

Authenticating the administrative contract in electronic form and its legal force in Jordanian law

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Introduction: the electronic administrative contract

In Jordanian law, the administrative contract is 'a contract concluded by a legally authorised person for the purpose of managing a public facility and the parties' intention to adopt the general laws is shown by including in the contract a condition or condition not commonly seen in private legal contracts'.¹ The electronic contract is governed by the provisions of the general theory of contract. The significance of this form of contract is the extent to which its electronic nature affects its authority.² The electronic administrative contract has been defined as 'an agreement in which the affirmative acceptance is accepted on an international network of remote communication, by audible and visible means through the interaction between the offer and acceptance'.³ The Jordanian Electronic Transactions Law No 15 of 2015 is devoid of a definition of the term 'electronic contract'.⁴ However, article 2 of this law defines the term 'electronic transactions' as 'transactions carried out by electronic means'. This definition includes the contract. As a result, the means of contracting differs from those used in traditional paper-based contracts. This article deals with the position of the Jordanian legislator on the evidence, authenticity, and nature of the electronic documents in proving the electronic administrative contract.⁵

Significant doubt continues to surround electronic administrative contracts in Jordan, in particular the legal force of such a contract.⁶ The legislature approves this form of contract as a tool for proving rights and obligations. The older approaches used by legal entities and persons in the form of telegrams, telex, and facsimile transmissions provide the judge with a wealth of information to determine the weight to be attributed to the evidence submitted in litigation. The problem of an electronic administrative contract is how this contract can be proved in legal proceedings. Proof of electronic writing, electronic editing and electronic signature are particularly important in this regard.⁷

Evidence is established in litigation in the manner specified by the law. It follows that the existence of a disputed legal fact must be confirmed, which in turn will affect the judgment in the case.⁸ The electronic administrative

¹ Sulaiman Al-Tamawi, *The General Principles of Administrative Contracts: Comparative Study* (Cairo: Ain Shams University, 1984), p. 3; Munir Mahmoud Al-Waitry, *Administrative Contracts and their Applied Patterns within the Framework of Social Transformation* (Cairo: Cairo University Press, 1979), p. 13.

² Khaled Mamdouh Ibrahim Mohamed, *Conclusion of the electronic contract* (PhD thesis, Alexandria University, 2005), p. 50.

³ Published in the Official Gazette on 19 May 2015.

⁴ Khaled Mamdouh Ibrahim Mohamed, *Conclusion of the Electronic Contract*, 50.

⁵ Sulaiman Al-Tamawi, *The General Principles of Administrative Contracts: Comparative Study*, 32.

⁶ It existed before the issuing of the Jordanian Government Procurement System No. (8) for the year 2022, which included the signing of the electronic administrative contract as a basic element in the document.

⁷ Omar Hassan Al-Momani, *Electronic Signature and Electronic Commerce Law Comparative Study* (Amman: Dar Wael Publishing and Distribution, 2003), p. 14; see generally Stephen Mason and Daniel Seng, editors, *Electronic Evidence and Electronic Signatures* (5th edition, Institute of Advanced Legal Studies for the SAS Humanities Digital Library, School of Advanced Study, University of London, 2021), open source at <https://humanities-digital-library.org/index.php/hdl/catalog/book/electronic-evidence-and-electronic-signatures>.

⁸ Abdel-Razzaq al-Sanhoury, (1981), *The Mediator in Explaining the Civil Law (Sources of Commitment)* (Cairo: Dar al-Nahda al-Arabiya, 1981), p. 375; Abbas Al-Aboudi, *Explanation of the Iraqi Law of Evidence* (Mosul: Faculty of Law, University of Mosul, 1977), p. 10.

contract is evidenced by electronic documents (see below) which in turn are customary texts requiring two conditions, namely the writing of the contract and the signature that gives the text of the contract authoritative proof.

The electronic document

Article 2 of the Jordanian Electronic Transactions Law provides that an electronic record is:⁹

‘Information message that includes register, contract, record, or any other document which is generated, stored, used, copied, sent, communicated, or received through electronic means.’

