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The congruence of the electronic offer and acceptance to conclude the banking contract.

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Abstract:
There is no doubt about the great impact of digitalization on the world of transactions in general, and banking transactions in particular, which is evidenced by the development of various applications and services that did not exist before in the banking business itself in terms of its work mechanisms, as well as in terms of its relationship with the customer.

These modern transactions do not fall outside the legal framework, especially for the banking contract that embodies most of these operations, which in turn is subject to the legal system of contracts in accordance with the general rules governing them. Thus, the specificity of this article lies in determining the integration between the modern formulas in banking and their legal reference in accordance with the general Islamic law.

Keywords: banking, e- contract, electronic, network, congruence.

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Introduction

The electronic contract does not deviate from its concept in its traditional form according to the general rules, and thus it is subject to all the provisions governing the latter, whether in terms of convening or effects. However, the peculiarity of the electronic contract lies in the means by which the latter is concluded, or in other words, the way in which the expression of the two wills to complete this contract is matched and the way in which the obligations resulting therefrom are implemented.

This involves the use of data transmission techniques to achieve the proper and true expression of will in the various fields in which contracts are concluded, i.e. the necessity of using a means of communication, whether the Internet or any other communication network.

Banking operations are based on the same principle of contracting in its traditional form, as the relationship is mainly based on the terms of the contract concluded through which the bank or financial institution expresses its various banking services and offers them to the public, as well as the category of customers by expressing the will to benefit from the various banking services offered.

Accordingly, it is clear that electronic contracting lies in its specificity compared to its counterpart contracting in its traditional form in terms of the means used in this regard, as does the case with banking transactions, especially in view of their specificity in that they are subject, in addition to the rules of general law, to banking custom in the first place, which in turn is an exception in the field of legal transactions.

Therefore, the question arises as to how to conclude an electronic banking contract and what is the nature of this type of contract ؟

The issue is discussed in the following points, The congruence of the offer and acceptance under the general rules and The provisions relating to the congruence of the electronic offer and acceptance to conclude a banking contract**.**

1- The congruence of the offer and acceptance under the general rules.

A contract is not concluded unless the offer is accompanied by the acceptance and is identical to it in all the matters it contains, either in one meeting, which is known as contracting between two present parties, or by correspondence, which is known as contracting between absent parties, The

question also arises as to the extent of this conformity on matters of essence and its effect on the conclusion of the contract.

1-1- Contracting between present parties (Council of Contract) .

The Council of Contract means the place that includes the contracting parties, and it does not mean its physical concept of the place, but what matters in determining it is the time during which the contracting parties remain engaged in contracting without being distracted by other topics that are not related to the contract, if either of them turns to another topic, the Council of Contract is considered to have been dissolved and if the offer is not issued at that time as an expression of its lapse[1].

In this regard, Article 64 of the Civil Code states: "If an offer is made in the contract council to a person present without specifying the time limit for acceptance, the offeror shall be released from his offer if the acceptance is not issued immediately, as well as if the offer is made from one person to another by telephone or similar means. However, the contract shall be concluded even if the acceptance is not issued immediately if there is no evidence that the offeror has changed his offer between the offer and the acceptance and the acceptance is issued before the contract council is adjourned"[2].

It is clear from the text of this article that the legislator has made a general rule regarding the congruence of the offer and acceptance and thus the conclusion of the contract, which is that the acceptance must be issued immediately after the issuance of the offer, but only if it concerns an indefinite offer, because the consequence of the failure to issue the acceptance immediately is that the offeror is relieved of his offer, and therefore its invalidity and inability to arrange its legal effect, and the legislator equates contracting between two persons present and contracting by telephone or similar on the basis of common time and ignores the different places in which both the offeror and the offeree may be at the time of expressing the will and considers that in a contract between two persons present the consideration is the common time. Consequently, a contract by telephone or similar is a contract between two persons, since it has taken the form of a contract between two persons who are actually present. On the other hand, the legislator made an exception to the general rule that the acceptance must be issued immediately, provided that there is no evidence that the offeror changed his offer in the period between the issuance of the offer and the expression of the acceptance, and the latter was expressed before the contract council was dissolved.

It should be noted that once the offer is issued in accordance with the aforementioned, and the time limit within which the offeror's response is supposed to be issued has not expired, the offeror has the right to choose to accept the offer as it is and conclude the contract, or to reject the offer and the contract will not be concluded, although there are some cases that require the offeree to accept the offer, which is realized if the offeror has issued his offer based on an invitation from the offeree to conclude a specific contract, that is, after previous negotiations initiated by the latter.

