

Research Article

DEVELOPING A LEGAL FRAMEWORK FOR ELECTRONIC CONTRACTS IN THE CONTEXT OF TRADITIONAL CONTRACT THEORY: AN ANALYTICAL STUDY

Mohamed Salem Abou El Farag*, Tarek Goma Rashed and Ahmed Qatami

ABSTRACT

Background: *The role of digital communication means has become significant in our daily lives. These means have become the pulsating heart in achieving instant and rapid communication among people and concluding numerous contracts via the Internet. Therefore, this paper aims to shed light on the concept of electronically concluded contracts, which the Qatari legislator overlooked regulating in Civil Law No. 22 of 2004 and Law by Decree No. 16 of 2010 by issuing the Electronic Transactions and Commerce Law, merely contenting with the provision in Article 4 of this latter law, stating that it is permissible to express offer or acceptance using an electronic means of communication.*

Regarding the research problem, the term “electronic contract” has become prevalent in many jurisprudential writings, although there is, in fact, no contract concluded entirely electronically; instead, there exists a contract concluded using an electronic means. Consequently, questions have arisen about the nature of the session of this type of contract in which the contracting parties do not convene in one place but synchronise in time. Do we apply the same rules that govern traditional contract sessions, or do we need new legal rules that are compatible with this technological advancement in communication and interaction between contract parties?

This research aims to highlight the problem of not regulating electronic contracts under the Qatari Civil Code. It also aims to propose legal solutions to reorganise these contracts in general, with a focus on the contract session to improve the regulation of all forms of this type of contract. In this regard, the authors attempt to describe the determinants of the electronic contract and explain its privilege.

Methods: *In this research, the analytical approach is adopted by studying the texts of the articles regulating the contract session in the Qatari Civil Code and those regulating the offer and acceptance using an electronic means in Qatari Decree-Law No. 16 of 2010, which promulgates the Electronic Transactions and Commerce Law. By analysing these legal texts, the research aims to highlight the nature of the legal system for electronic contracts in Qatari legislation, ultimately providing legal protection to remote contracting parties and achieving contractual security. This, in turn, upholds the principles of contractual justice sought by legal systems regardless of their historical sources. Moreover, it serves as one of the most important means to attract investment due to its close association with transactional security and respect for legitimate expectations upon which investors rely in forming the visions they seek to achieve.*

Results and Conclusions: *In this paper, the authors conclude with some of the most important results, including the lack of specialised studies and Qatari judicial applications addressing the problems arising from these contracts. Moreover, the electronic contract scarcely differs in its substantive provisions from the traditional contract except for the electronic means used in its conclusion. Furthermore, there is a clear discrepancy in the electronic methods of offer and acceptance due to the various methods and aspects used.*

1 INTRODUCTION

In contemporary times, electronic transactions have assumed paramount significance globally, primarily attributable to rapid technological advancements. These accelerated technological developments have effectively transformed the world into a closely connected global community, largely driven by the substantial growth and proliferation of electronic transactions. In the past decade, we have witnessed a rapid entry of technologies into our lives. Businesses, consumers and governments have begun to perform their usual tasks with the help of computers and many new, previously unknown fields of human interaction.

Technology, once an object of interest exclusively to software engineers and a small IT community, is now a powerful tool changing the world daily. More and more people are pursuing a career in the IT sector, while those whose work has never involved any interaction with computers are now intensively trying to catch up with modern technological trends. It is hard to imagine an area that has not recently moved online – banking, insurance, consulting, education, commerce, consumer shopping, entertainment and even certain public services provided by governments and municipalities have all embraced the digital world.¹

1 Ofir Turel, Yufei Yuan and Joe Rose, 'Antecedents of Attitude towards Online Mediation' (2007) 16(6) Group Decision and Negotiation 539, doi:10.1007/s10726-007-9085-7.

At the same time, many new sectors and industries are emerging, such as trading in domain names, web hosting, online gaming, cloud storage of data,² blockchain and cryptocurrencies, and smart contracts, with more to come in the foreseeable future.³ This surge, particularly witnessed in the past two decades, has prompted numerous nations to promulgate a corpus of laws and regulations pertinent to electronic transactions to keep pace with the ever-evolving technological landscape and the expanding domain of electronic commerce.⁴

The efforts of the State of Qatar in this regard are increasing through legislative interest and judicial jurisprudence due to the acceleration of the volume of transactions concluded by electronic means. Law No. 16 of 2010 governs transactions and commerce concluded by electronic means, in addition to judicial jurisprudence.⁵ There is also an increase in the volume of transactions concluded electronically, including commercial ones.

According to the Qatar Chamber of Commerce and Industry's latest official statistics issued in September 2021, comprehensive insights into the emergence of electronic commerce were provided, elucidating its underlying concepts, advantages, features, and supporting infrastructure in Qatar. The study discerned a noteworthy upswing in electronic commerce in the State of Qatar in recent years, with the transactional value surging to approximately \$2.2 billion in 2020 from \$1.5 billion in 2019, reflecting a remarkable 47% growth. Furthermore, it prognosticated that the electronic commerce volume in Qatar for 2021 would reach approximately \$2.3 billion. Globally, the study pointed out that electronic commerce amounted to an estimated \$25 trillion in sales in 2018, concurrently marking a milestone with 1.66 billion individuals engaging in electronic transactions, constituting approximately 9% of the international retail market.⁶

Digitisation processes have transformed the economic, social and political conditions of modern society, presenting new challenges to studies of civil law and law enforcement authorities. They have also widely affected many legal relationships in the field of contracts

2 Marcelo Corrales, Mark Fenwick and Nikolaus Forgó, 'Disruptive Technologies Shaping the Law of the Future' in Marcelo Corrales, Mark Fenwick and Nikolaus Forgó (eds), *New Technology, Big Data and the Law* (Springer 2017) 2.

3 Reggie O'Shields, 'Smart Contracts: Legal Agreements for the Blockchain' (2017) 21(1) North Carolina Banking Institute 179.

4 Even disputes can be resolved by online methods, such as mediation, for more details, see: Victor Terekhov, 'Online Mediation: A Game Changer or Much Ado about Nothing?' (2019) 2(3) Access to Justice in Eastern Europe 33, doi:10.33327/AJEE-18-2.4-a000018.

5 Decree Law of the State of Qatar no 16 of 2010 'On the Promulgation of the Electronic Commerce and Transactions Law' <<https://www.cra.gov.qa/en/document/electronic-commerce-and-transactions-law-no-16--of-2010>> accessed 30 September 2023.

