



## Time and location of economic contracts and e-commerce: the study of law in Iran

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### ABSTRACT

An electronic contract would not be considered legal. Electronic contract formation is not different from other types of contracts and there aren't problems with coagulation, identification and authentication between electronic transactions with other transactions. In this article, we discuss how the electronics of the contract conditions and makes it clear on the formation of this type of contract. And what is the validity and position of electronic contracts between other contracts? And what is the time and place of conclusion of the contract? In the event of a dispute between contracting parties which court has jurisdiction over the case of electronic contracts? What Legal and will be the lawsuit? And what is the influence of the parties in determining this law?

### INTRODUCTION

In basically the parties entering into electronic contracts are not located in one place and the contract is signed distance. Offer and acceptance may be exchanged between the seller and the buyer does not have the symmetry and continuity. Electronic trading needs for rules to govern the relations between the parties. . The primary question more important is rules of electronic contract and whether the electronic contract is valid and enforceable? Determine the time and place of conclusion of an electronic contract is important. In fact, the timing of contract in terms of the timing of the transfer and risk transfer and loss on sale of the product is important.

#### Contract correspondents

For the formation of any contract, there are at least two people. In this part of the rules of electronic contracts is necessary in accordance with the provisions of Article 2 of the Iranian e-commerce law, electronic contracting parties Include:

##### The Originator:

The message is main source of data. The data produced or sent messages by him, but does include a person who acts as an intermediary on the message.

##### Addressee:

A person, who is originally maker, has sent him a message, but not includethe person who acts as an intermediary in connection with the data message.

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To cite this article: Bahrami, G., Heidari, A. (2016). Time and location of economic contracts and e-commerce: the study of law in Iran. *Academic Journal of Accounting and Economic Researches*, 5 (3), 126-130.

## **Time and location of economic contracts and e-commerce: the study of law in Iran**

The Originator and Addressee are the supplier (commercial and corporate) and the consumer in electronic contracts. That the consumer sometimes is the main source of data and sometimes supply product or services.

### **Recognize the importance of time and space contract**

Recognize the importance of time and space contract Due to the effects of that on it. Some of this effect include:

#### **1. Impossibility of revoking offer ACCEPTING:**

Moment of the contract, each partner is obliged to require or accept the contract. But before the moment of contract may refer require their suppliers could require (Articles 16 and 22 convention Vienna 1980)<sup>3</sup>. But after the contract is not permitted to deviate from the requirement, in other words by determining the time of the contract, the right to restitution is not acceptable. If the reception theory, be accepted in writing contracts, receipt of acceptance can be accepted regardless time required. As receipt accepted could be announced of the notice by telegram has that refused <sup>4</sup>.

#### **2. Effect on the capacity of the parties to conclude the contract**

People who capable for legal acts and contracts, may be they incapable at last time <sup>5</sup>. For example, a businessman who lived yesterday in a very favorable situation may be disease for any reason or caught his consciousness or psychosis disorder. Also Wealthy businessman and valid become bankrupt with verdict may Also cause Bankruptcy. You know, as it is the psychosis of the interdict and In accordance with Article 212 of the Civil Code is an invalid incapable deal <sup>6</sup>. In this case, determining the moment of the contract is critical because if the contract is before the psychosis, bankruptcy created is correct and the contract is after the psychosis, bankruptcy created is invalidate <sup>(7,8)</sup>.

### **The time of transfer ownership:**

In many legal systems, ownership of the Commodity at the moment the contract is transferred from seller to buyer <sup>9</sup>. Legal systems of Napoleonic Code and French law give automatic transfer ownership to coincide with the conclusion of the contract. Accordance with Article 1583 of the Civil Code of France as soon as an agreement is signed the parties about the product and it's pricing, product ownership is transferred to the customer. Although it is still not paid the price product and product not delivered. According to paragraph 1 of Article 362 of the Civil Code in Iran, as soon as the contract, customer gives the cost to the seller and the owner of the product <sup>10</sup>.

### **Since the beginning, review the time and deadlines:**

Usually, contracts concluded Origin time, when the expenses are paid and product from the date of the delivery. Also accordance with C of Article 33 of the Vienna Convention 1980, Seller undertakes to deliver commodity within a reasonable time after the conclusion of the contract, in addition to the time of the contract, is beginning the warranty period.

### **Legal effect on the timing and location of electronic contracts:**

Contract as a validation method, the dimension of time and place. Time and location has a follow different contract effect <sup>6</sup>. Electronic contracts may be due to equipment problems or

failure of device or network traffic, electronic message may be send to the Addressee after a few days. Location of the contract is important and problematic. In many legal systems, including Iran's obligations under the contract, the contract is subject to the law (Article 968 of the Civil Code) <sup>11</sup>.