Electronic documents can therefore be defined as ‘Data and information exchanged through correspondence between the two parties through electronic means, whether through the Internet, hard disks, computer screens or any other electronic medium’.¹⁰

Authentication of electronic administrative contracts

To establish proof of the electronic contract sufficiently for it to be accepted as an official document – that is, as an item of evidence tendered as evidence in legal proceedings – several conditions must be met, as set out below. If the digital document has obtained the legal condition that supports the legitimacy of its existence and the validity of its circulation (this phrase indicates that the evidence is not only accepted as legally official evidence before the courts, but all governmental institutions), the contents of this document are legally recognised.¹¹ There are three substantive conditions that must be met for the electronic document to have legal effect. They are set out below.

Condition 1: verify the writing requirement of the electronic document

For the writing to have legal effect, it must be legible so that the parties can act or refer to the content without ambiguity. The document must also be secured against any changes to the text be they additions or omissions, to constitute a valid source of evidence.¹²

Condition 2: electronic writing should be readable

In order to invoke the content of the digital document, it must be legible and written in a language that is understood by the parties.¹³ Electronic documents are written using code, which is discernible by human beings on the screen.¹⁴ Establishing the authenticity of a document in electronic form will depend on the nature of the evidence, and whether it has been altered.¹⁵ It is noted that article 18(a) of the Electronic Transactions Law provides

⁹ Article 2 of the Electronic Transactions Law No 15 of 2015. The translation is taken from <https://www.cbj.gov.jo/EchoBusV3.0/SystemAssets/bec70415-2845-42df-bc47-5e0ee4b859b7.pdf>.

¹⁰ Mohammed Fawaz Al-Mutlaqah, *Al-Wajeez in E-Commerce Contracts: Comparative Study* (Amman: Dar Al-Thaqafa for Publishing and Distribution, 2006), p. 205.

¹¹ Osama Ahmed Al-Hassan Mujahid, *The Privacy of Online Contracting*, Research presented at the Conference on Law, Computer and the Internet, held at the University of Cairo, United Arab Emirates, 2000, p. 243; Abbas Aboudi, *Legal Authenticity of the Means of Scientific Progress in Civil Evidence* (Amman: Culture for Publishing and Distribution, 2002), p. 87.

¹² Mohamed Hossam Mahmoud Lutfi, *The Legal Framework of Electronic Transactions* (Cairo: Dar al-Nahda al-Arabiya, 2002), p. 27; Hasan Jami'l, *Evidence of Legal Actions Concluded through the Internet* (Cairo: Dar al-Nahda al-Arabiya, 1997), p. 21; Luciana Duranti and Allison Stanfield, ‘Authenticating electronic evidence’ Chapter 6 and Nigel Wilson, Andrew Sheldon, Hein Dries, Burkhard Schafer and Stephen Mason, ‘Proof: the technical collection and examination of electronic evidence’ Chapter 9 in Mason and Seng, *Electronic Evidence and Electronic Signatures*.

¹³ Kedar Abdul Qader Saleh, ‘Conclusion and verification of the electronic contract’, *Rafidain Journal of Rights* 10 (37) (2008): 149-184, p. 175.

¹⁴ Majid Ragheb Al-Helou, *The electronic administrative contract* (New University House, Alexandria, 2007), p. 145; Steven J. Murdoch, Daniel Seng, Burkhard Schafer and Stephen Mason, ‘The sources and characteristics of electronic evidence and artificial intelligence’ in Mason and Seng, *Electronic Evidence and Electronic Signatures*, Chapter 1.

¹⁵ Mohammed Fawaz Al-Mutlaqah, *Al-Wajeez in E-Commerce Contracts: Comparative Study*, pp. 206-207; Wilson, Sheldon, Dries, Schafer, and Mason, ‘Proof: the technical collection and examination of electronic evidence’ Chapter 9 in Mason and Seng, *Electronic Evidence and Electronic Signature*.

the electronic document with an authority even if the normal conditions of writing are not met, providing the document is transferable:¹⁶

‘The electronic bond shall be transferable if the conditions of negotiable bond apply to it in accordance with the provisions of the Commercial law, with the exception of the condition of writing, provided that the drawer has approved its negotiability.’