6 Qatar Chamber, *Report on E-Commerce in the State of Qatar "Challenges & Solutions"* (Research and Studies Department 2021) <<https://www.qatarchamber.com/economic-research/>> accessed 30 September 2023.

concluded remotely, whose forms are rapidly increasing and becoming more complex, creating new problems.⁷

Despite the acceleration of digital transaction processes and the ongoing development in the State of Qatar, Civil Law No. 22 of 2004 was completely devoid of any legal regulation of electronic contracts.⁸ Consequently, there was no regulation of the session of electronic contracts, which resulted in a legislative vacuum with a significant impact on civil and commercial transactions. These transactions have become a key feature in people's lives, marking an era of contractual digitisation.

In contrast to French legislation, which recently regulated electronic contracts in Articles 1125 to 1127 of the New French Law of Contract 131/2016,⁹ there is no comprehensive study to regulate the civil law of electronic contracts in Qatar or any other GCC country.

It should be noted that highlighting the nature of the legal system for electronic contracts in Qatari legislation would provide legal protection for remote contracting parties, ultimately achieving contractual security. This, in turn, upholds the principles of contractual justice sought by legal systems regardless of their historical sources. Moreover, such regulation serves as one of the most important means to attract investment due to its close association with transactional security and respect for legitimate expectations upon which investors rely when formulating their visions.¹⁰

The goal of establishing legal regulations for electronic contracts is to keep pace with the economic and social changes. It is based on the principle of maintaining a certain level of relative stability in contractual relationships. As contractual security is a part of legal security, it relies on a set of principles and rights that must be respected, such as the principle of the binding force of the contract, executing the contract in good faith, and finally, respecting the parties' legal positions arising from the contract and maintaining the contract whenever possible.¹¹

7 Karima Karim, 'The Impact of Using Information Technology in Achieving Legal Security' (2017) 2 Faculty of Law Journal for Legal and Economic Research, Alexandria University 297.

8 Law of the State of Qatar no 22 of 2004 'Promulgating the Civil Code' <https://www.icnl.org/wp-content/uploads/Qatar_29_Qatar_CivilCode_2004.pdf> accessed 30 September 2023.

9 Ordonnance du Département de la Justice n 2016-131 du 10 février 2016 'Portant réforme du droit des contrats, du régime général et de la preuve des obligations' [2016] Journal officiel de la République Française 35/26.

10 In this context, refer to: Ibrahim Dawood, 'The Risk of Legal Insecurity and the Necessity of Activating the Legislative Role: A Comparative Analytical Study' (2021) 10(3) International Review of Law 16, doi:10.29117/irl.2021.0188.

11 For more detailed information on this topic, please refer to: Rajaa Issawi and Sanaa Sheikh, 'Contractual Security and its Requirements' (2021) 13(1) Journal of Judicial Jurisprudence 499 <<https://www.asjp.cerist.dz/en/article/142703>> accessed 10 March 2024.

2 DETERMINANTS OF THE ELECTRONIC CONTRACT SESSION

Recognising the determinants of the electronic contract session requires, first, determining the nature of the contract concluded by electronic means to identify the unique features of the Electronic Contract Session. Second, it involves discussing the offer and acceptance in the electronic contract and the extent of development in electronic means other than the traditional contract.

2.1. The Nature of the Electronic Contract

The electronic contract is the main entry point for the electronic contract session.¹² When searching for references, there is a lack of information, studies, and judicial rulings that address the issue of the electronic contract in all its manifestations.¹³

It is not possible, in any way, to discuss the electronic contract session without addressing its determinants and features, the most important of which is the electronic contract. It represents the core for dealing with the electronic contract session. The electronic contract has become of utmost importance as it passes through the gate of electronic civil and commercial transactions. Therefore, electronic contracts have become the main legal instrument for electronic transactions of both types.

With the modernity and development of electronic transactions and the acceleration of their operations, electronic contracts have become a relatively modern concept in comparative legal studies. In terms of its content, this contract can also be any regular contract concluded by mutual consent between the parties involved. It may require certain formalities in compliance with the rule of law.¹⁴ E-contracts refer to the various types of agreements formed during the course of conducting commerce through electronic means and correspondence. This occurs between two or more individuals, one of which is an electronic agent, or between two electronic agents, such as software systems that are programmed to recognise the legality of contracts. An e-contract comprises two main parties, namely an

12 Shujaa Al-Otaibi and Abdullah Al-Azmi, 'Electronic Contract (Fact and Judgement)' (2023) 35(102) *Spirit of Laws Journal* 1650, doi:10.21608/las.2023.199028.1136.

13 This was expressed by a researcher as "The absence of judicial rulings represents a difficulty that stands in the way of the researcher who wants to explore the practical reality of electronic transactions, which raises the question of the reason for this. Are electronic transactions free of disputes? Or do disputes arise in this field, but they are not presented to the judiciary and are settled by another parallel means?" Dr. Mahmoud Abdel-Rahman Muhammad has already reached a similar result in the comparative study he prepared on Law no 20 of 2014 on the Kuwaiti electronic transactions. See, Mahmoud Abdel-Rahman Muhammad, 'The Extent of the Authority of Electronic Means in Proving Civil, Commercial and Administrative Transactions According to the Kuwaiti Electronic Transactions Law: A Comparative Study' (2018) 21(1) *Kuwait International Law School Journal* 144.

14 Al-Yamamah Al-Harbi, 'Regulation of the Electronic Contract in the Kuwaiti Electronic Transactions Law no 20 of 2014' (2020) 8(Spec) *Kuwait International Law School Journal* 27.

originator and the addressee; the originator refers to the person who develops and sends an electronic message, while the addressee is the recipient of the message.¹⁵

At the legislative level, some legislations viewed contracting by electronic means as conventional contracting, but in an electronic form. From here, the term “electronic contract” was used. These legislations include the Palestinian Decree-Law No. 15 of 2017 of electronic transactions, which defines an electronic contract as “*an agreement between two persons or more by electronic means or mediums.*”¹⁶ The Tunisian legislation followed this approach as it stated in Chapter 1 of the Transactions and E-Commerce Law that “*electronic contracts are governed by the system of written contracts insofar as they do not conflict with the provisions of this law.*”¹⁷ The Jordanian legislation defined the electronic contract in Article 2 of the Electronic Transactions Law as “*an agreement concluded by electronic means, wholly or partially.*”¹⁸

On the other hand, other legislations did not limit the scope of electronic contracts to an agreement concluded between two or more parties to create a legal effect by electronic means. However, they defined it broadly and comprehensively, including any transaction, contract, or agreement concluded or implemented electronically. Among these legislations is the Qatari Decree-Law No. 16 of 2010, which promulgates the Electronic Transactions and Commerce Law. Article 1 of this law defines electronic transaction as “any transaction, contract, or agreement concluded or implemented, partially or completely, by means of electronic communications.”¹⁹

The same situation applies to Kuwaiti legislation, as it does not specify any definition for electronic contracts. In contrast, Article 1 of the Kuwaiti Law No. 20 of 2014 regarding electronic transactions defined the term “*electronic transaction*” as “*any transaction or agreement concluded or implemented wholly or partially by electronic means of communication.*”²⁰

The definition of the electronic contract, at the level of international trade rules, through the UNCITRAL Model Law on Electronic Commerce (1996) for international trade law, has no reference, in this regard, to the definition of the electronic contract.

