

A Comparative Study on the Role of the Electronic Commerce Act in Remote Transactions and Its Effect on Compensation from Iran and France Legal Perspective

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Abstract

Legal implications in various fields of e-commerce transactions are described by means of e-commerce from one of the parties and through the transaction implemented by Internet. Online contracts are a manifestation of true innovation in the field of traditional legal agreements. The main issue of concern is the lack of tools has traditionally been used to express the will of the contract.

The lack of legal grounds to use in e-commerce, such as: Expert of judges, the admissibility of electronic documents, electronic signatures, the principle of good faith, law of consumer protection, commercial and competition law and how to compensate both material and spiritual is the most important challenge of the country's legislative system. The most important distinction between the Iranian and French law is on the implementation of its damage compensation that in French law is detailed discussions covering the damages due to breach of contract litigation is not compensable.

But the other hand, moral damages, such as mental anxiety, loss of credibility and like that is compensable, while this is not done in Iran. Experience of law between Iran and France showed a weak pattern in consumer protection in e-commerce contracts. In this cross-sectional study to evaluate the role of trade in remote transactions and its effect on Iran and France in damage compensation from the legal perspective.

Keywords: damage compensation, remote transactions, Iranian law, French law

1. Introduction

Lack of take advantage of e-commerce means losing opportunities fleeting moment in global trade, alienate weakening competitive position in international trade. The growth of this business is beside numerous legal issues in the context of the rules governing the contract, transnational competencies, governing Law and Evidence to find an answer as a necessity in the legal systems. Electronic commerce means contracting movement of goods, services and money and business documents through advanced electronic tools.

The importance of this phenomenon is in transforming the world market affect large segments like commerce, telecommunications, education, health and even the government. Lack of take advantage of e-commerce means losing opportunities fleeting moment in global trade, and alienate weakening competitive position in international trade.

Knowing these facts, has led different countries to the development of electronic commerce; but the growth of the business leads to numerous legal issues in the context of the rules governing the contract, transnational competencies, governing Law and Evidence to find an answer as a necessity in the legal systems.

Hence, various countries and international and regional organizations are seeking to impose and predict the law in this area. The legal system in our country is not excluded from the and in this regard can benefit from the experiences of other countries and international institutions. The rules governing electronic contracts are the first part of a series that includes the concept, importance, types and sources of E-commerce (Rezaie, 2008). Review safety measures and rules on contracts and associated works that reflect the views associated with legal, will be presented in the next section.

The use of electronic tools in contracts is not a new phenomenon. For years, merchants have used the phone,

telegram, telex and contracts entered into, but in the twentieth century accelerated the advent of computers it is greater and broader dimensions. As it is now legal standards related to e-commerce and search for it, the minds of lawyers and legislators in various countries have drawn. In our country, the legal system denied and explain the evolution of legal standards related to it. These criteria could be a reflection of the general rules of our contracts.

Because computers only is a new tool through which the contract is done and the impact in terms of rule of general rules do not apply. However, sometimes, the nature of electronic contracts requires specific rules. In reviewing the rules governing electronic contracts, explaining the concept of e-commerce, the importance of the evolution of this phenomenon and discuss the available resources is the first step (Zarkalam, 2011). In this study, the safety measures and conditions of the contract and the work associated with it, according to domestic law (Iran) and external (France) analytical methods will be discussed.

2. Conceptual Framework

The concept of e-commerce is transactions and the transfer of commercial information directly to a computer without exchanging paper over telecommunications lines.

2.1 E-commerce

The European Commission in 1997 defined e-commerce as follows: E-commerce is processing and transfer of electronic data, including text, sound and image. E-commerce includes diverse activities such as electronic exchange goods and services, digital content delivery, electronic funds transfer, electronic stock exchange, bill of electronics, business plans, marketing and after-sales service.

Japan's Ministry of Industry and Trade has provided definitions for this matter: "E-commerce that until recently were limited to a certain number of companies are entering a new realm in which a large number of consumers are present in the network, in addition, the content of the data exchange areas related to public order or accept order goes beyond the commercial activities such as advertising, banners, negotiations, contracts and expanded pony".

E-commerce can be said to have a kind of trade without paper (Bagheri Asl et al., 2009, p.216). In short, we can say that e-commerce is buying, selling and exchange of goods, services and information via communication network including the Internet (Jonaidi, 1996, p 129).