Condition 3: the writing should be continuous

For electronic documents to have a legal value like documents printed on paper or in manuscript form, it must be complete and continually readable so that it can be consulted at any time whenever necessary. The legislation provides that a document in electronic form should be able to be referenced without distortion of additions or omissions, in accordance with the provisions of article 7(a)(1 – 3):

‘Article 7:

a. If any legislation requires the submission of the original copy of the register, contract, document, or certificate, the electronic record shall have the strength of the original if it fulfils the following:

1- Retained in the form it had been generated, sent, or received and in a way that does not allow making any modification or change on its content.

2- Retained in an accessible form to enable easy access to the information contained therein and to use such information and refer to them at any time.

3- Enable the recognition of the initiator, addressee, and the date and time when the record was initiated, sent, or received.’

The inability to add, delete, amend, or physically affect the document

The inability to add, delete, amend, or physically affect the document means that none of the parties should change the contents of the document. This is primarily related to the judge’s discretionary power to accept or reject the evidence¹⁷ – that is – the judge considers all the evidence, including, but not limited to, whether a document is amended, or physically altered in any way. For the electronic document to constitute valid evidence, it must be capable of being retained in its original form in which it was created and subsequently agreed between the parties to the relationship. This provision is stipulated in article 8 of the Jordanian Electronic Transactions Law:

‘If the law stipulates the retention of a [written] document for any reason, its retention in the form of an electronic record shall have the same legal consequences, provided that the electronic record fulfils the conditions stipulated in Article (7) of this law.’

This article provides for the integrity of the information contained in the electronic document without any change in its form. The information of the electronic document is maintained by entering the information or the terms of the agreement between the parties and storing it as it is and with its contents and signatures in electronic form. It is necessary to store the electronic record in the same form and specifications as the time the document was created, sent, or received to prevent distortion or change to the document.¹⁸ Jordan has taken the decision to legislate for the authenticity of the document in electronic form by explicitly stating the type of technology to be adopted in providing for securing the data¹⁹ which aims to meet the requirement that is should not be modified.²⁰

¹⁶ Mohammed Fawaz Al-Mutlaqah, *The Legal System of Electronic Contracts Concluded on the Internet*, pp. 206–207.

¹⁷ Omar Hassan Al-Momani, *Electronic Signature and Electronic Commerce Law Comparative Study*, p. 109.

¹⁸ Duranti and Stanfield, ‘Authenticating electronic evidence’ Chapter 6 in Mason and Seng, *Electronic Evidence and Electronic Signatures*.

¹⁹ Ahmed Sharaf El-Din, *Principles of Evidence in Civil and Commercial Law* (Cairo: Judges Club, 2004), p. 101, citing Eric Capriols, Security and trust in electronic writing (Digital Signature and Certification), p. 123.

²⁰ Tarek Abdulrahman Kamil, *Online contracting: comparative study* (Master Thesis, Mohammed V University, Rabat, 2003/2004), p. 121; Lawrence Mohamed Obeidat, *Proof of the Electronic Document* (Amman: House of Culture for Publishing and Distribution, 2005), pp. 102, 104.

The Jordanian legislation does not specifically provide the judge with the authority to assess the value of an electronic document to determine whether it has been subjected to change. In contrast, article 28 of the Egyptian Evidence Law states that 'The court can estimate the consequences of modification and dismiss it as valid evidence. If the court questions the authenticity of the document, it may call the person who drafted the document to clarify the matter',²¹ and article 35(2) of the Iraqi Evidence Act stipulates that 'The court may estimate the consequences of modification, erasure, addition and other material defects in the document by reducing its value in proof or dismissing it'.²² In addition to the above, if the court doubts the validity of the electronic document, the Jordanian legislation in article 25 of the Evidence Act No 30 of 1952 obliges others, who are not parties in the dispute and having in their possession an evidential document, to submit the original document if it is necessary to adjudicate the case. The court may also refer the document to the investigating judge to indicate whether it is a forgery or not as stipulated by article 25(3) of the Jordanian Evidence Act:

1. During the course of the proceedings, the court may invite others to submit a document in the circumstances and conditions stipulated in the preceding articles, subject to its provisions.
2. Or on the basis of the request of the litigants to decide to bring attribution or papers from the official circles if this is not possible for the litigants.
3. Anyone who fears to protest against a forged paper may make an original claim against him or his beneficiary.'