15 Benita Ezeigbo, *E-contracts: Essentials, Variety and Legal Issues* (GRIN Verlag 2017).

16 Decree Law of the State of Palestine no 15 of 2017 ‘Concerning Electronic Transaction’ <<https://maqam.najah.edu/legislation/14/>> accessed 30 September 2023.

17 Tunisian Law no 83/2000 of 9 August 2000 ‘Concerning Electronic Trade and Commerce’ (ch 1–4) (2001) 16(4) Arab Law Quarterly 414.

18 Jordanian Law no 15 of 2015 ‘Electronic Transactions Law’ <<https://www.cbj.gov.jo/EchoBusV3.0/SystemAssets/bec70415-2845-42df-bc47-5e0ee4b859b7.pdf>> accessed 30 September 2023.

19 Decree Law of the State of Qatar no 16 of 2010 (n 5).

20 Law of the State of Kuwait no 20 of 2014 ‘Concerning Electronic Transactions’ <<https://cyrilla.org/en/entity/doplobfh504wtlwnilhh1emi?page=5>> accessed 30 September 2023.

However, Article 2 of this Model Law defines the term “data messages” as “*information generated, sent, received or stored by electronic, optical or similar means including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy.*”²¹

Many countries tend to adopt the United Nations law as a legislative reference when setting their legislation related to electronic transactions and commerce. However, there is a direct discrepancy in the term “electronic contract,” with some legal frameworks failing to explicitly address it.

So, it can be said that the definition of electronic transaction includes all concluded transactions related to electronic contracts, as they are performed in cyberspace through various means of electronic communication, data messages, and other new media.

Others define an electronic contract as an exchange of offer and acceptance via electronic means to create a certain legal effect.²² This definition is correct, provided that the electronic contract is the same as the conventional contract, with the fundamental difference being the means of conclusion reflected through the contracting parties' transactions in terms of the contract's place and time.

At the level of legal jurisprudence, an aspect of jurisprudence has defined “electronic contract” as “*a contract that is concluded by electronic means, in whole or in part, by any electrical, magnetic, optical, electromagnetic means, or any other similar means suitable for exchanging information between contracting parties.*”²³

After presenting these legal and jurisprudential definitions of an electronic contract, it can be defined as “*the agreement of two or more wills to create, amend, or terminate a legal relation by electronic means, in whole or in part.*”²⁴

The peculiarity of this definition is that it differs from the traditional contract concluded between parties without the use of electronic means to convey the offer and acceptance between the two parties, as is the case with an electronic contract. The agreement, or convergence of the wills of the parties, is what gives the contract its binding force, from its establishment through to its termination or amendment.²⁵

21 UNCITRAL Model Law on Electronic Commerce (1996, with additional article 5 bis as adopted in 1998) <https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce> accessed 30 September 2023.

22 Tariq Jumaa Al-Sayyid Rashid and Abdullah Afas Al-Merri, ‘The Electronic Contract between Bargaining and Adhesion: A Comparative Analytical Study’ (2022) 10 Journal of Jurisprudential and Legal Studies 18.

23 Ibrahim Al-Desouki Abul-Lail, *Legal Aspects of Electronic Transactions: A Study of the Legal Aspects of Transactions Through Modern Communication Devices* “Electronic Messaging” (Kuwait University 2003) 71.

24 Majid Suleiman Aba Al-Khail, *The Electronic Contract* (Al-Rushd Library 2009) 20.

25 In the same sense, see: Abdul-Razzaq al-Sanhouri, *The Theory of the Contract* (Arab-Islamic Scientific Academy 1934) 8; Yasser Ahmed Kamel Al-Sirafi, *Abolition of Legal Disposition* (Dar Al-Nahda Al-Arabiya 1995) 8; Gaber Mahjoub Ali, *The General Theory of Obligation*, pt 1: Sources of Obligation in Qatari Law (Qatar University Press 2022) 27.

This was reflected in the French legislator's definition of the traditional contract in Article 1101 of the Civil Code: "A contract is an agreement whereby one or more people commit themselves towards one or more other people to give, do, or abstain from doing something."²⁶

In this regard, it is worth noting the Qatari jurisprudence, which establishes the principle of the authenticity of electronic documents in evidence.²⁷ It includes recognising what is done via an e-mail as constituting a contract concluded through electronic means under the umbrella of Law No. 16 of 2010, which promulgates Electronic Transactions and Commerce Law.

Such a ruling of the Qatari Court of Cassation resolves any controversy over the definition of the electronic contract when the legislation does not provide an explicit definition. It provides flexible interpretation as long as it lies within the scope of "electronic transactions", making the definition broader and more comprehensive to include the electronic contract.

Kuwaiti legislation followed the footsteps of Qatar in adopting the term "electronic transaction". It considers the contract to be the basic legal tool for all transactions, whether commercial, civil, or even administrative. So, they both share the same reason for legalising the term "electronic transaction" instead of "electronic contract". This is because "transaction" has a broader definition and suggests all means, including electronic ones.

It is worth noting that there is a similarity between an "electronic contract" and a "smart contract" in light of the confusion between them. Smart contracts, as an innovative technology, have the potential to revolutionise traditional contractual relationships by transferring the authority to execute and enforce contracts from individuals to smart robots.²⁸ Accordingly, some have defined it as "the self-execution of the traditional contract

26 Code civil des Français (version en vigueur du 21 mars 1804 au 01 octobre 2016) art 1101 <https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006436086/2004-06-22> accede 30 septembre 2023. Arab jurists selected the term concurrence of two or more wills to create a legal effect rather than the term "Agreement" which was used by the French legislators, see: Abd al-Razzaq Al-Sanhouri, *Al Wasit in Explaining Civil Law, 1 Obligation Theory in General: Sources of Obligation*, vol 1: The Contract (Counselor Mustafa Muhamed Al-Fiqi and Abdel Basset Jamie eds, 3rd edn, Dar Al-Nahda Al-Arabiyya 1981) para 27, 173; Suleiman Murkus, *Al-Wafii in Explanation of Civil Law*, pt 2: Obligations: The Theory of Contract and Individual Will (4th edn, sp 1978) para 30, 57. The French legislation's definition of the contract in Art. 1101 means that the agreement is more general and comprehensive than the contract, which is considered a type of agreement. For details, see: Faouzi Belkani, 'Contract Theory in the Amended French Civil Code and in Qatari Civil Code: A Comparative Study' (2020) 9(2) *International Review of Law* 24, doi:10.29117/irl.2020.0105. This distinction was not supported by Egyptian jurisprudence, see: Hamdi Abdel Rahman, *Al Wasit in the General Theory of Obligations: Voluntary Sources of Obligation, Contract and Individual Will* (Dar Al-Nahda Al-Arabiyya 1999) 76.