For example, the owners of hotels and restaurants in the face of guests and customers, otherwise it is considered arbitrary use of the right to harm others[3], which is considered a mistake in the eyes of the Algerian legislator that requires compensation if it causes harm to others in accordance with the general rules of tort liability for personal acts[4].
Article 124 bis of the aforementioned Order No. 75-58 stipulates the cases in which the arbitrary use of the right is considered a fault: "The arbitrary use of a right constitutes a wrong, especially in the following cases: If it is intended to harm others, if it is intended to obtain a small benefit in relation to the harm caused to others, or if it is intended to obtain a legitimate benefit".[5]

1-2- Contracting between absent parties (by correspondence) .

The reason for the distinction of contracting between present and absent persons is the time period that separates the issuance of the expression of will from the knowledge of it, because there is no such period, while contracting between absent persons has a period of time between the issuance of the affirmative and knowledge of it, and the issuance of the acceptance, if made, and knowledge of it. The reason for the distinction between contracting between the present and the absent parties is the period of time that separates the issuance of the affirmation and knowledge of it, and the issuance of the acceptance if it is done and knowledge of it, i.e. the matter is not the unity or difference of the council, but the period of time that separates the expression of the will[6].

As long as the expression of the will and knowledge of it differ in relation to distance contracting because this directly affects the place and time of arranging the legal effect of the expression of the will, whether by affirmative or acceptance, and thus determining the time and place of conclusion of the contract due to the legal implications, and in this regard, many theories appeared in developing a solution to this issue, as there are those who believe that the contract is concluded once the acceptance is

announced by the acceptor and those who believe that it is concluded from the date of receipt of the acceptance by the offeror, while there are those who believe that it is concluded from the date of knowledge of the acceptance. It should be noted that the time of conclusion of the contract is the factor that determines the place of its conclusion as a basis for contracting between absentees, while it is not so for contracting between those who are judicially present, as in the case of contracting by telephone, where the parties meet at the time but each of them is in a different location[7].

In this regard, Article 67 of the civil code stipulates: "A contract between absentees shall be deemed to have been concluded at the place and time at which the offeror learns of the acceptance, unless there is an agreement or legal provision to the contrary, and the offeror shall be presumed to have learned of the acceptance at the place and time at which the acceptance reached him"[8].

It is clear from the text of the above article that the legislator recognizes that contracting between absentees is a contract that is between two contracting parties who are not united by a single contract council, neither in fact nor in law. Also, the legislator adopts the theory of knowledge of the expression of the will in determining the effect, that is, the offer has its legal effect upon the addressee's knowledge of it, and the legal effect of acceptance is based on the offeror's knowledge of it, and thus the contract is concluded, however, this rule is complementary to the will of the parties in case there is no agreement on this issue between the contracting parties, where this rule is canceled and replaced by what has been agreed upon, as is the case if the law provides a different rule.

The legislator has placed a presumption on the time of the offeror's knowledge of the acceptance, so that the date of the contract's conclusion is determined by the place and time when the expression of the will is communicated by the acceptance, although this rule includes not only knowledge of the acceptance by the offeror but also valid for knowledge of the offer by the offeree, because the offer is also an expression of the will and must be related to the knowledge of the offeree in order to produce its legal effect.

The importance of determining the place and time of the contract is manifested in many aspects. As for the time of conclusion of the contract, this importance is to determine the time when the legal effects begin to take effect in the face of the contracting parties, as well as taking into account

the issue of issuing good laws containing different provisions, as well as the right of the parties to revoke the expression of will before the conclusion of the contract. As for the place of conclusion of the contract, the importance is to determine the competent court to consider disputes regarding this contract in addition to the need to take into account the issue of conflict of laws when it concerns a contractual relationship with a foreign element[9].

1-3 The extent to which the two wills agree on the substantive matters of the contract.

This relates to the matters on which the two wills are in agreement, which begins with the offer and then the acceptance. If the acceptance and the offer are congruent, then these matters must be determined. The rule in this regard is that the two wills must agree on the nature of the contract and all the essential issues that arise in connection with it, such as the commodity and the price that is the subject of the contract, while other issues of the contract, such as attachments, dependencies, benefits, place and time of delivery, for example, do not require for the existence of the contract that the agreement directly refers to them, provided that no dispute arises regarding them that would affect the conclusion of the contract[10].

