

Electronic Contracting in Egypt: Legal Challenges and Opportunities in the Digital Age

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Introduction

Electronic contracting has become an increasingly important part of modern commercial activity. As businesses and individuals increasingly rely on websites, electronic platforms, email, and other digital technologies to negotiate and conclude transactions, electronic contracts have become an integral part of the digital economy.

The transition from traditional paper-based contracting to electronic transactions offers significant advantages, including greater efficiency, reduced administrative costs, faster transactions, and access to broader markets. At the same time, it raises important legal considerations relating to the formation and validity of contracts, identification of the contracting parties, evidentiary issues, electronic signatures, personal data protection, cybersecurity, and cross-border transactions.

In Egypt, electronic contracting is governed by the general principles of contract law, together with specific legislation regulating electronic signatures and electronic documents, personal data protection, and, where applicable, contracts concluded by public entities.

This article examines the principal legal aspects of electronic contracting in Egypt, as well as the challenges and opportunities arising from its increasing use.

Definition of a Contract

Under Egyptian civil law, a contract is generally formed through the meeting of the parties' wills with the intention of creating legal obligations or producing a legal effect.

The general principles governing contracts apply regardless of whether an agreement is concluded through traditional or electronic means, subject to any mandatory legal requirements applicable to the particular transaction.

The principal elements of a contract include consent, subject matter, and cause.

Consent

Consent represents the meeting of the contracting parties' wills. For consent to be legally effective, it must be genuine and free from defects such as mistake, fraud, or duress.

In electronic contracting, particular attention may be required to establish how an offer was made, how acceptance was communicated, and whether the electronic record accurately reflects the parties' intentions.

Subject Matter

The subject matter of the contract must be lawful and sufficiently identified or capable of being determined.

The electronic nature of the transaction does not alter this fundamental requirement. The subject matter must continue to satisfy the legal requirements applicable to the relevant contractual relationship.

Cause

The cause or purpose underlying the contractual obligation must be lawful and must not conflict with mandatory provisions of law, public policy, or public morals.

Definition of Electronic Contracting

Electronic contracting may be broadly understood as the process through which parties negotiate, conclude, or perform contractual arrangements using electronic means.

These means may include websites, electronic platforms, email, electronic documents, and other digital communication technologies.

Electronic contracting does not create an entirely separate concept of contractual formation. Rather, it provides a different medium through which the parties express their intentions and establish their contractual relationship.

Accordingly, the fundamental principles governing offer, acceptance, consent, and contractual obligations remain relevant, while additional considerations may arise concerning electronic authentication, the integrity of electronic records, and the identification of the contracting parties.

Legal Significance of Electronic Contracting

Electronic contracting provides significant commercial and operational advantages for businesses and individuals.

Market Expansion

Electronic contracting allows businesses to enter into transactions with customers, suppliers, and business partners located in different geographical markets without requiring physical meetings or the exchange of paper documents.

This can facilitate international transactions and enable businesses, particularly small and medium-sized enterprises, to reach a broader customer base.

Cost Savings

The use of electronic contracts can reduce costs associated with printing, physical storage, document transportation, and administrative processing.

Electronic workflows may also reduce the time and resources required to manage contractual documentation.

Increased Efficiency

Electronic contracting can accelerate the negotiation, approval, execution, and exchange of contractual documents.

Digital systems may also enable businesses to organize contracts more efficiently, monitor contractual processes, and maintain electronic records.

Legal Challenges of Electronic Contracting

Despite its advantages, electronic contracting presents a number of legal challenges that should be addressed as part of an effective contractual and compliance framework.

Verification of the Contracting Parties' Identity

One of the principal challenges in electronic transactions is establishing the identity of the person entering into the contract and verifying that such person has the necessary authority to bind the relevant party.

Electronic authentication and appropriate electronic signature mechanisms can assist in addressing these concerns and reducing the risk of impersonation or unauthorized transactions.

Evidentiary Issues

Electronic contracts may give rise to questions concerning the authenticity, integrity, accessibility, and evidentiary value of electronic documents and signatures.

Businesses should therefore ensure that their electronic contracting systems are capable of preserving contractual records and establishing a reliable record of the relevant transaction.

Cross-Border Transactions

Electronic contracting frequently involves parties located in different jurisdictions. This may raise questions concerning applicable law, jurisdiction, dispute resolution, recognition and enforcement, and mandatory legal requirements.

These matters should be addressed carefully in cross-border agreements through appropriate governing-law and dispute-resolution provisions.

Personal Data Protection

Electronic contracting commonly involves the collection and processing of personal data, including names, contact details, identification information, and other information relating to individuals.

Businesses must therefore consider the legal requirements governing the collection, processing, storage, and protection of personal data when designing and implementing electronic contracting systems.

Cybersecurity

The increasing use of digital contracting also creates cybersecurity risks, including unauthorized access, identity theft, phishing, alteration of electronic records, and other forms of cyber fraud.

Companies should therefore adopt appropriate technical and organizational measures to protect electronic contracts and the systems through which they are created, transmitted, and stored.

Emerging Opportunities in Electronic Contracting

Electronic contracting extends beyond simply replacing paper documents with electronic files. It can also facilitate the development of new business models and improve the way contractual relationships are managed.

Enhancing Innovation

Electronic contracting supports innovation in areas such as e-commerce, digital services, online platforms, and technology-enabled business models.

It allows contractual processes to become increasingly integrated with broader digital business operations.