27 Appeal no 275/2016 (Qatari Court of Cassation, Civil and Commercial, 15 November 2016) <<https://www.almeezan.qa/RulingPage.aspx?id=1487&language=ar>> accessed 30 September 2023.

28 Mateja Durovic and Chris Willett, 'A Legal Framework for Using Smart Contracts in Consumer Contracts: Machines as Servants, Not Masters' (2023) 86(6) *Modern Law Review* 1390, doi:10.1111/1468-2230.12817.

written in the natural language of humans and specifically formulated in a language that can be translated by a computer²⁹ or as “a program that contains the data of the written agreement between the parties in the traditional form and executes it automatically.”³⁰

The key distinction between “smart contracts” and “electronic contracts” lies in their execution. Electronic contracts are carried out by modern electronic means, such as computers, smartphones, or various means of communication, either audio-visual methods or messaging. As for smart contracts, a special feature called “Blockchain” is used. It works automatically through specific programming and according to certain conditions.³¹ For example, when someone wishes to purchase real estate through a smart contract, they would save a lot of time and effort and avoid complicated procedures. With a smart real estate purchase contract, the transfer of ownership from the seller to the buyer does not occur until agreement on the price and all contract conditions are reached and detailed in the smart contract. As a result, the contract is executed autonomously and automatically once the payment is transferred in virtual currency, and in return, ownership automatically transfers to the buyer. In this case, the property is recorded in the buyer's name, and all participants in blockchain technology can access this ownership in the central ledger, thus serving as witnesses to the property transfer process.³²

It is worth noting that electronic contracts and smart contracts converge in the necessity of fulfilling the three elements of a contract (capacity, subject matter and cause). However, they differ in the method of contract execution. While electronic contracts are concluded through electronic means, they still adhere to the rules and general principles of contract formation and execution, such as capacity, susceptibility to rescission and nullity, application of the theories of force majeure and coercion, as well as adherence to certain flexible principles and standards governing contracts, such as the application of the public policy doctrine, good faith principle in contract execution, binding force of the contract principle, and fair price principle.³³

In contrast, smart contracts challenge these rules and principles governing contracts and tend towards a special method of contract formation and execution that does not rely on the traditional or even electronic contract theory. Instead, they are concluded and executed automatically, without human intervention, focusing solely on the subject matter and object

29 Samuel Bourque and Sara Fung Ling Tsui, 'A Lawyer's Introduction to Smart Contracts' in *Scientia Nobilitat: Reviewed Legal Studies* (Scientia Nobilitat Platform for Exchange of Scientific Ideas 2014) 4.

30 Abdel-Razek Wahba Sayed Ahmed Mohamed, 'The Concept of the Smart Contract from the Perspective of Civil Law: An Analytical Study' (2021) 5(8) *Journal of Economic, Administrative and Legal Sciences* 86, doi:10.26389/AJSRP.R270920.

31 Muhammad Bouzidi Sheiter, 'Integrating smart Contracts into the Traditional Contract System: A Fact or just an Assumption?' (2022) 7(2) *Journal of Research in Contracts and Business Law* 137.

32 Ghassan Saleh Saleh Al-Taleb, 'Digital Currencies and Their Relationship with Smart Contracts' (Islamic Fiqh Assembly Conference, 24th ses, Dubai, 2019) 41.

33 Hussam Al-Din Mahmoud Muhammad Hassan, 'Smart Contracts Executed via Blockchain Technology' (2023) 16(1) *Legal Journal* 42-3, doi:10.21608/JLAW.2023.297185.

of the contract. These contracts operate independently of the contracting parties' capacity, goodwill or the surrounding circumstances accompanying their conclusion. As such, it can be said that smart contracts are emotionless contracts, where trust in individuals has been replaced by trust in the programming code.

Thus, it can be concluded that electronic contracts are the preferred option for contract formation to keep up with technological advancements. Currently, full reliance on smart contracts (i.e., contracts written in programming language and executed autonomously without human intervention) seems unfeasible in most Arab legislation. However, it can be said that one can rely on hybrid smart contracts, where the contract is concluded electronically, obligations are determined, and terms are written traditionally or digitally, with execution being partially or fully automated or smart. In this format, there is a written contract executed through smart technology. In this latter case, the smart contract serves merely as a mechanism of contract execution rather than a contract itself.³⁴

2.2. Offer and Acceptance via Electronic Means

In light of the major revolution caused by the electronic contract with the new technological developments and what this raises regarding the difference between traditional and electronic contracting methods, the general rules of mutual consent have become unable to accommodate these developments.³⁵ This prompted many legislators, including the Qataris, to develop legal solutions appropriate to the nature of electronic contracting. As a result, Law No. 16 of 2010 on Electronic Commerce and Transactions was enacted.³⁶ Every step of entering an e-contract is governed by law; therefore, any form of violation is punishable in a court of law. For example, Article 9 of Kuwait Law No. 20 of 2014 outlines the requirements that should be fulfilled for an electronic document to be legal. The document should be saved in the same form it was created, the information should be easily retrievable, the creator and the sender should be identified, and the document should be saved in an electronic form.³⁷

The electronic contract and, by extension, the electronic contract session cannot be discussed without being familiar with the general rules governing the contract and its conclusion. This is according to Article 64 of the Qatari Civil Law No. 22 of 2004, which states that “*Without prejudice to any special formalities that may be required by law for the*

34 Enas M Qutaishat, Bassam Al-Tarawneh and Osamah Al-Naimat, ‘The Legal Status of Smart Contracts According to the Jordanian Civil Law: Theory of Contracts’ (2022) 14(4) *Jordanian Journal of Law and Political Science* 89, doi:10.35682/jjpls.v14i4.354.

35 Jaber Mahjoub and Tariq Rashid, ‘The Specifics of Contracting Via Electronic Means of Communication: An Analytical Study in Light of Qatari Decree-Law no 16 of 2010 on the Promulgation of the Electronic Commerce and Transactions Law’ (Proceedings of the Law and the Digital Age Conference, 19-20 February 2018, Colleges of Law and Engineering, State of Qatar) 5.