However, this does not mean that the acceptance comes partially, but it must be in full conformity with the affirmative, i.e. if the latter includes essential and secondary elements, the acceptance must be focused on both of them without distinguishing between their importance, otherwise it is considered a rejection of this affirmative. If the affirmative includes only the essential elements, then the acceptance is focused on these elements only and the lack of agreement on the other secondary elements does not affect the conclusion of the contract from the legal point of view. But, if a dispute arises about the issues that are not agreed upon at a later time after the conclusion of the contract, the contract is concluded and legally valid, but in explaining the remaining provisions of this contract, it is subject to the general provisions for determining the scope of the contract after its interpretation by the judge's determination of the intention of the collective will of the contractors on these issues[11].

In this respect, the Algerian legislature has a clear position on the issue of agreement on the essential elements of the contract, as explained in

Article 65 of the aforementioned Ordinance No. 75-58, which reads as follows: "If the parties agree on all substantive matters in the contract and reserve detailed matters to be agreed upon later and do not stipulate that the contract shall have no effect if not agreed upon, the contract shall be deemed concluded. If there is a dispute over matters that have not been agreed upon, the court shall rule in accordance with the nature of the transaction and the provisions of law, custom and justice"[12].

The text of this article shows that the legislator expanded the scope of the will and opened the way for the parties to agree on substantive as well as detailed issues in the conclusion of the contract in general, and thus the lack of agreement between the parties on detailed issues may not affect the conclusion of the contract if the parties decide so before contracting, and if there is a dispute about them in the future, it is up to the judiciary to resolve it, guided by the nature of the transaction and the provisions of law, custom, and justice.

Article 107/2 of Ordinance No. 75-58 emphasizes the importance of defining the scope of the contract, stating: "A contract is not limited to the contracting party's conclusion of what is stipulated therein, but also covers what is required by law, custom and justice according to the nature of the obligation[13]".

From the text of the above article, it is clear that the scope of the contract is not only determined by the common intention of the contracting parties, but the judge is guided in the event of a dispute in determining the requirements of this contract by other factors such as the nature of the obligation, the law in supplementary and explanatory provisions, custom, especially in commercial matters and maritime transactions, and the rules of justice, knowing that the judge does not resort to supplementing the will of the contracting parties unless they do not regulate a matter that is disputed between them.[14]

2- Provisions relating to the congruence of the electronic offer and acceptance to conclude a banking contract .

This section deals with the electronic offer ,the electronic acceptance and the conclusion of the banking contract .

2-1 Electronic offer.

The offer is the first expression of the will of one of the parties to the contract, the offeror, and is directed to another party inviting him to enter into a contract, and it is considered the basis on which the contract is built by matching the will of the parties to the relationship and therefore must contain all the basic elements of it[15].

As for the electronic offer, it does not deviate from the general rules governing the offer, but it is characterized by specificity because it is made electronically, and accordingly, this offer, despite the means of its conclusion, must fulfill specific conditions, as it must be an expression of the will in a final and definitive manner. This expression must include the nature of the contract to be concluded, in addition to its inclusion of the essential elements of the contract to be concluded[16].

The general rule for an offer is that it is not binding and the offeror has the right to revoke it before it reaches the knowledge of the addressee. However, this rule is not absolute, so the offeror is obligated to remain on his offer if he sets a deadline for the addressee of this offer, and here the offeror does not have the right to abandon or change it during the agreed period, which is known as a binding offer[17], which is expressed by the Algerian legislator in Article 63 of the Civil Code, which reads as follows: "If a time limit is set for acceptance, the offeror is obligated to maintain his offer until the expiration of this time limit, which may be derived from the circumstances of the case or from the nature of the transaction"[18].

Article 16 of the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) states: "An offer may be revoked until the conclusion of the contract if the revocation of the offer reaches the addressee before the latter has communicated his acceptance"[19].

Nevertheless, the International Institute for the Unification of Private Law (UNIDROIT) added through its principles two exceptions that the offeror cannot revoke his offer before the receipt of acceptance from the beneficiary, the first if the offeror makes it clear in his offer that the offer stands until the receipt of the response from the other party, which is known as a closed offer and does not give its owner the opportunity to revoke the offer, and the second if there is a reasonable reason for the beneficiary to believe that he will not withdraw the offer until after the acceptance is received, as if previous transactions between the parties confirm this or the nature of the offer requires this[20].