2.2 Law of E-commerce

E-commerce law is a law that govern the flow of purchase and sale between the manufacturer and the consumer or transaction between the manufacturers or transaction between the consumer electronic spaces. Of course, should be noted that currently the best method of business in Iran, in the field between producer and consumer is going on that this caused by poor infrastructure and limits of e-commerce in our country (Amiri Ghaem Maghami, 2008, p.248).

3. Consideration of the Matter

3.1 The Role of E-Commerce Transactions Remotely in Iran and France

The contract is as a financial nature of time and place. Determine the time and place of contract has different consequences. Place the conclusion of the contract will be determined on the basis of its creation. When the contract is concluded in one session; and accept the offer of participating in a Parliament, have signed the contract there will be no difficulty in determining the time and place of contract. The problem of multiple legal issues that arise when the parties in terms of time and space apart.

Contract formation in electronic commerce generally occurs between individuals in terms of place and time apart and therefore determine the date and place of marriage in e-commerce is also important. Like any existing credit agreement constitutes the nature of time and space. Determine the time and place of contracting different effects to follow. Undoubtedly, the last time the contract is concluded the moment the contract (acceptance or bill) must be fulfilled. Place the conclusion of the contract is determined based on its creation.

Place of contract is where the last part of the contract (receipt or acknowledgment) realized. When the contract is concluded in one session, and accepted the offer of participating in a Parliament, have signed the contract there will be no difficulty in determining the time and place of contract. The problem arises when parties and numerous legal issues in terms of time and space apart. This issue is formed when the contract has gained more importance in cyberspace, because controlling it will be more difficult than non-electronic environment.

Almost all experts believe that electronic contracts in terms of basic elements of the transaction, no different

from ordinary contract, and despite the conditions mentioned in the contract are necessary (Todd, 2005). The WTO also emphasized that the effects of all measures taken to facilitate transactions, freedom of the market, cost reduction and tariffs and opening the market to offer all the services needed, should be extended to electronic commercial relations.

It must be said in terms of offer and acceptance analysis of the differences between normal and books there. Professor Frans Worth, calls to "confirm require the consent of the other party to the contract, that the parties consent to accept its ultimate impact depends stay" is defined (Frans Worth, 1998).

3.1.1 E-Commerce in Iranian Law

For study and review e-commerce in Iranian law should examine the law governing the creation and the law governing contractual obligations.

3.1.1.1 Law Governing the Contract

According to Article 968 of Iranian civil law "obligations arising from contracts where the contract is subject to the law..." As seen in Iranian civil law, but the law governing the obligations arising from contracts to specify the law governing the contract and the contract development agreement on that yet. In this case, the principle contained in Article 5 of the Civil Code (Article territorial laws) we basically competent Iranian law, unless otherwise is stated. In other words, Iranian law as the law of the place of conclusion of the contract to create the conditions of contract will govern.

Of course, should be noted that the rule of law the conclusion of the contract conditions that should be considered exceptions. The first exception is at the discretion of the parties' capacity, as already mentioned, because the capacity of the parties pursuant to Article 7 of the Civil Code is the law of their home state, but, Article 962 of the same law in some cases deviate from this principle and rejected the authority of the government is a foreign national. Everyone has the capacity to trade under this Article to recognize his government will be based on law (Shahidi, 2008, p. 45).

3.1.1.2 Law Applicable to Contractual Obligations

Article 968 of the Civil Code provides that the law applicable to contractual obligations: "The law of obligations arising from contracts where the contract unless the parties explicitly or implicitly foreign nationals and the law."

It must be said that the attitude of the rule set forth in Article 968 of the Civil Code was contrary to logic and law creates problems in international relations. Including conflict resolution, the rule will be applicable only to contracts in Iran. In addition, the fact that such contracts in the foreign country where the contract is concluded will be necessarily subject to law, therefore, Iranian nationals in this matter will not have the right to contract for the obligations arising from the law in Iran.

To solve these problems, we have no other option except that the author of these comments that the rule contained in Article 968 of the Civil Code holds aspect, i.e. parties have the right to the law governing their contractual obligations (about mandatory) your choice. In other words, the purpose of this article is that in principle the obligations arising from the conclusion of the contract are subject to the law, if the parties are citizens of another country it may be explicitly or implicitly the law of others. As a non-Iranian nationals outside Iran can contract with Iran to establish non-Iranian laws that govern them (Safaie, 2003).