36 Decree Law of the State of Qatar no 16 of 2010 (n 5).

37 Law of the State of Kuwait no 20 of 2014 (n 20) art 9.

*conclusion of certain contracts, a contract shall be concluded from the moment an offer and its subsequent acceptance have been exchanged if the subject-matter and cause of such contract are deemed legal.*³⁸

Therefore, some jurists defined electronic offer as “an expression of the will of the person wishing to contract remotely, as it takes place through an international communications network by audio-visual means. It also includes all the elements necessary to conclude the contract, so that the person to whom it is directed can accept the contract directly.”³⁹ While electronic acceptance can be defined as “the definitive expression of the will of the person to whom the offer is made and his consent to this offer, but it is conveyed through an electronic medium.”⁴⁰

According to this definition, an electronic offer and acceptance are nothing more than a formal description of the means through which this offer and acceptance are transmitted between the two parties without an objective difference in terms of the legal effect of creating, modifying or terminating the obligation.⁴¹

Electronic contracts are inseparable from traditional contracts. Therefore, an electronic contract is required to meet the general rules for conclusion, the most important of which is the exchange between offer and acceptance. It is regulated by the Qatari Civil Code, where Article 75 stipulates: “Where the offer is made during the contract session without a time limit for acceptance, both parties shall retain the option until the session ends. Where the offeror retracts his offer or the session ends without acceptance, the offer shall be considered terminated.”⁴²

Article 76 also regulates the exchange between offer and acceptance, stipulating: “Save as otherwise agreed or required by law or customary usage, the contract shall be deemed to have been concluded if the offer is accepted.” Article 77 stipulates: “A contract concluded by correspondence shall be deemed to have been made at the time and place when and where acceptance reaches the offeror’s notice unless otherwise agreed or required by law or usage.” Article 78 stipulates: “A contract made by telephone, over the internet, or by any other similar means shall, in respect of time, be regarded as having been concluded between present contracting parties. In respect of place, such contract shall be regarded as having been concluded between absent contracting parties.”⁴³

38 Law of the State of Qatar no 22 of 2004 (n 8) art 64.

39 Samir Hamid Abdel-Aziz Al-Gammal, *Contracting through Modern Communication Technologies* (Dar Al-Nahda Al-Arabiyya 2006) 104.

40 Mahjoub and Rashid (n 35) 23.

41 Nazih Muhammad Al-Sadiq Al-Mahdi, ‘Concluding the Electronic Contract’ (17th Scientific Conference on Electronic Transactions “Electronic Commerce - Electronic Government”, College of Law United Arab Emirates University, Abu Dhabi, 19-20 May 2009) vol 1, 220.

42 Law of the State of Qatar no 22 of 2004 (n 8) art 75.

43 *ibid*, arts 76, 77, 78.

Given the summation of these texts mentioned above, and by applying these rules, contracts, generally, and electronic contracts, in particular, are deemed concluded according to Article 78, which states that “A contract made by telephone or any similar method shall be regarded as having been concluded between present contracting parties, in respect of time, and as having been concluded between absent contracting parties, in respect of place.”⁴⁴

Due to the similarities between conventional and electronic contracts, the general rules that govern the former relatively govern the latter. However, it is impossible to ignore the explicit discrepancies between the methods of offer and acceptance from one means to another, as these differ in several ways and aspects.

It is known that the technological scale imposes new and innovative methods for parties to engage in transactions via several electronic means which govern electronic contracts. As a result, the offer and acceptance forms differ as the methods of offer and acceptance are electronic versus conventional.

The connection between the offer and acceptance also varies according to the type of electronic means used. This includes personal emails through which offers are received, methods employed by websites and applications for accessing and receiving offers, and links that can be accessed after accepting related terms and conditions.

In this regard, the regulation of the Qatari legislation should be recognised through Article 4 of the Electronic Commerce and Transactions Law No. 16 of 2010, which stipulates the following: “In the context of contract formation or conducting transactions, an offer or acceptance of an offer may be expressed, in whole or in part, using electronic communications. A contract or transaction shall not be denied validity or enforceability solely because one or more electronic communications were used in its formation.”⁴⁵

On the other hand, the provisions of Article 5 of the Kuwaiti Electronic Transactions Law No. 20 of 2014 state: “The approval, acceptance and all matters related to contracting, including any amendment or recantation in approval or acceptance, may be expressed wholly or partially via electronic transactions. The expression shall not lose its validity, effect or enforceability just because it has been carried out via one electronic correspondence or more.”⁴⁶

The law explicitly stipulates that the expression of will through electronic correspondence does not lose its validity, effect, or enforceability. It is worth noting that the law does not require that this be done through a single correspondence, as the expression of will is valid even if it is done through more than one correspondence until the agreement is finalised.⁴⁷

44 Abdullah Abdul Karim Abdullah, ‘The Impact of Techno-Legal Changes on Concluding a Contract, a study in Qatari Law and Some Model Contracts’ (2018) 23(3) Journal of the Kuwait International Law School 174.

45 Decree Law of the State of Qatar no 16 of 2010 (n 5) art 4.

46 Law of the State of Kuwait no 20 of 2014 (n 20) art 5.

47 Al-Harbi (n 14) 30.

This is confirmed by Article 1125 of the New French Contract Law, which stipulates that “*the electronic means may be used to make available contractual stipulations or information regarding property or services.*”⁴⁸

On the other hand, Article 11 of the UNCITRAL Model Law on Electronic Commerce stipulates: “*In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed by means of data messages. Where a data message is used in forming a contract, that contract shall not be denied validity or enforceability on the sole ground that a data message was used for that purpose.*”⁴⁹

This provision establishes the concept of offer and acceptance being expressed through electronic means, recognising the exchange of intentions as an expression of will when conducted electronically.

Based on these data, it should be noted that traditional paper electronic contracts and electronic contracts are not identical. Unlike a conventional contract, an electronic contract occurs during a virtual contract session in which the contracting parties do not meet. This is why the consent or expression of will may be tainted with a defect that affects the integrity of the consent or the validity of the will. Also, one of the contracting parties may deny expressing their will, or this expression may be understood in a way that is not intended.⁵⁰

3 PECULIARITY OF ELECTRONIC CONTRACT

The electronic contract session is peculiarly derived from being held between two contracting parties. Unlike conventional contracting, this raises the issue that contracting may involve either absent or present parties. Therefore, in discussing the electronic contracts session, it was necessary to introduce the electronic contract in the first section of this study and then apply the general rules of electronic contracts in terms of offer and acceptance.