Thus, the offer in electronic contracting is an expression of the will of the person wishing to contract at a distance, as it is made through an international telecommunications network by an audiovisual means and includes all the elements necessary to conclude the contract so that the person to whom it is addressed can accept the contract directly. The description of the offer as electronic does not change the subjectivity of the offer just because it is made through a telecommunications network, as the word "electronic" if added to the offer does not affect its meaning according to the general theory of obligations, the matter is merely a description no more because of the difference in the means of expressing the will[21], because the expression of will in the electronic contract is reflected in electronic telecommunications technology.[22]

2-2 Electronic acceptance.

Acceptance is the formal expression of the will of the party to whom the offer is addressed by accepting the offer made by the offeror, and due to the fact that it is the second expression of the will, it is often expressed later than the offer, although it may occur immediately, and the acceptance must fulfill certain conditions in order to be valid for its effect in concluding the contract[23], as this acceptance must come with a final and final expression of will and be issued while the offer is still valid because the latter falls, for example, by the death or incapacity of the person who issued it, provided that this is clear from the nature of the transaction or from the agreement of the parties although this case reflects an exceptional situation.[24]

This is enshrined in Article 62 of Ordinance No. 75-58: "If the person who issued the expression of will dies or loses his capacity before the expression of will produces its effect, this precludes the ordering of this effect when the expression reaches the knowledge of the addressee, unless the contrary is evident from the expression or the nature of the transaction." Also, the acceptance must be in full conformity with the offer, and the latter may not be altered, either by increase or decrease, otherwise the latter is nullified and the acceptance issued is considered a new offer that needs to be accepted by the addressee[25].

It should be noted that the addressee of the offer is free to accept it or not, as the principle is not to impose this acceptance, but the offeror may sometimes be held liable if it is proven that he refused without justification, in the event that the offer was presented to him based on a previous invitation from him to the offeror that made him submit his offer[26].

The compensation here is on the basis of tort liability because the contract has not yet been formed on the condition that the refusal to accept results in damage to the offeror because the basis for compensation is damage[27].

The rule for electronic contracts in general is that they are consensual contracts that do not require a specific form of acceptance, as certain means can be invented to express this acceptance, such as using a purchase order document that the consumer must write on his device to be transferred to the seller's website, which is a confirmation of acceptance, or sending the password to the merchant or by initiating electronic payment procedures or clicking with the mouse, and thus acceptance may be issued explicitly or implicitly, although this freedom is limited only by what the law requires in proving the contract[28].

Acceptance in the field of electronic commerce is addressed in Article 11 of the UNCITRAL E-Commerce Law, which reads: "In the context of contract formation and unless otherwise agreed by the parties, data messages may be used to express the offer and acceptance of the offer. When a data message is used in the formation of a contract, its validity or enforceability shall not be lost merely because a data message is used for that purpose[29]".

2-3 Realization of the electronic offer for its legal effect in the conclusion of banking contracts (discussion of contracting by acquiescence and its relationship to banking contracting in its electronic form).

The basic principle of contracting is the freedom of each party to negotiate and determine the terms and conditions of the contract and agree on the effects of this contract in terms of rights and obligations in accordance with the interest of the two contracting parties in accordance with the principle of the authority of the will, which is known as bargaining contracts, but there is a type of contract in which one party sets the terms of the contract alone and the second party only has to reject or accept these terms without bargaining, which is known as contracts of adherence, The electronic contract, given its specificity in terms of the means and circumstances of its conclusion, raises the question of whether it belongs to one of these two types of contracts or whether it can be both, depending on the specificity of this contract, and this applies to banking contracts, given the nature of their conclusion and the role of both the customer and the bank in this regard[30].

Whereas contracts of adhesion are a modern Western term that came for agreements governed by certain characteristics and conditions. It seems that the jurist "Salier" was the first to attract attention in France towards these contracts when he wrote in his book "Declaration of Will" that there are some contracts whose content is imposed by one of the contractors on the other contractor, whose role is limited to joining this contract without discussion or amendment, and hence Mr. Salier called them "contrats d'adhesion" meaning contracts of adhesion, while in Arab legal thought, Sinhouri is considered the first to use the term contracts of acquiescence where the French call the contracts in which the acceptance is in the above manner contracts of adhesion because those who accept the contract merely join it without discussing it.

This name was invented by Mr. Salier in his book "Declaration of Will", and this name is more conciliatory than the French name because acquiescence implies the meaning of compulsion, while accession is broader than that, as it includes the contract of acquiescence and other contracts to which the acceptor joins without discussion, and this name has settled in most Arab legislations, including Algerian legislation[31].