3.1.1.3 Legislation Governing Electronic Contracts

The two side's electronic contracts, such as contracts between the traditional can cite the law governing the contract will determine the rule. By noting that limitations on the principle that traditional contracts was raised in the debate is still ongoing and with the type of contract does not traditionally or electronically. The question is whether the provisions of Article (968) of Iran's Civil Code stipulate:

"Obligations arising from contracts where the contract is subject to the law, unless the parties, the Foreign Nationals and placed it explicitly or by implication are subject to the law", electronic contracts, that they are cross-border more than likely be workable? And whether the regulation can satisfy the needs of modern business? Regulation substance cannot seem to respond to the issues raised in international relations.

E-commerce is easy to find a foreign element. If an electronic contract that at least one side is Iran, there is no possibility to agree on another law, international relations impaired. In this case, if the Iranians establish websites to sell their goods and services, if the conclusion of electronic contracts in Iran, in terms of the rules governing the place of electronic contracts must respect the rule of law prevail.

Or if the two parties Iran, who for years have settled abroad and are familiar with the law of its location over

Iranian law, if the contract via e-mail to embark, not the law of your country of residence ruling on his contract. In addition, the exclusion of such an agreement is contrary to the principle of party autonomy.

This principle dictates that, except in cases such as opposition to public order stipulates that in all legal systems, the parties are free to choose the governing law. In almost all international conventions such as the Convention on the International Sale of Goods Act of 1980 recognized this principle. Therefore, it seems to be new regulations to respond to this need be provided (Elsan, 2010, p. 33).

3.1.1.4 Constraints on the Implementation of Electronic Contracts

Iran Court under Article 975 of the Civil Code can mail those contracts that are contrary to public order and good morals run, although there is no law governing the contract interdiction in this regard. In this regard, Article 58 provides that the law of e-commerce: "Remember, processing or distribution of" data message "personal expression of racial or ethnic origins, religious views, religious, moral character and" data message "about the state of physical, psychological, sexual or parties without explicit consent to any title It is illegal" (Ibid., P. 35).

Some of the examples listed in this Regulation in connection with public order and morality are in fact in line with Article 975 of the Civil Code has noted instances in virtual space. The point is that the release of the instances mentioned in Article 58 of the law of e-commerce without the explicit consent of the parties, has been declared illegal.

However, whether due to the opposition this Regulation, people can express consent of their sexual physicality and released in cyberspace? Can we belong to a group or individual happy thought or ethnic, published an article on the virtual space that is contrary to good morals or public order upset? Basically, how can they draw everyone's satisfaction?

Given that the Internet is such a community activity, where real community also has significant effect and even the extent of its publication in the world, prescribing these questions is like asking people with good morals and public order jointly to disrupt whole or in part, Iranian lawmakers act of inadmissible (Article 975 of the Civil Code); in other legal systems is the same.

According to the above explanation of the critical wind on Article 58 of the Electronic Commerce Act is Iran that: Firstly, is the phrase "without explicit consent" from the source material to be removed to maintain good morals and public order in the Terms be considered. Secondly, the wording of the examples listed in a way that brings unlimited.

While there are other items that can be placed in the line of cases mentioned in the article. So legislator appropriate to use phrases such as "like" or "and so" allegorical aspects of the examples were offered to a wider range of cases, although the broad interpretation of each of the instances mentioned above may be all examples are also covered by the contract. The first cash call in the next article, Article 59 of the law of E-commerce, is:

"If the consent of the person subject of" data message "is also provided that the content of the message is in accordance with laws passed by Parliament, storage, processing and distribution "data message" personal context of electronic transactions should be conducted in the following conditions... " In this matter the circumstances, the following material is required, only the consent of the person subject to the issuing of the message data is not considered sufficient, but be sure the message content complies with the laws passed by the council as well.

Including law, civil law under Article 975 of that contract is contrary to good public order and applicable knows, although law governing the contract permitted it. However, suitable materials 58 and 59, were merged. It should be noted that non-compliance with the provisions of Article 58 and 59 crime and the perpetrators will be sentenced to a punishment of one to three years (Ebadi, 1993).

3.1.2 Electronic Commerce in French law

Modern legislative history of the law of e-commerce begins in mid-1990, i.e. when international organizations to develop legal models worked in partnership with various countries.