Global Business Expansion

Electronic contracts can facilitate international business relationships by allowing companies to negotiate and conclude transactions with foreign customers, suppliers, and business partners more efficiently.

This can be particularly valuable for businesses seeking to expand beyond traditional geographical markets.

Improving Customer Service

Digital contracting can simplify the customer experience by allowing agreements, approvals, terms and conditions, and signatures to be completed through electronic channels.

When appropriately designed, these processes can improve convenience and speed while maintaining the necessary legal safeguards.

The Role of Technology in Enhancing Electronic Contracting

Technology plays an important role in improving the security, reliability, and efficiency of electronic contracting.

Encryption

Encryption can help protect contractual information during transmission and storage and reduce the risk of unauthorized access to sensitive information.

Electronic Verification and Authentication

Electronic verification and authentication systems can assist in confirming the identity of contracting parties and reducing the risk of unauthorized transactions.

Reliable electronic signature mechanisms can also provide additional assurance regarding the authenticity and integrity of electronically executed documents.

Blockchain Technology

Blockchain technology may offer potential applications in creating traceable and tamper-resistant records of transactions.

However, the use of blockchain does not, by itself, determine the legal validity or enforceability of a contract. Its legal effect must be assessed in light of the applicable legislation, contractual requirements, and the nature of the transaction.

Legal Framework for Electronic Contracting in Egypt

The Egyptian legal framework governing electronic contracting consists of the general rules of contract law together with specific legislation addressing electronic signatures, electronic documents, personal data protection, and certain categories of transactions.

The Egyptian Civil Code

The Egyptian Civil Code establishes the general legal principles governing contracts and contractual obligations.

Electronic contracts may therefore be subject to the general rules governing consent, offer and acceptance, contractual obligations, and the validity of agreements, subject to any special legal requirements applicable to the transaction.

The electronic form of a contract does not, in itself, remove the transaction from the scope of the general principles of contract law.

Electronic Signature Law No. 15 of 2004

Law No. 15 of 2004 regulating Electronic Signature and establishing the Information Technology Industry Development Agency constitutes a central component of the legal framework governing electronic signatures and electronic documents in Egypt.

The Law establishes the legal and regulatory framework for electronic signatures and provides the basis for recognizing electronic means of authentication and documentation, subject to the requirements prescribed by law.

Personal Data Protection Law No. 151 of 2020

The Personal Data Protection Law establishes the principal framework governing the processing and protection of personal data in Egypt.

Its relevance to electronic contracting arises from the extensive use of personal information in digital transactions, including customer identification, account management, electronic onboarding, and contract administration.

Businesses involved in electronic contracting should therefore ensure that their data-processing activities comply with the applicable legal requirements.

Public Contracts Law No. 182 of 2018

Law No. 182 of 2018 regulating Contracts Concluded by Public Entities is relevant where electronic contracting involves public entities and falls within the scope of public procurement legislation.

It should not, however, be regarded as a general law governing electronic contracts between private parties. Its application depends on the nature of the contracting parties and the transaction concerned.

Future Developments in Electronic Contracting

As digital technologies continue to develop, the legal framework governing electronic contracting is expected to evolve alongside emerging commercial practices.

Artificial intelligence, automated contracting systems, digital identity solutions, blockchain applications, and other technologies may increasingly influence the way contracts are negotiated, concluded, performed, and monitored.

These developments may also create new legal questions concerning attribution, automated decision-making, authentication, liability, data protection, and the evidentiary status of electronically generated records.

The continued development of the legal and regulatory framework will therefore be important to maintaining legal certainty while allowing businesses to benefit from technological innovation.

Legal and Compliance Considerations for Businesses

Businesses adopting electronic contracting should establish an integrated legal, technological, and compliance framework to manage the risks associated with digital transactions.

Developing Internal Policies

Companies should establish internal policies governing electronic contracting, including approval procedures, authorized signatories, document retention, access controls, and data protection.

Using Reliable Electronic Signatures

Where an electronic signature is required or intended to have legal and evidentiary effect, businesses should use appropriate electronic signature solutions that comply with the applicable legal requirements.

Protecting Contractual Records

Electronic contracts should be stored in a manner that preserves their integrity, accessibility, and traceability and allows relevant records to be retrieved when required.

Addressing Cross-Border Transactions

For international transactions, contracts should clearly address governing law, jurisdiction, dispute resolution, electronic communications, and the legal requirements applicable to electronic signatures and documents in the relevant jurisdictions.

Awareness and Training

Employees involved in electronic contracting should receive appropriate training concerning electronic signatures, cybersecurity, data protection, document retention, and internal approval procedures.

Conclusion

Electronic contracting has become an important component of modern commercial activity, offering businesses and individuals greater flexibility, efficiency, and access to wider markets.

In Egypt, electronic contracting operates within the general principles of contract law and the specific legal framework governing electronic signatures and electronic documents, personal data protection, and, where applicable, contracts concluded by public entities.

The central legal challenge is therefore not simply whether a contract can be concluded electronically, but whether the parties have established appropriate legal, technological, evidentiary, and compliance mechanisms to ensure that electronic transactions are properly documented, secure, and capable of being enforced.

As digital commerce continues to evolve, businesses should treat electronic contracting as both a legal and governance function. Proper contractual drafting, reliable authentication, effective cybersecurity, appropriate data-protection measures, and sound record-retention practices can significantly reduce legal risks while allowing businesses to benefit from the opportunities created by digital transformation.