It should be noted that the contract of adhesion has a traditional and a modern concept. As for the first concept, the contract of adhesion is based on three elements, that it concerns a good or service that is necessary for the public so that people cannot do without it, that one of the contractors has a monopoly on the good or service, whether a legal or de facto monopoly, and that the provider of this good or service offers it to the public according to pre-established conditions that are not open to discussion.

As for the modern concept, it believes that the idea of contracts of adhesion is not strictly defined, and it is not required that the contract should relate to necessary goods or services or that the latter are the subject of a legal or de facto monopoly. Rather, it is sufficient that the contract has been prepared in advance by one of the contracting parties so that it does not accept any discussion of the terms contained therein, or that one of the parties to the contract is in a position of superiority over the other party in terms of economic capacity or professional expertise, and the importance of this proposal is the protection that the electronic consumer can receive once he is considered a party to a contract of compliance according to the modern concept of this contract without the need to prove the other criteria according to the traditional concept of it, and the weakness of the complying party is achieved once the contract is prepared in advance by the other party

in a manner that serves the interest of the latter without opening the field for discussion or bargaining, which is considered a challenge[32].

On the other hand, we find a concept that corresponds to acquiescence contracts, which is bargaining contracts or as known as will contracts are those contracts in which the two contractors are free to discuss the terms of the contract, and the contractual process is subject to the principle of actual and legal bargaining between the parties to the contract and in such contracts we find that there is a balance between the economic centers of the two contractors and the agreement is only reached after negotiation and bargaining[33].

As for the electronic contract, some jurisprudence sees it as a bargaining contract on the basis that it does not have the characteristics that characterize the contract of compliance, and the supplier does not enjoy any monopoly, neither legal nor actual, given the universality and nature of the network and the services offered through it because it is based on free competition, as well as the issue of discussion by moving from one site to another and choosing according to the customer's personal circumstances and desires, and that the bargaining process still exists for the electronic contract of various types, and his role is not limited to merely agreeing to the pre-prepared conditions, but as a consumer he has full freedom to contract on any product or service, and even differentiate between the various suppliers available in the market, and therefore consent prevails in these contracts[34].

However, based on the fact that an electronic contract can be concluded through many means, the question arises as to the extent to which the means used to conclude it affects its nature in terms of consent and compliance. If the contract is concluded by e-mail or through conversation or using audiovisual means, this contract is a consensual contract, as the parties exchange opinions and views through electronic messages and the addressee can freely negotiate the terms of the contract and compare the offers presented to him until he obtains the best terms that suit him. But if the contract is conducted through websites, where it is usually done through model contracts where the terms of the contract are prepared in advance by the offeror and leave no room for discussion by the offeree, and here the two contractors are not on an equal footing and therefore the contract is a contract of acquiescence[35].

2-4 As for The position of the Algerian :

legislator the Algerian legislator did not directly stipulate a special definition of the contract of adhesion, but from its definition of the electronic contract under Law No. 18-05 mentioned above when referring to the provisions of Law No. 04-02 mentioned above, its position is clear with regard to determining the category to which this contract belongs, as it explicitly considered that the electronic contract is an adhesion contract based on the criterion of the uniqueness of one party, which, according to the provisions of this law, is the economic agent who pre-edits the terms of the agreement while the other party, the consumer, acquiesces, as the latter cannot make a substantial change in it[36].

It is worth noting that Executive Decree No. 06-306 of September 10, 2006 defines the meaning of the contract, which is defined in the aforementioned Law No. 04-02, in its first article: "A contract within the meaning of this Decree and in accordance with Article 3 Case 4 of Law No. 04-02 of June 23, 2004, mentioned above, means any agreement or convention aimed at selling a good or performing a service, written in advance by one of the parties to the agreement with the acquiescence of the other party so that the latter cannot make a substantial change in it[37]".

The importance of defining this nature according to Algerian legislation is reflected in the legal protection that the legislature has devoted to the consumer as an acquiescing party in many legal texts, starting with the aforementioned Order No. 75-58 as the general law of contracts, and this is evident in the judge's interpretation of the contract, especially Article 112 thereof: "Uncertainty shall be interpreted in favor of the debtor, but the interpretation of ambiguous phrases in contracts of adhesion shall not be detrimental to the interest of the adhering party[38]".