France initially in selected areas of the law governing Civic Engagement, in 1967, proposed to member states of the Economic Cooperation Europe. Commission of the Economic Community of Europe Group to prepare a draft for the law governing the obligations of the contract, including the contract was outside. Because of the great diversity and great diversity within the field of civil liability in respect of the Commission's failure to develop a non-contractual obligations, only 1980 Convention on the Law governing contractual obligations hereinafter called the Rome Convention should be taken.

This Convention is the conflict rules for most types of contracts. This Convention is not only not based on the provisions of any other treaty, but called on member countries to integration in the field of private international

law is formed (Amiri Ghaem Maghami, 2008).

3.1.2.1 Scope of the Provisions of the Convention and the Regulation

Positively in the first paragraph of Article I of the territory of Implementation of the Convention (paragraph one of Article I of the Rome Statute a) and negatively defined in paragraphs 2 to 4 which includes exceptions as well. In positive definition of the conditions related to conflict of law's provisions of this Convention applicable to contractual obligations.

Unlike the plan prepared in 1972, which includes interesting rules about conflict resolution in the field of foreign obligations of the contract, convention that was agreed in the final contract obligations is limited, but, does not specify what the purpose of the contract is. Although with exceptions of expression indirectly has attempted to determine the scope of contractual obligations. Therefore, in describing the differences between the signatory states of the Convention is to be expected.

For example: if the first claim against the seller about the defect second client object of sale, Bespoke claim that within the scope of the Convention. As the current case law suggests the idea that the first branch of the French Civil Supreme Court. Or is put out of action? This recently in Court of Justice of the European Communities in the first paragraph of Article 5 of the Brussels Convention was raised, it is desirable that the courts are free and definitions related to Roma communities in Europe also spread to the Court of Justice.

The problem, known as the Rome Convention of two contractual liability arising from crime and the sentence has not. So it is conceivable, the main rule implies that in case of a contract calling for the ban to choose between two responsibilities and is forced to make his claim was based only on the private international law: This means that the claim based on the rule of law, conflict resolution, contracts and thus determined the Rome Convention and a provision which thus makes clear is whether the choice between two types of liability is accepted or not?

For the Rome Convention is applicable to the contract situation, it is necessary that it be a situation involving a conflict of laws. This rule is the so-called "international agreement" or "The situation has international character" contained in the plan is preferred.

Thus, the present Convention may be merely a country which, incidentally, by the rules of jurisdiction for example, to change residence a contracting party is located in the jurisdiction of another country, to be implemented and also Convention can be implemented purely domestic contracts involving foreign choice of law. In all these situations the court investigating authority should ask itself, whether its own law or other law runs? Thus, this situation involves a conflict of laws and placed in the realm of the Convention (Ibid).

3.1.2.2 Obligations under the Transaction Documents

According to the second paragraph of paragraph three of Article 1 of the Convention "obligations arising from bills of exchange, checks, promissory notes and also obligations arising from other negotiable instruments to the extent that their obligations under the transaction attribute is due to "the inclusion of Conventions dated June 7, 1930 and March 19, 1931 in Geneva of all aspects remains outside. Other negotiable documents such as bills of lading in maritime transport are excluded from the provisions of the Convention, except to the extent that the characteristic of the document is negotiable.

Most of Europe member states are members of the Geneva Conventions of 1930 and 1931 and in accordance with Article 72 of the draft law only recognizes issuing negotiable feature of these documents has caused that of the Convention, including their spending and payments by the exit of this document are not included (Oudenhove, 2001).

3.1.2.3 Review the Entry into Force of Provisions on Electronic Contracts Signed in France

If electronic contract provisions are not adhered to, although in foreign investor and foreign law valid, in Iran will be applicable. Here the point is worth noting: "in the conclusion of electronic contracts abroad for the latest conclusion is not necessarily the physical presence of the parties are abroad."

As in some ways, traditional ways, such contracts. For example, if an Iranian living in Iran with a French person living in France through postal correspondence, contracts signed and accepted Iranian dictates the French side of the French post, according to traditional rule Post (accepted by Iranian law and French law.) The place of contract in France's overseas would be, although one of the parties is resident in Iran.

In the current electronic contracts the same problem, but determine which electronic contracts are concluded abroad and which are in the interior, must resort to traditional rules and assumptions stipulated in Articles (26 to 29) of the law be answered e-commerce, which will be considered later (Tamizi, 2007).