From the above, it is clear that the idea of the electronic contract session is based on two tracks. The first is an actual session where the two contracting parties gather in one place and are in direct contact so that each hears the other directly without being distracted. It begins with an offer and ends with acceptance, rejection, or dismissal without response. The second track, called constructive, is unlike the actual session, as one of the contracting parties is absent.⁵¹

48 Ordonnance du Département de la Justice n 2016-131 (n 9) art 1125. See also, Belknani (n 26) 21.

49 UNCITRAL (n 21) art 11.

50 Abdullah Ahmed Al-Sulaiti, 'Guarantees for the Protection of Electronic Contracting in the Qatari Law' (master's thesis, College of Law, Qatar University 2021) 29.

51 Lama Abdullah Sadiq, 'Electronic Contract Session' (Master's thesis, College of Graduate Studies, An-Najah National University 2008) 12.

3.1. Forms of Electronic Contract Session

The idea of the electronic contract session is based on the idea that the contract is concluded through mutual consent between the two parties, as consent is the essence of the contract. This mutual consent is only achieved when an offer accompanies acceptance. Hence, the offer must remain valid and not be voided. Should it become voided for one reason or another, the acceptance is not accompanied by the offer. Consequently, the contract shall be invalid. This leads to the question of whether the contract session should be regarded as actual or constructive.⁵²

Amidst a jurisprudential disagreement⁵³ over the forms of the electronic contract session, it can be represented in two forms: the first, in which the contract session takes place through modern means of communication, such as contracts via various websites, instant chat and messaging programs, and the second, in which the contract is between absent parties, such as contracting via e-mail and similar modern means of communication.⁵⁴

In light of the above, both forms are addressed as follows.

3.1.1. The Actual Electronic Contract Session

The actual electronic contract session can be defined as “the session in which the contracting parties are present together.” Others define it as “where contracting parties come together, having direct contact, which allows one to hear the other’s words while they are engaged in the contract without being occupied by anything else.”⁵⁵

Moreover, in an actual contract session, the problem of determining the time for concluding the contract does not arise, given the assumption that the contracting parties are in direct contact, whether via electronic or non-electronic communication means. Each party hears the other’s words as soon as they are uttered. Therefore, the contract is concluded the moment the acceptance is issued by the person to whom the offer is made since such acceptance is connected to the offeror’s knowledge immediately after issuance.⁵⁶

Through the definitions provided, a clear mental image of the controls or conditions that govern the convening of the actual contract session takes shape, the essence of which lies in connection with the actual offer. Therefore, the actual contract session is held only under two conditions: first, the presence of the two parties or their representatives, and second, the knowledge of the offer at the moment of its issuance.

52 Muhammad Siddiq Muhammad Abdullah, *The Contract Session: A Comparative Study* (Legal Books House 2009) 113.

53 Sharif Majid Muhammad Gawish, ‘Electronic Contract Session in Civil Law: A Comparative Study’ (2029) 6(2) *Legal Journal* 85.

54 Mahjoub and Rashid (n 35) 42.

55 Mustafa Ahmed Abu Amr, *Contract Session within the Framework of Online Contracting: A Comparative Study* (New University House Alexandria 2008) 82.

56 Mahjoub and Rashid (n 35) 28.

The first condition of the actual contract session is fulfilled through the presence of the two parties or their representatives. This requires both parties to be present during the session. In other words, the spatial scope of the session must allow each of them to see and hear the other without any obstacles. The purpose of the contracting parties meeting in one place is to enable one party to see, hear, and understand the other party's expression of will. Hearing and knowing the other party's will are the basis of communication between the two parties' wills to achieve agreement.⁵⁷

The second condition of the actual contract session implies knowledge of the offer being made at its issuance, as it is the essence of fulfilling the contract according to the traditional system. If acceptance accompanies the offer, the contract is concluded unless otherwise agreed upon or the law or custom requires otherwise, as stated in the Qatari Civil Code.⁵⁸

3.1.2. The Virtual Electronic Contracts Session

In contrast to the actual electronic contract session, there is another different form, the constructive electronic contract session, in which the two contracting parties are not present simultaneously. The result is that all means of expressing will, whether via modern means of communication or in writing, are valid as long as the offer is accompanied by acceptance per the general rules, constituting a constructive contract session.

In light of this concept, the idea of a constructive electronic contract session takes shape when the contracting parties are absent. The methods for absent contracting parties to communicate also evolve according to the means of communication or electronic means used, such as in contracts via email or other electronic means. In this regard, Article 1126 of the new French Contract Law stipulates that "*Information requested with the view to the conclusion of a contract or provided during its performance may be sent by electronic mail if the recipient has agreed that this means may be used.*"⁵⁹

Therefore, as with the actual electronic contract, the constructive electronic contract session requires controls or conditions. The first condition is the existence of an offer and acceptance, as well as a means through which the other party becomes aware of the offer and acceptance. The second condition involves the two contracting parties being occupied with the contract.

57 Abu Amr (n 55).

58 Since the parties to the traditional contract session are in direct contact without a time interval, actual or virtual, See, for the same meaning: Abdel-Fattah Abdel-Baqi, *The Theory of the Contract and the Single Will: An In-Depth Study and Comparison with Islamic Jurisprudence* (sn 1984) para 69, 145; Abdel-Moneim Faraj Al-Sadda, *Sources of Obligation* (Dar Al-Nahda Al-Arabiyya 1969) para 98, 121-2; Mahmoud Abdel-Rahman Muhammad, *The General Theory of Obligation*, pt 1: Sources of Obligation (Dar Al-Nahda Al-Arabiyya 2011) 71-2; Saeed Jabr, *Sources of Obligation* (Dar Al-Nahda Al-Arabiyya 2009) 90.

59 Ordonnance du Département de la Justice n 2016-131 (n 9) art 1126.

Regarding the first condition, the presence of an offer and acceptance is the basis for applying the rules governing the contract between the two parties. According to legal principles, acceptance must accompany the offer to create a valid agreement. However, in the case of a constructive electronic contract, which involves absent and virtual parties, it becomes necessary to have a reliable means through which the other party can be informed of the offer and acceptance. Such means depend on electronic communication between the two parties, such as exchanging emails. This is a clear example of a constructive electronic contract, where the two parties are in different countries and separated by thousands of miles.

Concerning the second condition, the contracting parties must remain preoccupied with the contract. The offeror must remain committed to their offer without doing anything that suggests retraction. Similarly, the offeree must express interest in the offer without declaring refusal. Thus, both parties are limited to dealing with the offer made by the first party. In contrast, the second party must remain preoccupied with the offer and not be distracted by another issue.

