



## CONDITIONS OF VALIDITY OF ELECTRONIC CONTRACTS: REGULATION IN INTERNATIONAL-PRIVATE LAW

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### ANNOTATION

The thesis examines the issues of the specifics of the conditions for the validity of electronic contracts. Based on the study, the features and problems of the legal regulation of an electronic contract are highlighted.

Key words: electronic contract, form of contract, terms of validity of electronic contracts, Internet sites, e-mail, electronic document, electronic signature.

### ABSTRACT

The thesis examines the issues of the specifics of the validity conditions of electronic contracts. On the basis of the study, the features and problems of legal regulation of an electronic contract are highlighted, moreover, the prospects for improving this area are determined as well.

**Keywords:** electronic contract, contract form, terms of validity of electronic contracts, Internet sites, e-mail, electronic document, electronic signature.

В тезисе исследуются вопросы особенностей условий действительности электронных договоров. На основании исследования выделены особенности и проблемы правового регулирования электронного договора.

**Ключевые слова:** электронный договор, форма договора, условия действительности электронных договоров, интернет-сайты, электронная почта, электронный документ, электронная подпись.

Electronic contracts, which are concluded via the Internet, are agreements that, in their essence and conditions, do not differ from traditional contracts, but in some aspects require legal regulation.

This includes conditions related to the consent of the parties, legal capacity and object legality. This includes such conditions as: the consent of the parties, the sufficiency of subjective legal capacity and object legality.

That is, the parties must have a clear and complete understanding of the essence and consequences of the concluded electronic contract. The invalidity or nullity of an electronic contract may arise in case of violation of the requirements of the law or the contract, or due to the lack of consent of the parties [1].

Legislation may establish additional requirements for the validity of electronic contracts, such as the requirement to use an electronic signature or electronic document management.

In order for an electronic contract to be valid and enforceable, certain conditions must be met that ensure its legal validity and enforceability [2].

The international legal basis for the validity of electronic contracts is based on a number of international documents and agreements that recognize and confirm the legal status and effectiveness of electronic contracts. Let's take a look at some of them:

UNCITRAL Model Law on Electronic Commerce. Adopted in 1996, this model law provides a legal framework for the regulation of electronic commerce, including electronic contracts.

It recognizes the validity of electronic documents and electronic signatures, and establishes rules for the exchange of information by electronic means.

UNCITRAL Convention on the Use of Electronic Communications in International Contracts: Adopted in 2005, the Convention recognizes the validity and effectiveness of the use of electronic communications in international contracts.

It lays down rules for the use of electronic messages, electronic signatures and electronic information exchange in international business transactions.

European Directive on Electronic Commerce (EU Directive on Electronic Commerce). Adopted by the European Union in 2000, the directive sets out the legal framework for electronic commerce, including electronic contracts, in EU member states. It recognizes the legal force of electronic documents and electronic signatures and defines the rules for providing information electronically [3].

European Regulation on Qualified Electronic Signatures (EU Regulation on Qualified Electronic Signatures). This regulation, adopted by the European Union in 2014, establishes common rules for qualified electronic signatures in EU member states.

Based on the above-mentioned international legal acts, we will consider some of the key conditions for the validity of electronic contracts. What is necessary?

1. Consent of the parties. To conclude a valid electronic contract, it is necessary to have a clear and expressed consent of all parties to its terms.

Consent can be expressed through active actions, such as signing an electronic contract form or taking actions indicating consent, such as clicking on the "Agree" or "Accept" button. It is important that consent be free and informed.

2. Method of conclusion. An electronic contract must be concluded using electronic communication tools, such as e-mail, electronic forms, electronic document management systems and other similar means. It is important that the chosen method provides the possibility of reliable identification of the parties and protection against possible changes or forgeries.

3. Powers of the parties. Each party to an electronic contract must have sufficient powers to conclude and perform the contract. This may include powers granted by law, by-laws of the organization or other legal acts.

4. Absence of prohibitions. The validity of an electronic contract requires the absence of legal prohibitions on the conclusion of such an agreement or its specific conditions. For example, some contracts may be prohibited by law or moral standards.



5. Compliance with legal requirements. The validity of an electronic contract also depends on compliance with the requirements of the legislation applicable to this contract. These may include requirements for the form of the contract, the need to use an electronic signature, authentication of the parties and other legal norms.

It is important to note that the conditions for the validity of electronic contracts may vary in different jurisdictions and depend on the specific context. When concluding an electronic contract, it is necessary to take into account the applicable laws and follow the established rules in order to ensure its validity and enforceability.

For example, in France, the basis for the validity of electronic contracts is enshrined in legislation, including the following regulations [4]:

Law on trust in the digital economy (Loi pour la confiance dans l'économie numérique, LCEN). This law, passed in 2004, defines the basis for the validity of electronic contracts in France. It establishes the legal framework for e-commerce and electronic documents, including e-signatures and e-contracts.

Civil Code (Code civil). The French Civil Code also contains provisions relating to electronic contracts. Articles 1366-1370 of the Civil Code establish requirements for electronic signatures and electronic contracts, confirming their validity and legal force.

Code of Consumer Law (Code de la consommation). The French Consumer Code also governs electronic contracts, especially in the context of online commerce. It contains provisions regarding information requirements, mandatory information provided to consumers when concluding electronic contracts, as well as consumer rights.

Electronic Identity and Trusted Services Regulation (Règlement eIDAS). France also applies the EU regulation eIDAS, which sets standards for electronic identities, electronic signatures and trusted services. It regulates qualified electronic signatures and recognizes their validity in France.

These regulations provide the legal basis for the validity of electronic contracts in France and recognize them as legally valid on a par with traditional paper contracts, subject to the required conditions, such as the use of a qualified electronic signature or the consent of the parties to enter into an electronic contract.

Thus, the prospects for the development of the sphere of electronic contracts include the following areas:

The use of blockchain technology. Blockchain technology can be used to create decentralized and reliable systems for storing and confirming electronic contracts. It allows you to establish an immutable chain of events that cannot be changed or faked, providing a high level of security and transparency.

Smart contracts. The development of smart contracts based on smart contract technology makes it possible to automate the execution of the terms of electronic contracts. This can increase efficiency, reduce risks and speed up the process of concluding and executing contracts.

Expansion of geographical coverage. The development of electronic contracts makes it possible to overcome geographical barriers and simplify international transactions. The increased use of e-contracts contributes to the development of global e-commerce and improved access to international markets.

Integration with other technologies. E-contracts can be integrated with other technologies such as artificial intelligence, the Internet of Things (IoT) and big data (Big Data).

This could lead to the development of new business models and opportunities for process automation and improved analytics.

Strengthening legal protection. The development of legislation and regulations adapted to new technologies and challenges can strengthen legal protection in the field of electronic contracts. This includes the development of data protection regulations, the regulation of the use and storage of electronic documents, and the establishment of international standards and agreements.

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