3.2 *Effect of the Electronic Commerce Act in Damage Compensation in Iran and France*

This section examines the effects of e-commerce will pay damage compensation in Iran and France.

3.2.1 Electronic Commerce Act in Compensation in Iranian law

According to Article 78 of the Law of Electronic Commerce "whenever in the context of electronic transactions system due to deficiency or weakness of private and public institutions, except in cut result in physical harm to persons to be entered electronically. These institutions are responsible for compensation, unless the damage is caused by personal action, in which case compensation will be responsible for these people".

It must be said from a legal point of view, Iran has a contract with both parties, that the parties in the contract electronic communication via computers and the Internet. in spite of Article 11 of the procedural rights of public and revolutionary courts in civil matters in 1379 should not be too difficult; droid accommodation is identified as the contract is concluded electronically, change, or does not create much difficulty in this case.

But if an agreement between two or more people from different countries, concluded via the Internet, a conflict is created, this question is which country will have jurisdiction over the dispute? In general jurisdiction and rules of procedure of mandatory rules is that most countries agree otherwise reject. In terms of conflict of laws, if applicable substantive law to be determined, to a large extent the jurisdiction of the court will be clear; because of their form competent law will apply.

According to Article 968 of the Civil Code and the principle of autonomy that is accepted in most countries, righteous law to substantive law that the parties determine and, if not determining, the law applies to the conclusion or performance of the contract.

Electronic contracts concluded via the Internet, if the parties determine the applicable law, much problem not created and the country that it became law, would apply the rules of your jurisdiction (jurisdiction) but the problem is where the law is not specified in the contract and according to rule mentioned Saleh to the conclusion or performance of the contract will be sought. In most countries, including Iranian legislation, contracts on offer and acceptance, so when it concluded that recent as the acceptable accede to it.

With lack of specific rules and treaties in the field of competence at international level, determining that in online contract between the citizens of some countries to accept what a place located worthwhile. Especially in today's world where Internet access is everywhere and impossible, theory write one of the ways in which the contract is concluded in remote contracts is determined. As a result, the place of acceptance, accept calls via the computer sends the contract is concluded, it is the law governing the claim.

In addition to theory, write, three theories have been put forward is:

- 1) Notification theory, according to which, where prompt acceptance by the parties, the conclusion of the contract;
- 2) Receipt theory, according to which, prior to required place of receipt of the locality of the contract;
- 3) Information theory, according to which necessitated the passing location information, the conclusion of the contract.

In determining the appropriate law by the parties, there is the possibility of fraud to the law and convinced possible to escape from their respective state law, the law of another country are competent. Problem the conclusion of the contract in determining the appropriate law in electronic transmissions, this is computer in any location that has access to the Internet and communication is possible and this has led to confusion and the rule of law will be irrelevant. Methods of implementation due to the possibility of signing the contract in effect at the time the contract is concluded in some countries and in some contracts is not certain, such as the insurance contract does not fit.

When criminal jurisdiction by electronic devices, especially the Internet and in cyberspace crime occurs, in most cases, several affected countries. Nowadays, with access to the Internet and computers, to finance criminal and national security of a country can influence others and commits a crime. This great debate in the context of a competent court for the trial of these criminals has created. In this particular treaty or convention in international level not seen.

The doctrine holds that if part of the crime were committed in a place to be, all were committed at that location is assumed and international tendency in applying this doctrine, but based in common law countries, according to the theory of the effects of physical action can also be used. According to this theory, if the offense or crime occurs in a country, it is assumed that the effects of which also appeared in the land.

Both theories are confronted with this serious drawback is competent to handle the simultaneous multi-country, because of the characteristics of electronic crimes and crimes sectors as well as in several places at the same impact or country. Articles 4 to 7 Islamic Penal Code of Iran, the issue of jurisdiction over crimes related to multi-location is addressed. According to article 7 of the law, when the Iranian criminal, no matter the location of the crime and in any case will be a competent Iranian law and according to Article 4, if the work is an offense to Iran, Iranian courts are competent. However, the problem at the international level remain.

To solve this problem at the international level has been mentioned several ways:

- 1) Applying the principle of priority: The priority is to address cybercrime. For example, the priority of the arrest of the perpetrator of the crime scene work.
- 2) Consultation and cooperation among countries in how many countries prosecute cybercrime is involved.
- 3) The exercise of citizenship offender rule: The fact is that crime in any place, only the country's Saleh to address the offender is a national of that country.