The proceedings shall be suspended until the result is received from the criminal court. The court has a wide authority to assess the validity of the alleged electronic document, but this must be a reasoned decision. The court is required to clarify the defects that the document has suffered and call for the reduction of its evidential value.

Based on this, the strength of the written document as evidence is determined in the light of its material integrity and the absence of amendments, except for the appearance of any material defects or amendments agreed between the parties. If such amendments occur, it must have a material effect on the document so that the judge can estimate any legal consequences, if any. If the material defects that are incurred affect its legal force, then the court can reduce its value or dismiss it as evidence. It is therefore understood in the legal literature that the written document must be irrevocable except by the appearance of the amendments made so that its value can be estimated in the evidence.²³

Some scholars assert that the material difference between documents recorded on paper and electronic media means assessing the confidence of the authentication of a document in electronic form is more difficult.²⁴ Their concerns include the following:²⁵

1. The physical characteristics of the electronic medium represent an obstacle to achieving authenticity because of the physical and chemical composition of magnetic disks used in contracting through the internet. It is characterised by a degree of sensitivity to what exposes it to rapid damage when the electric current strength is different, or the very different degree of storage. Thus, it is less able than papers to hold information for a long time.
2. It consists in not knowing the other party directly.
3. The change of identity sometimes occurs, as in the transformation and merger of companies.

²¹ The Law of Evidence in the City and Commercial Articles No 25 of 1968 is amended by Law 23 of 1992 and Law No 18 (1999) published in the Official Gazette No 22 of 30 May (1968).

²² Abbas Al-Aboudi, *Explanation of the Iraqi Law of Evidence*, p. 124; Hassan Abdel Basset Ghali, *Evidence of Legal Actions Made Through the Internet* (Dar Al-Nahda Al-Arabiya, Cairo, 2000), pp. 24-25.

²³ Hasan Jami'i, *Evidence of Legal Actions Made through the Internet* (Cairo: Dar Al-Nahda Al-Arabiya, 2000), p. 22; Duranti and Stanfield, 'Authenticating electronic evidence' Chapter 6 and Wilson, Sheldon, Dries, Schafer, and Mason, 'Proof: the technical collection and examination of electronic evidence' Chapter 9 in Mason and Seng, *Electronic Evidence and Electronic Signatures*.

²⁴ Kedar Abdelkader Saleh, Conclusion and evidence of the electronic contract, *Rafidain of Law Journal*, Vol. (10), No. (37), (2008), pp. 149-184; p. 153.

²⁵ These concerns do not seem to consider the leading legal and technical literature on the topic of authenticity, but regarding solid-state storage there may be a concern, for which see *Electronic Evidence and Electronic Signatures*, 9.5 fn 1; 9.20; 9.115.

The authors agree with some scholars that the administrative judge has great discretionary power in dealing with electronic documents, unlike the civil judge. Moreover, the administrative judge is the one who controls the administrative dispute and asks the litigants, especially the administration, to disclose all the documents that are related to the dispute. Generally, the administration maintains the paper documents related to an administrative contract. This is to ensure, if the electronic documents relating to the conclusion of the contract are damaged, that they can provide the paper versions where the judge requests the administration to provide these documents.

The extent to which the method used to secure the document's data will be subject to the discretionary authority of the judge. We agree with Dr Hassan Abdel Basset Jamie that the legislator should intervene by explicitly providing for the technologies that should be adopted to secure the data of a document in electronic form in such a way as to satisfy the requirement of non-amendment and without the need for a judge to assess the authenticity.²⁶

The role of electronic signatures to authenticate electronic administrative contracts

The Jordanian legislation defines the electronic signature in article 2 of the Electronic Transactions Law No 15 of 2015, which stipulates that an electronic signature is:

'Information in the form of letters, numbers, codes, symbols, or other and which is electronically, or in any other similar mean, included in, affixed to, or associated with an electronic record. It is used to authenticate the identity and unique usage of the signatory and differentiate him from others.'

For a document to be considered as written evidence, it is necessary for the person to whom the document is to be invoked to have signed it. A signature must satisfy several basic conditions, the absence of which negates its authority.