Article 1127, Paragraph I, of the new French Contract Law confirmed this as “*A person who, in a business or professional capacity, makes a proposal by electronic means for the supply of property or services must make available the applicable contractual stipulations in a way which permits their storage and reproduction. A person issuing an offer remains bound by it as long as it is made accessible by him by electronic means.*”⁶⁰

3.2. Legislative and Judicial Guarantees Regarding the Electronic Contract Session

Legislative and judicial guarantees of the electronic contract session represent one of the most important factors for the sustainability of transactions concluded by electronic means and a source of stability for the legal status in such transactions with the various electronic means.

The legislation and jurisprudence in the State of Qatar were not far behind in establishing guarantees according to the developments of the electronic space, especially with the rapid development of various types and technology methods. Therefore, many rulings were issued by the Qatari Court of Cassation, which undoubtedly represent important guarantees for the electronic contract session in several aspects.

The role of the Qatari legislator appears through the relevant laws, starting from various texts in the Qatari Civil Code that regulate the traditional theory of the contract and the application of those texts to the electronic contract, as well as Law No. 16 of 2010, which promulgates the electronic transactions and commerce law.

60 *ibid*, art 1127-1.

3.2.1. At the Legislative Level

3.2.1.1. Recognising the Legal Validity of the Information Contained in Data Messages

Article 20 of the Decree-Law of Electronic Transactions and Commerce states that *“Information in the data message shall not lose its legal effect, validity or enforceability solely on the grounds that it is in the form of a data message. Information in the data message shall also not lose its legal effect, validity or enforceability solely on the grounds that it is merely referred to in that data message without details, where the data message clearly identifies how to access the details of this information. The information is accessible to be used for subsequent reference by every person who has a right to access and use the information, and the method for accessing the information is clearly identified in the data message and does not place an unreasonable burden on any person that has a right to access the information.”*⁶¹

The legislator has recognised the full legal validity of the information in data messages through which the offer and acceptance are exchanged between the parties to the electronic transaction. Accordingly, a judge can determine that the offer and acceptance occurred via these electronic means without requiring a clear physical paper-based document signed by both parties. The reliability of these electronic messages depends primarily on the fact that their origin is stored in the computer system from which they were issued or within the Internet, in the case of email. Additionally, these messages must be easy to view and accessible by every person who has the right to access and use them. This is confirmed by Article 21 in its statement: *“Where the law stipulates that an instrument, document or transaction be drawn up in writing or otherwise identifies certain consequences for non-abidance, the instrument, document or transaction shall be deemed to have fulfilled this condition, where the instrument, document or transaction are in the form of an accessible data message.”*⁶²

3.2.1.2. Providing Some Procedures to Verify the Sender and Receiver of Data Messages

Article 26 of Decree-Law No 16 of 2010, which promulgates the Electronic Transactions and Commerce Law, has established some controls to verify the sender and receiver of data messages. These controls are designed to prevent human interference, manipulation and illusive authenticity.

Article 26 of the Decree Law No 16 of 2010, which promulgates the Electronic Transactions and Commerce Law, stipulates that *“When assessing the evidential weight of information, instrument or a document in the form of a data message, regard shall be given to the following:*

1. *The processes and circumstances under which the data message was generated, stored or communicated;*
2. *The processes and circumstances under which the integrity of the instrument, document or information contained in the data message was maintained;*

61 Decree Law of the State of Qatar no 16 of 2010 (n 5) art 20.

62 *ibid*, art 21.

3. *The processes and circumstances under which the originator of the data message was identified;*
4. *Any other relevant process or circumstances.*⁶³

In this context, it becomes challenging for the opposing party to deny their extracts. There must be adherence to providing the original, as long as the extract is nothing but a transcript of what was contained in the electronic medium being dealt with. However, it is no secret that these processes require specialised technical expertise in this field. If these conditions and controls are met, automated data messages acquire authority in proof equal to those written on paper and accompanied by a written signature. It is, therefore, difficult for the opposing party to deny these instruments and adhere to presenting the original, as the electronic copy is nothing but a transcript of what was contained in the electronic medium.

3.2.2. At the Level of Judicial Application

Despite the small number of, or rather, the scarcity, of applications by the Qatari judiciary in the field of completing electronic transactions, the Qatari Court of Cassation has enshrined some judicial principles when applying the texts of the Decree Law on Electronic Transactions and Commerce as follows.

3.2.2.1. *Recognising the Legal Value of Expressing Will in Electronic Contracts*

One of the most prominent things addressed by Qatari jurisprudence through a judicial ruling issued by the Court of Cassation was the recognition of the legal value of the expression of will stated in an electronic contract (which falls within the scope of the electronic contracts session). This issue arose through an appeal where a contractor sent an electronic message to the other party expressing their will to terminate the contractual relationship between them, specifically regarding their will to stop renewing a lease contract. The Court of Cassation ruled that “it was clear from the papers that the appellant had maintained a defence based on the fact that appellant had agreed with the company under appeal to partially cancel a number of (...) rooms out of (...) rented under the lease contract dated .../.../2015 and appellant delivered those aforementioned rooms after clearing what was in it. It was in accordance with what was proven by the e-mail exchanged between them, which was not denied by the appellant company, which submitted to the court in support of that. However, the contested ruling ignored the significance of those electronic correspondences, examined them, and based its ruling on the fact that the appellant did not deliver the aforementioned rooms that are the subject of the dispute to the company being appealed against except after the expiration of the term of the rental contract agreed upon therein, as a deficiency taints it in the justification.”⁶⁴

63 *ibid*, art 26.

64 Appeal no 483/2018 (Qatari Court of Cassation, Civil and Commercial, 1 January 2019) Technical Office 5/9.

3.2.2.2. *Equality between Electronic Documents and Traditional Documents as Proof*

Among the most prominent appeals that were decided by the Qatari judiciary was when the Court of Cassation established the principle of authenticity of electronic documents as evidence. The court affirmed that their value is equal to conventional documents by recognising an email exchanged between the contracting parties, where offer and acceptance were extracted as part of the appeal.

The Court of Cassation based its decision on the appeal, confirming the authenticity of an electronic document through a means of communication represented by an email. This decision was supported by the texts of the concluded Electronic Commerce and Transactions Law, as the subject of the appeal involved an electronic means of communication.⁶⁵

4 CONCLUSIONS

In this study, the electronic contract session was discussed, tracing its emergence and development in accordance with its determinants. The nature of the electronic contract was also discussed as an entry point to the electronic contract session. The offer and acceptance via electronic means were explained as a starting point for determining the nature of the electronic contract, according to the Qatari legislation and some comparative laws. The privilege of the electronic contract was also discussed through its forms and the judicial and legislative guarantees established by the Qatari legislation and concluded by jurisprudence in the State of Qatar.