In legal disputes arising from the agreement or agreements involved in coagulation or electronic devices crimes committed in cyberspace, regarding extension exchanges and electronic communication, establishing a common rule is necessary. According to the doctrine of penal mentioned only as a theory has been raised at the international level and yet in the form of a treaty or international custom has not emerged, the problem persists and convention in this field is essential (Lamy, 2002).

3.2.2 Electronic Commerce Act, in Damage Compensation Effect in French Law

In French law Article 1151 of the Civil Code stipulates that in damage must be a direct contractual liability, i.e, the direct and immediate result of a breach of contract to be considered. French lawyers believe that this is due to tradition, need to establish causality (causation) between the breach of contract and damages to the promise, so that the interface between the breach and damage to the pledge crushed, common causal relationship between the two would be ruled out and the lack of contractual civil liability is one of the pillars of rational and self-evident, in fact, the damage alleged act was not committed.

Some believe that the principle of compensation for contract losses unpredictable solely based on a series of practical considerations associated with social interests is justified:

In cases where the judge, the principle of full compensation, committed to put too much pressure on social and economic life puts him in peril, this principle comes into play and as a lever adjustment to compensate for damage as much as reduce predictability. Nevertheless, and despite the introduction of various foundations to justify regulation Article 1150 French Civil Code, some prominent French lawyers have announced their opposition to this regulation and have called for its removal and the unpredictability prevents damage compensation by unknowingly committed a violation of a contractual obligation because:

Simplicity, logic and fairness are necessary attributes for any legal base, there is no regulation Article 1150, because, unpredictable damage detection criterion is determined and recorded and the imposition of such damage to one side (committed mashed) is not justified.

French judicial procedures until about 1979 did not pay attention much to the French Civil Code Article 1150 and warrants to compensate all the damages and after defending his thesis was sedate solo of the material that was to a considerable extent predisposed to it.

Pursuant to Article 1150 of the Civil Code of France, whenever he committed a breach of contract, misrepresentation bound to compensate all the damages caused by unforeseen damage is even. The purpose of doing a deliberate misrepresentation of the material commitment. French judicial procedures with adhering to the principle of "massive error in judgment is intentional error", he knowingly and intentionally committed a heavy fault contract in order to prevent the commission of acts committed by Article 1150 of the Civil Code is regarded.

Liability of manufacturers and sellers of defective goods and hazardous another is exceptional, because in this responsibility, assume ensure the safety of the sales to the manufacturers and dealers by carnal knowledge of the hidden faults sales person with ill will be considered in a sentence and even if the show could not have been aware of hidden faults, their responsibility to compensate all the damages caused by this defect remains.

Since that rule is contrary to public order and consent may be mutually agreed contract could hamper the implementation of the Regulation Article 1150 of the Civil Code of France, in principle, a judge cannot invoke and apply it directly to article (G. Cornu, 1992).

4. Discussion and Conclusion

Iran Electronic Commerce Act (Act of January 7, 2004 of the Parliament) has 81 articles. Its purpose is to harmonize national and international problems of e-commerce in a legal framework. This law in six seasons examines securely exchange data and information through intermediaries and new technologies. Chapter III of the law of electronic commerce covers topics such as consumer protection.

Consumer protection in e-commerce Iranian law is based on three pillars:

- 1) To provide full information;
- 2) The right to withdraw;
- 3) Protection of consumers against unfair contractual terms.

The right to provide information covers all aspects of the contractual relationship and in particular the characteristics of the product and the services offered, all information related to the producers and all terms and conditions regarding the right to cancel the contract. The right to the same information in Chapter II of the rules of law in promoting the product and the services offered through the Internet had been anticipated. The right to withdraw the benefit of consumers recognized, the guidelines are modeled on European examples.

In any remote transaction, the consumer must be at least seven working days, the time for withdrawal (right to withdraw) without incurring penalties or have to give a reason. The only cost imposed on consumers to send back the cost of the product (returns on clearance merchandise) (Article 37). Start exercising the right of withdrawal in case of sale of goods, the date of submission of the product to the consumer and for the sale of services, from the day the contract (Paragraph A of Article 38).