Due to the advanced technology available in electronic contracts, the originator, Addressee given the can conceivably sends messages to other parties anytime and anywhere. Someone may have for your main or sub contract work or public places or even in flight and when traveling to addressee send your offer and acceptance. In this case, even if the time of message is inserted in the system and the source and destination devices <sup>12</sup>. Send or receive messages may be unknown location <sup>8</sup>. So should the criteria be considered in case of trouble and uncertainty regarding the time and place of contract, criteria to help it resolve the issue.

### **Time and place of contract electronic contracts:**

#### **1. The time and place of contract**

When the parties are not present at a meeting to communicate with each other and distance required being exported accepting in a different time and placing. Form contracts in e-commerce generally "takes place between the parties in terms of place or time apart from each other In this case, the important issue is to determine the time and place of contract. In electronic contracts where the parties are located far from each other in the case of some transactions, such as selling stock of the companies when prices are rapidly changing the timing of contract is important. From the moment a contract until the receipt may be caused serious changes in price. Also may be due to technical glitches or device failure or data network traffic sometimes a data message, to be filed within a few days. Location is also very important case of contract. Determine the location of the contract in terms of determining the applicable law and the jurisdiction of the Court under Article 968 of Iranian civil matters, obligations arising from the contract is the law of the place <sup>5</sup>.

### **Time and location of sending and receipt of data messages:**

#### **1. Time of sending and receipt of data messages**

According to Article 26 of the Electronic Commerce Act of paragraph 1 of Article 15 "model law has been picked" data message realized that an information system outside the control of the maker or his deputy to be entered. So if your message is transmitted originally on the track today. But for whatever reason, such as information of network traffic or system failures, data messages send to originator , to tomorrow, time to send the messages will be tomorrow , so time of contract not today. In connection with the receipt of the messages, Article 27 e of the corresponding two paragraphs (A and B) and paragraph 2 of Article 15 of the Law of the sample, two hypotheses to explain the timing of receipt of the messages:

First hypothesis: Addressee information system that is certain to get the message data set. This occurs in two forms: may be the originator send message to the designated information system. In this case, the researcher collected data message when the data messages enters the same information system.

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Second hypothesis: The addressee has not specified a certain intelligence to get the messages. In this case, as soon as the data messages to import the addressee information of each system, data messages deemed to be filed. (Paragraph B of Article 27 of the Electronic Commerce Act and paragraph 2 of Article 5 of the Model Law) <sup>7</sup>.

Since Article 26 of the Electronic Commerce Act "send" data message "when realized that, an information system outside the control the originator or his deputy to be entered. Therefore the moment of the contract, when acceptable, filed. This is like receiving acceptable idea to be accepted.

### **2. Location of sending and receipt of data messages**

In traditional business there are the physical spaces and places. And usually location of contract is known. But in terms of electronics, people from anywhere in the world can send your message to other points receive message in any time and place.

1. Paragraph 4 of Article 15 of the UNCITRAL Model Law and Article 29 of the Electronic Commerce Act locate and receipt or send data message (offer, commitment, or any other intention) to have resolved as follows. If the parties are agreed to sending or receipt of location data message to a particular way that the agreement will be accepted the criterion for action. Otherwise, place of business or a user of the originator, is location of data message and Place of business or work deemed to be addressee for it.

2. If the originator is more than one place of business or employment, nearest to the transaction, place of business or principal place of business would be otherwise, place of business or work <sup>9</sup>.

3. If the addressee has no place of business or business originator or have their legal residence shall prevail. The "Article 30 of the Law of the legal effect of time and space send and receive of data messages also legal effects arising from the content of the message is subject to the general rules.

### **The effects of contract from a remote location**

Location of the contract is depends on the time of conclusion. In contracts concluded by telephone or fax the agreement while leaving the parties are connected together. And talk like in the presence of together and there is not problem to contract. But in terms of offer and acceptance locations is expressed in two places and this raises the question of what is the place of contract? In such cases the court gives final decision <sup>5</sup>.

## **CONCLUSION**

Electronic contracts and traditional contract law are the same. The emergence and development of electronic trade, has led to a new challenge in the current law contract. Iranian EC code has bugs and legal uncertainties due to the emergence and spread of electronic contracts .The fact is that modern law is not an obstacle to development and should not be avoided because, in developed and developing countries, aligned any developments, if necessary, the law has been changed or modified. Opposition to an electronic on the grounds that the legal system is inconsistent with fundamentals, retardation effect will be followed.

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