5 RESEARCH RESULTS

In the conclusion, a set of results and recommendations were concluded as follows:

- There is a lack of information, studies and judicial rulings addressing the issue of electronic contracts, which remains one of the key determinants of the electronic contract session.
- There is a discrepancy between a number of legislations and the UNCITRAL Model Law, the full title of the Model Law, in dealing with an explicit concept of electronic contracts.
- An electronic contract is a contract that is subject in its formation to the general rules and provisions set by the general theory of the contract. However, it is distinguished by being a contract concluded remotely between not parties who are not physically present, utilising electronic means of communication.

65 Appeal no 275/2016 (n 27).

- There is a clear discrepancy in the electronic methods of offer and acceptance due to the various methods and aspects used.
- The electronic contract session does not differ from the regular contract session except in two ways: the electronic means through which the session takes place and the spatial scope.
- The actual and constructive forms of the electronic contract can be inferred based on the electronic means used between the parties.
- The Qatari legislation and jurisprudence have addressed the legal guarantees with regard to the specifications of the electronic contract session through the Electronic Commerce and Transactions Law.
- The electronic contract and the smart contract are distinct from each other. The former is concluded through modern electronic devices, such as computers and smartphones, relying on audio-visual communication or sometimes messaging. However, in the smart contract, there is privacy as it is based on blockchain technology. Blockchain works automatically through specific programming and under certain conditions.

6 RECOMMENDATIONS

The Qatari legislator should consider the following recommendations into consideration:

- Formulate simplified legal texts for electronic contracts to suit the different categories of contracting parties.
- Identify the problems that consumers face when dealing with electronic contracts. The most vital corporate sector can be used in electronic transactions at the level of region countries.
- Amend the provisions related to offer and acceptance in the Electronic Commerce and Transactions Law by developing detailed and explicit texts that address both concepts.
- Amend the Electronic Commerce and Transactions Law by establishing a special provision that deals with the concept of the electronic contract since it has become one of the determinants of the electronic contract session, especially given the growing variety of electronic transaction types.
- Establish a special text relating to the forms of the electronic contract session, whether a constructive or actual session.

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AUTHORS INFORMATION

Mohamed Salem Abou El Farag*

Ph.D. (Law), Associate Professor of Private Law, College of Law, Qatar University, Qatar
Mohamed.salem@qu.edu.qa
<https://orcid.org/0000-0003-1919-7184>

Corresponding author, responsible for writing and investigation.

Tarek Gomaa Rashed

Ph.D. (Law), Associate Professor of Private Law, College of Law, Qatar University, Qatar
tr.gomaa@qu.edu.qa
<https://orcid.org/0000-0002-6099-2588>

Co-author, responsible for writing and investigation.

Ahmed Qatami

Lawyer, LLM (Law), College of Law, Qatar University, Qatar
ahmedstlawyer@gmail.com
<https://orcid.org/0009-0008-3424-5571>

Co-author, responsible for writing and investigation.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

РОЗРОБКА ПРАВОВОГО РЕГУЛЮВАННЯ ДЛЯ ЕЛЕКТРОННИХ ДОГОВОРІВ У КОНТЕКСТІ ТРАДИЦІЙНОЇ ТЕОРІЇ ДОГОВОРІВ: АНАЛІТИЧНЕ ДОСЛІДЖЕННЯ

Могамед Салем Абу Ель Фарар*, Тарик Гома Рашид та Ахмед Катамі

АНОТАЦІЯ

Вступ. Роль цифрових засобів зв'язку стала значною у нашому повсякденному житті. Ці засоби стали, ніби серце, що пульсує, у досягненні миттєвої та швидкої комунікації між людьми та в укладенні численних договорів через Інтернет. Таким чином, метою цієї статті є з'ясування концепції електронних договорів, яку катарський законодавець оминув увагою, адже, регулюючи в Цивільному кодексі закон №22 від 2004 р. та закон, затверджений Указом № 16 від 2010 року, видав Закон про електронні транзакції та комерцію, просто задовольняючись положенням статті 4 цього останнього закону, вказавши, що дозволено здійснювати оферту або акцепт за допомогою електронних засобів зв'язку.

Що стосується проблеми дослідження, то термін «електронний договір» став домінувати у багатьох юридичних працях, хоча фактично не існує жодного договору, укладеного повністю в електронному вигляді; натомість існує договір, укладений за допомогою електронних засобів. Отже, виникають питання щодо характеру сесії цього типу договору, в якому сторони не збираються в одному місці, а синхронізуються в часі. Чи застосовуємо ми ті самі правила, які регулюють традиційні договірні сесії, чи нам потрібні нові правові норми, сумісні з цим технологічним прогресом у спілкуванні та взаємодії між сторонами договору?

Це дослідження має на меті висвітлити проблему регулювання електронних договорів у Цивільному кодексі Катару. Ще однією ціллю є запропонувати правові рішення щодо реорганізації цих договорів загалом і договірної сесії, зокрема, для вдосконалення регулювання всіх форм цього виду договору. У зв'язку з цим автори намагаються описати детермінанти електронного договору та пояснити його привілеї.

Методи. У цьому дослідженні аналітичний підхід застосовано для вивчення текстів статей, що регулюють договірну сесію в Цивільному кодексі Катару, і статей, які регулюють оферту та акцепт за допомогою електронних засобів у катарському законі, затвердженому Указом № 16 від 2010 року, який оприлюднює Закон про електронні транзакції та торгівлю. Висвітлення природи правової системи для електронних договорів у законодавстві Катару забезпечить правовий захист віддалених договірних сторін, що зрештою гарантує договірну безпеку. Це, у свою чергу, підтримує принципи договірної справедливості, до яких прагнуть правові системи незалежно від їхніх

історичних джерел. Крім того, він є одним із найважливіших засобів залучення інвестицій через тісний зв'язок із безпекою транзакцій і повагою до законних очікувань, на які інвестори покладаються, формуючи своє бачення, якого вони прагнуть досягти.

Результати та висновки. У цій статті автори підсумовують деякі з найважливіших результатів, зокрема відсутність у Катарі спеціалізованих досліджень і звернень до суду щодо вирішення проблем, що виникають у зв'язку з цими договорами. Крім того, електронний договір мало чим відрізняється за своїми основними положеннями від традиційного договору, за винятком електронних засобів, які використовуються для його укладення. Крім того, існує очевидна розбіжність в електронних методах оферти та акцепту через різні методи та аспекти, що використовуються.

Ключові слова: електронні транзакції, електронні контракти, договірна сесія, захист конфіденційності, оферта та акцепт.