Conditions required for a valid electronic signature

For the electronic signature to be authentic and perform its role as evidence, the Jordanian legislation has specified four conditions that must be met when affixing a signature to a document in electronic form. These conditions are stipulated in article 15 of the Electronic Transactions Law as follows:

'The electronic signature shall be deemed as being protected if the following combined conditions are met:

- a. If it is unique in its connection to signatory and distinguishes him/her from others.
- b. If it identifies its owner.
- c. If the private key is under the control of the signatory when he signs.
- d. If it is connected to the electronic record in a way that does not allow modification on such record after signing it and without making any changes on that signature.'

If because of applying the authentication procedures in use, it becomes evident that providing the above procedures are approved or commercially accepted or agreed upon between the parties, the electronic signature shall be considered as being authentic.

Condition 1: The signature is distinguished by its association with the person concerned

The signature is a sign used by a person to prove his agreement to the contents of the document. However, this sign may not give a perfect attribution. In other words, the party who signed may deny his signature before the court. If he does, the document may not be afforded evidential weight. This is approved by a decision of the Jordanian Court of Cassation, which held 'the content of the normal document is deemed to be an item of legal evidence as long as its issuer does not deny the written signature'.²⁷ On the other hand, if the witness ratifies his signature before the court, the evidential weight of the normal document becomes, after the ratification, equivalent to that of the official or original document. This rule is also confirmed in the judicial decisions. The Court of Cassation has held that if the

²⁶ Hasan Jami'l, *Evidence of Legal Actions Made through the Internet*, pp. 24-25; Kedar Abdul Qader Saleh, 'Conclusion and verification of the electronic contract', p. 178.

²⁷ Court of Cassation of Jordan, decision number 1075\91 of 1993.

signer does not deny his signature, or if he denied it but the opposite is proved, the normal document then will have the evidential weight of the official document.²⁸

For the electronic document to enjoy full legal force, it must include the signature of the author. There are circumstances where the law may require a signature on the electronic document to have legal effect. Most laws consider that the electronic signature meets this condition if it meets the requirements required by law.²⁹ The signature means the content of the document is attributed to the correct parties as provided for in article 13(c) of the Jordanian Evidence Act.³⁰ The importance of the signature is confirmed by the Court of Cassation which held 'if the defendant denies the content of the document, but he does not deny the signature, this denial does not affect on the evidential weight of that document'.³¹

Additional legal protection was provided in Jordan for the output of a computer of any kind in article 13 (C\2) of the Jordanian Evidence Law. This section provides that outputs attributed to the owner that have been ratified or secured by a technical means to prevent modification, are provided the same legal authority to evidence usually granted to traditional documents.³² Article 17(a) and (b) of the Jordanian Electronic Transactions Law also gives the electronic signature the same evidential weight designated to the ordinary document if it is authenticated in accordance with specific procedures and conditions:

'a. The electronic record that carries a protected electronic signature shall have the same evidential weight designated to the ordinary bond and the parties of the electronic transaction may use it in an argument for the purpose of proofing evidence.

b. The electronic record that carries an authenticated electronic signature shall have the same evidential weight designated to the ordinary bond. Parties of the electronic transaction in addition to others may use it in an argument for the purpose of proving evidence.'

If this is achieved, the electronic signature shall have full legal effect as evidence equivalent to the authority of a manuscript signature in terms of its obligation and evidence.³³

If there is a dispute as to whether an electronic signature has been affixed to an electronic record, the same legal principles apply as if it were a manuscript signature.³⁴ It follows that for documents in electronic form to have the same value of evidence as documents printed on paper, the form the document takes must set out the rights and obligations of the parties, and it should be signed by them in a proper manner. Providing the necessary conditions for the safety and protection of electronic documents are guaranteed to ensure they are safe from modification and are attributed to the author,³⁵ it shall have full authority in all legal transactions, except those which require the law to complete certain formalities or specific procedures as stipulated in article 3(b) of the Jordanian Electronic Transactions Law, as follows:

²⁸ Court of Cassation of Jordan, decision number, 49\84 of 1984.

²⁹ Mohammed Al-Mursi Zahra, 'The authenticity of the electronic signature in evidence in civil and commercial materials', in *Proceeding of the International Conference on Computer and Law* (Kuwait University, 1989), p. 9; Gazi Abu Orabi and Fayyad al-Qudah, 'Authority of electronic signatures in Jordanian legislation', *Journal of Economic and Legal Sciences* (20) (2004), pp. 167, 197.

