations. Technically, visual meetings, through audio and video technologies, to establish a connection between two or more via the Internet, through television screens connected to a communication network, to see all parties concerned with a particular issue, so that each of them sees and hears the other and exchanges opinions and discussion with him as if everyone

is one. . It is the modern means of evidence that the judge relies on in many disputes that require hearing witnesses who are unable to attend the seat of the court due to illness, disability, or other impediments, or when the expert needs to discuss his reports in technical issues related to the dispute, or For some security reasons; As is the case with the arrested and imprisoned pending criminal investigations. All litigating parties must accept the judgments, recognize the authority of all procedures, and submit to the decisions of the electronic court; Because it does not differ from the real court with personal presence except in terms of the use of modern technology and that it applies all the principles of a judicial organization such as openness and oral sessions, but in a different way, but it is better and faster in achieving the principle of prompt justice.

Third: The right of the accused to a speedy trial, electronic litigation leads to bypassing the stage of files, documents, and paper documents, and the transition to a new judicial era, through electronic documents that are circulated through the Internet. This results in the speedy completion of litigation procedures.

C- Legal guarantees related to the authenticity of the document and the electronic signature

In order to keep pace with the technical and informational developments in the Kingdom of Saudi Arabia, a royal decree has been issued regarding the electronic transactions system, confirming the authenticity and obligatory nature of electronic documents and electronic signatures. or electronic records or signatures according to the conditions stipulated in this system. Electronic documents are also defined by Iraqi law as documents and documents that are created, merged, stored, sent, or received in whole or in part by electronic means, including electronic data exchange, e-mail, telex, or paper copies, and bear an electronic signature. Here we note that the Iraqi legislator has distinguished between two methods so that he did not rely

entirely on paper electronic documents, but also included the information recorded on the discs and stored and stipulated that this information bear the signature and in front of the competent authority.

As for the electronic signature, it is a person's expression of his will to commit to a certain legal act by creating secret codes that he alone knows, allowing his identification, while another jurisprudential side defined it as a digital signature associated with information intended to be communicated to the other party, and the signature contains the giver. Which indicates the association of the owner and his acknowledgment of what was mentioned on the electronic document sent. The signature is a personal mark, through which the site's identity can be distinguished, and it indicates its owner with an unambiguous sign. The French jurisprudence defines it as a set of technical procedures that allow identifying the identity of the person who issues it and accepting the content of the behavior on which the signature is issued.

This definition is considered an all-encompassing definition, as it includes a broad concept of creating websites while recognizing all its forms, as explained by its functions, from determining the identity of the site, and expressing its will by approving the content of the bond signed on it.

As for the authenticity of the electronic signature, it is subject to the strength of proof that the street confers upon it as a tool for establishing rights and duties or as a means for preserving data that is reliable in proving the facts, whatever the results and the consequences of these records.

In all countries that have implemented the electronic litigation system, their laws stipulate the validity and authenticity of electronic signatures in proving the content of electronic documents. The Saudi legislator has indicated in the electronic transactions system that "if a written signature is required on a document, contract, or the like, then the electronic signature that takes place in accordance with this system is

considered to fulfill this condition, and the electronic signature is like a written signature and has the same legal effects." Writing in the form of evidence is accepted after signing it electronically, and it has the same strength as paper writing and oral statements that are brought before the courts in the trials in attendance. Also, the American legislator in the electronic signature law in national and international trade regarding proof and authenticity has equated the two electronic and traditional paper signatures. In the new English law of 1996, the legislator gave legal authority to every electronic document issued from computer data.

11. Conclusion

Although this step was necessitated mainly by the efforts made to address the Corona pandemic (Covid 19), the success that accompanied this experience was great and exceeded what was expected of it, so I see the need to work on generalizing it in the long term, especially since many elements of the judicial process expressed their satisfaction to her. The application of the electronic court is a step toward achieving justice in a better way than traditional litigation to complete the huge number of cases and speed up the achievement of justice, and the new system will certainly contribute to providing a safer and more credible environment for documents, emphasizing that there will be some difficulties and aspects that need to be rearranged, given that the experience is new and still in its infancy, but it can certainly be overcome.