In any case, the exercise of the right to opt out of the deal to provide complete information to the consumer will be the supplier is obliged to provide it. (Paragraph "b" of Article 38) As soon as the consumer of the right of withdrawal, the supplier is obliged, without charging any fee received the same amount refunded as soon as possible to the consumer (Paragraph "c" of Article 38).

Law on unfair contract terms, not in detail, only the substance of thumb is: "The use of contractual terms contrary to the provisions of this Chapter (Chapter I of the third chapter in the consumer protection) and also imposing unfair conditions to the detriment of the consumer, not effective" (Article 46). It should be noted that if this provision is applicable to claims, Again, at the discretion of the judge grants wide discretion to establish whether a particular condition stipulated in the contract is unfair or not? Tunisia, e-commerce law passed in 2000.

Chapter related to consumer protection is very debatable; Article 25 of this law contains information that manufacturers must provide to the consumer prior to the conclusion of electronic contracts. When accept signed the contract requires the producer (Article 28), the manufacturer must document (even electronic) containing all the terms and conditions agreed in the contract to the consumer within 10 days of its implementation (Article 29). Law the right to cancel the contract in favor of consumers is recognized by modeled after the European Directive.

Consumers have the right to withdraw within 10 working days from the date of delivery of the goods or perform the service contract is executed. (Article 30) Article 33 whereby the consumer the right to terminate automatically dissolve the contract; without refund the consumer from the manufacturer or a third party for the transfer of ownership of the goods is very strange. For electronic payments, in cases of fraud, theft or misuse of identity, owners of electronic payment systems for the consumer until warn him about the events, have a responsibility (Article 37).

Brief results of the initial survey was to provide general principles and the starting point for a comparative study, analytical and more detailed ambiguous points in the field of consumer protection in e-commerce contracts.

Regulation of e-commerce in the two legal systems (Iran and France) certain differences due to differences in resource rights is not visible. Islamic law generally does not affect the way consumer protection in e-commerce contracts. In addition, the need for consumer protection - due to the support of the poor man in such a position can be deduced from the Qur'an or the Sunnah.

The European rights issue of consumer protection in e-commerce contracts is set forth, but as we said, the first fragmentation is evident in this system and is easily understandable and accessible to the consumer.

The experience of the two countries, Iran and Tunisia (which has been examined) indicate a weak pattern in consumer protection in e-commerce contracts and finally the adoption of such an approach in the field of Islamic

jurisprudence, the necessary legislation is what can be deduced from the Qur'an and the Sunnah of the Prophet Muhammad and referring to religious books and other principles of Islamic jurisprudence that there is no religious text, can be obtained. The growth of e-commerce with multiple issues in the context of the rules governing the contract, transnational competencies, the law, etc. Evidence has been.

What must be made clear that the validity of electronic contracts and contracts is a place in the territory, which is the time and place of conclusion of the contract, in case of dispute between contracting parties, which court has jurisdiction and what law will govern the fate of the lawsuit? And hundreds of other questions to answer in legal systems is inevitable. This important international organizations, regional organizations and various countries have clear standards that were enacted and anticipated conditions in the field.

E-commerce in the law of our country like many other countries, in the early stages of its development and acceptance of our legal system, analysis, and its replacement is inevitable. In the meantime, it is recommended that the experiences of other countries and international organizations in this field have produced patterns that take advantage. When it comes to rights, resources and experiences to introduce the models.

Legal sources of e-commerce can be identified and analyzed in the following three areas:

- A) The rules of international organizations
- B) The rules of standard drafter's organizations
- C) Domestic law

The Europe Union has been attempting to lay many guidelines in the field of e-commerce. Legislative policy guidelines in 1997, which represents about e-commerce, it ensures that there will be no internal market barriers to e-commerce.

It ensures further instructions unions in Europe are also emphasized. Including e-commerce recipes that meet the most important issues related to contracts with the authority and responsibility to mediate and electronic signatures, instructions that accepts electronic signatures as an alternative to manually sign, named.

Other measures in the context of the Europe Union rules for e-commerce, remote sales instructions that in the conclusion of contracts by electronic substantial support from the customer to bring the action. Instructions Europe Union member nations to coordinate their laws with the EU.

Practical suggestions for fixes and improvements that can be done e-commerce legal problems, are as follows:

- 1) E-commerce in university teaching lessons
- 2) The creation of specialized courts
- 3) Foster a culture of proper use of computers
- 4) Matches the structure of the intellectual and cultural insight makers and policy makers with social needs

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