³⁰ Article 13 (C\1) of Jordan Evidence Law regulates the conventional document and its categories. It includes the electronic document and compares it with the conventional document. It provides that '1- Fax messages, Telex messages and Email messages have evidential weight equal to that of a normal document if it is coupled with the witness of the originator or the person who received it'.

³¹ Court of Cassation of Jordan, decision number 49\48 of 1984. See also Court of Cassation of Jordan, decision number 1075\91.

³² Article 13 (C\2) of Jordan Evidence Law provides that 'Email messages have evidential weight equal to that of a normal document, without the witness of the originator or the person who received it, if it fulfilled the requirements of the Electronic Transaction Law'.

³³ Article 17 (a and b) of Jordanian Electronic Transactions Law No 15 (2015).

³⁴ Alaa Mohammed Nusairat, *Authentic electronic signature in evidence: comparative study* (Oman: House of Culture for Publishing and Distribution, 2005), pp. 172-173.

³⁵ Samir Hamed Al-Gammal, *Contracting through Modern Communication Techniques* (Cairo: Dar al-Nahda al-Arabiya, 2006), p. 275.

'The provisions of this law shall not apply to the following unless otherwise indicated by any other law:

- 1- Establishing and amending a will.
- 2- Establishing Waqf³⁶ and amending its conditions.
- 3- Transactions related to movable and immovable property where legislation necessitates their registration including power of attorney and title deeds, in addition to establishing real rights, but excluding lease contracts.
- 4- Powers of attorney and transactions related to civil status.
- 5- Notices related to cancelling or revoking contracts of water and electricity services, health insurance, and life insurance.
- 6- Court proceedings and pleadings, judicial notification notices, and court resolutions.
- 7- Securities unless provided under special regulations issued by competent authorities in accordance with the Securities Law or any other legislation in force.'

It follows that an electronic signature may be sufficiently authentic to prove all transactions that are conducted by electronic means, regardless of the nature of the transaction and whatever their value, provided that the electronic signature is affixed in accordance with the provisions set out in article 6 of the Jordanian Electronic Transactions Law No 15 of 2015:

'With regard to the provisions of paragraph (b) of Article (3) of this law, if any legislation requires the submission of any register, contract, document, or certificate in writing, the submission of its electronic record shall have the same legal consequences under the following conditions:

- a. The information stated in the electronic record may be accessed.
- b. The possibility of storing the electronic record and the ability to refer to it at any time without making any changes on it.'

Condition 2: The signature must be sufficient to identify the author

An electronic signature that is subject to authentication procedures must identify its author. This does not mean that the electronic signature should include the name of the author; it is sufficient to focus on identifying or verifying the author's identity. One example would be to issue certified certificates.³⁷ Authentication is also required for the manuscript signature, and to demonstrate that the parties have consented in accordance with the rules of the law. The signature must be personal and distinctive. This purpose is achieved through using such reliable means and procedures as encryption systems,³⁸ although these are not perfect.³⁹

Condition 3: The private key is under the control of the signatory when he signs

To be created by means of a willing and capable person, the author must create the electronic signature willingly and independently. In theory, they should be the only one able to use the symbols that make up their signature and

³⁶ Waqf, in the Arabic language, means to stop, contain, or preserve. In Islamic terms, waqf refers to a religious endowment i.e. a voluntary and irrevocable dedication of one's wealth or a portion of it – in cash or kind (such as a house or a garden), and its disbursement for shariah compliant projects (such as mosques or religious schools).

³⁷ Rami Mohammed Alwan, 'Expression of will through the internet', Research presented to the Jordanian Bar Association, Amman, 2000, p. 7.; Jami'l, *Evidence of Legal Actions Made through the Internet*, p. 45; although it is important to realise that certificates have been forged, for which see Stephen Mason 'Electronic signatures' Chapter 7, paragraph 7.254 in Mason and Seng, *Electronic Evidence and Electronic Signatures*.

³⁸ Ahmed Sharaf El Din, *E-Commerce contracts, lessons for diplomacy private law and international trade law* (Faculty of Law, Ain Shams University, Cairo, 2000), pp. 265-270.