In this study, I dealt with the concept of the electronic court and its application, and it became clear to me that it is not a science fiction, but rather an informational and administrative solution that aims to complete judicial transactions electronically, using the optimal use of the elements of technology, in order to improve the efficiency of work in the justice facility, raise the level of quality of performance, and shorten time effort and money. Through this study and

after introducing the electronic litigation process and its components, procedures, and guarantees, we can say that adopting this modern method of litigation has become an urgent necessity at a time when countries of the world find that they are compelled to act in order to keep pace with modernization and modernization. Finally, this study reached conclusions and recommendations that we hope will constitute a real addition that contributes to developing the idea of an electronic litigation system to achieve justice and catch up with the civilized world.

12. Results:

- 1- Electronic litigation depends on initiating procedures, considering and adjudicating lawsuits, and implementing judgments by electronic means. Simplifying it, and transferring it qualitatively from paper manual frameworks to advanced electronic technical frameworks, speeding up lawsuits and facilitating litigants.
- 2- Electronic litigation does not contradict the essence of the law, but rather conforms to it and achieves the goal of the judiciary, which is a just and urgent judiciary. It aims to develop the judicial facility to keep pace with calamities and developments, reduce spending on administrative bodies and optimize the use of resources in providing service to beneficiaries.
- 3- Remote litigation reflects the narrow concept of electronic litigation, while the electronic court represents the broad concept of the electronic judge, and electronic litigation of all kinds has become a reality in a world that desires hard work, continuous development, and benefit from technology. From mixed legal and technical tracks, all of them were interested in adapting the means of technology to keep pace with modern developments.
- 4- The authenticity of electronic documents depends on the presence of an electronic signature from a competent authority. The electronic signature is accepted as evidence for

the judge and accurately proves the content of the electronic document.

5- Electronic litigation does not constitute a violation of the fair trial and the associated principles of publicity, legality, presence, and equality. Through the use of technology, closed circuit television, and video conference, all of this can be achieved.

6- The idea of electronic litigation appeared in the United States before the Corona pandemic, but it spread widely after the pandemic, and the need for it increased with the spread of epidemics, wars, and global pandemics.

7- The electronic rooms make the absent like the witness if we assume his absence in the first place. As for the truth, this is a form of the presence that can be called the etheric presence or the electronic presence, and it differs from the presence represented by the actual presence and the presence in the real and the real world. And its forms do not differ in it.

8- There are a number of negative effects of remote litigation, including technical problems, and the weak ability of the judge to fully communicate with the case, which may affect the fair trial.

9- Electronic litigation aims to replace the paper judicial archive with a digital archive that accommodates all information and occupies a simple spatial space, and contributes to avoiding file loss and damage while achieving the highest standards of preservation and insurance.

10- Electronic notification entails ensuring respect for privacy and confidence that notifications reach the addressee in particular, and ascertainment of the identity of the person receiving the notification, the timing of this process, and the integrity of its content.

13. Recommendations:

- 1- Many disputes and the persistence of calamities and developments require the tireless endeavor of all countries to work to create

conditions for the application of electronic litigation on an ongoing basis.

2- The application of the electronic court requires integrated strategic planning through intensifying efforts for the purpose of legislative reform, issuing procedural manuals, establishing electronic portals, feeding them with all necessary and always making them available, and qualifying judges and administrative cadres through intensifying specialized training courses in the field of electronic justice, and the completion of technical equipment. And ways to protect it from the risk of intrusion, and to complete the legal systems associated with electronic litigation, such as electronic signature, electronic contracting, and spreading community awareness of it.

3- To implement the electronic litigation system, the pattern of administrative thinking in the field of judicial work must be changed, so that we move from formalities and bureaucracy to transparency and creativity.

4- Although this step was necessitated mainly by the efforts made to address the Corona pandemic (Covid 19), the success that accompanied this experience was great and exceeded what was expected of it, so I see its application and work to spread it has become an urgent necessity.

5- The electronic litigation system will certainly contribute to providing a safer and more credible environment for documents and signatures and reassuring the litigants of abuses.

6- The need to bring about a radical change in the laws and procedures and to prepare human cadres and everything related to the justice system to benefit from advanced technical means in order to keep pace with the circumstances and conditions resulting from calamities and the increase in the population and the consequent increase and diversity of conflicts and the development and diversity of methods of committing a crime in the countries of the world.

7- The different social and economic conditions, modern developments, technological capabilities,

and the information revolution that swept the world with its impact has eliminated its shadows on all aspects of life, which necessitated not adhering to all the traditional methods used previously, including the illiteracy of the courts and the slowness of their judicial procedures, in response to developments and the requirements of development and keeping pace with the speed of life. in the public interest.

8- The necessity of international cooperation and information exchange to benefit from the previous experiences of countries that have implemented the electronic litigation system.

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