³⁹ Mason 'Electronic signatures' Chapter 7, paragraphs 7.254-7.271; 7.286-7.301 in Mason and Seng, *Electronic Evidence and Electronic Signatures*.

prevent others from obtaining access to it.⁴⁰ The electronic signature must be under the control of the signatory as a condition that must be available in the electronic signature.⁴¹

Condition 4: To prevent amendments without causing a change in the signature

This requirement addresses the issue of the integrity of the electronic signature and the integrity of the information signed electronically. If a document is signed, the integrity of the document and signature are closely linked so that it is difficult to imagine one without the other. The purpose is to maintain the security necessary for the electronic registration and to detect any changes in the document.

Documentation of the electronic signature

Article 2 of the Electronic Transactions Act defines electronic authentication certificates as:

‘A certificate issued by an electronic authentication party to verify relating the electronic signature to a specific person in accordance with the approved authentication procedures.’

Article 16 of the same law specifies the cases in which the certificate of authentication that identifies the identification code is approved:

‘The electronic signature shall be deemed authenticated if all of the aforementioned conditions stipulated in Article (15) of this Law are fulfilled and if it was connected to an electronic authentication certificate issued, at the time the electronic signature was created, in accordance with the provisions of this law and the regulations and instructions issued hereunder by any of the following institutions:

- a. An electronic authentication party licensed in Jordan.
- b. An accredited electronic authentication party.
- c. Any governmental body legally authorized by the Council of Ministries whether it was a ministry, public official institution, public institution, or municipality provided that it fulfils the requirements of the Telecommunications Regulatory Commission.
- d. The Ministry of Information and Communications Technology.
- e. The Central Bank of Jordan with regard to the banking or financial electronic operations.’

It is clear from the above that the Jordanian legislation distinguishes between the authenticated and unauthenticated electronic signature. The unauthenticated signature has no legal force. Authentication is based on the verification of the electronic registration and link to the author for the purposes of detecting any manipulation that may occur in the document after its creation.

Conclusions

In evidential terms, electronic documents are like customary documents printed on paper. However, to have any evidential value, electronic administrative contracts must be understood, readable and clear to others. It also must be subject to continuity and non-modification. The Jordanian legislation limits the electronic signature to the act of signing, stamping, and fingerprinting. The electronic signature performs the same role as the manuscript signature in terms of being specific to the owner of the signature and follows the same legal requirements. Moreover, the Jordanian legislation gives the electronic signature, which has been documented in accordance with specific authentication procedures, a legal effect in evidence. Accordingly, it has the authority of the ordinary signature in terms of its obligation to the signatory and authority as evidence. Furthermore, the Jordanian legislation considers the existence of an electronic signature on the electronic record or its absence, and it has the same effects as any applicable legislation on the signature of any document.

⁴⁰ Ahmed Sharaf El Din, *E-Commerce contracts, lessons for diplomacy private law and international trade law*, pp. 265-270.

⁴¹ This is difficult to achieve, for which see Mason ‘Electronic signatures’ Chapter 7, paragraphs 7.205; 7.222-7.224; 7.238-7.250; 7.273-7.277; in Mason and Seng, *Electronic Evidence and Electronic Signatures*.

Although there are several studies about the evidential value of the electronic documents and the electronic signatures in Jordanian law, these studies have focused on their values in commercial and civilian transactions.⁴² It is important to highlight the importance of the passing of the Jordanian Government Procurement System No. (8) passed by the Council of Ministers in 2022, which has the force of law and is in force, which stipulated that the signing of the electronic administrative contract was a basic element of the document. In addition, the Electronic Purchase Regulation for the year 2019 provided similar requirements regarding the signing of the electronic administrative contract through articles (13/5), (17), (18), (19), (20), (21) and (22).

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⁴² For example, see Maen Al-Qassaymeh, 'The evidential weight of the electronic document under Jordanian Law: an overall comment', (2011) 19 IIUMLJ 269. See also Al-Momani *Electronic Signature and Electronic Commerce Law*, p. 109; G. Abu Orabi and F. al-Qudah, 'Authority of electronic signatures in Jordanian legislation', *Journal of Economic and Legal Sciences*, Damascus University, Vol. (20), 2004, pp. 165-197.