The debtor means the person who has an obligation and whose interpretation of the terms of his obligation is in doubt. It must be emphasized that the determination of this phrase is due to many considerations, as the principle is innocence and the exception is that the party is obligated and this exception should not be expanded, and since the creditor is the one who dictates the obligation, if this is done ambiguously, then he bears his mistake through his interpretation in the interest of the debtor, but the adoption of this rule is only if the judge is unable to remove the doubt using various means of interpretation. Otherwise, what is imposed by the intention of the contractors must be adopted, even if the interpretation is against the interest of the debtor[39].

In addition, the judge has the authority to modify the terms of the contract as an exception to the general rule that the latter is subject to the will of the contracting parties.[40]

Accordingly, if a contract is concluded by way of acquiescence and contains arbitrary conditions, the judge may modify these conditions or exempt the acquiescing party from them, in accordance with the requirements of justice, bearing in mind that this exceptional rule is a peremptory rule, meaning that it is not permissible to agree to violate its requirements[41].

This is the case in banking contracting, where it is carried out through standard contracts by clicking on special icons to agree by the customer to the terms of the contract prepared by the bank and available on the website, based on the idea of the absence of negotiation between the bank and the customer regarding the operations provided by the latter.

Conclusion

In this article, we have discussed the specificity of the electronic contract, especially in light of Law No. 18-05, which regulates electronic commerce.

In addition, we have discussed the various conditions of both the electronic offer and the electronic acceptance and their relationship to the conclusion of the banking contract, as well as discussing the idea of contracts made by way of compliance and the relationship of the banking contract with them.

We have concluded that banking contracts do not differ from being electronic contracts, and despite the scope of the customer's freedom to choose the type of banking transaction, the date of its execution and other behaviors that are subject to his pure will, the latter is within the limits of the conditions set by the bank for the services it offers to customers, which is the reason that leads to the consideration of banking contracts as electronic contracts that are made by way of acquiescence.

[1] Abd al-Razzaq Ahmed al-Sanhouri, Al-Wasit fi sharh al-Qanun Al-madani, The Theory of Obligation in General (Sources of Obligation), Volume I, Third Edition, Nahdet Misr, Egypt, 2011, p. 214.
[2] Article 64 of Ordinance No. 75-58, op. cit.
[3] Abdul Razzaq Ahmed al-Sanhouri, op. cit. 216.
[4] Article 124 of Ordinance No. 75-58 of September 26, 1975, containing the Civil Code, (JR No. 101 of December 19, 1975), as amended and supplemented
[5] Article 124 bis of Ordinance No. 75-58, ibid.
[6] Abdul Razzaq Ahmed al-Sanhouri, op. cit. 237.

[7] Abdul Razzaq Ahmed al-Sanhouri, op. cit. 237.
[8] Article 67 of Order No. 75-58, op. cit.
[9] Mohamed Sabri Al-Saadi, Al-Wadih fi Charh Al-Qanun Al-madani , General Theory of Obligations, Sources of Obligation, Contract and Individual Will, A Comparative Study in Arab Laws, Dar Al-Huda, Algeria, pp. 119,118.
[10] Mohamed Sabri Saadi, ibid, p. 120.
[11] Mohammed Fawaz Mohammed Al-Matalqa, Al-Wajeez fi Oukoud Al-tijara Al-iliktroniyya, A Comparative Study, First Edition, Second Edition, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2008, p. 65.
[12] Article 65 of Order No. 75-58, op. cit.
[13] Article 107/2 of Order No. 75-58, op. cit.
[14] Mohamed Sabri Al-Saadi, op. cit. 293.
[15] Muhammad Fawzi Muhammad Al-Matalaka, op. cit. 59.
[16] Bin Khadra Zuhaira, Provisions of Electronic Proposal, Journal of Legal Studies, Volume 07, Issue 02, Sovereignty and Globalization Laboratory, Yahya Fares University, Medea, publication date June 2021, p. 761.
[17] Mohammed Sabri Al-Saadi, ibid, p. 104.
[18] Article 63 of Order No. 75-58, op. cit.
[19] Nidal Ismail Barham, Ghazi Abu Orabi, Ahkam Oukoud Al-tijara Al-iliktroniya , First Edition, First Issue, Dar Al-thakafa, Amman, Jordan, 2005, p. 36
[20] Nidal Ismail Barham, Ghazi Abu Orabi, op. cit. 36.
[21] Bouchnafa Jamal, "Khososiyat al-taradhi fi Al-Oukoud Al-Iliktroniya", Journal of the Research Professor for Legal and Political Studies, Volume I, Issue 10, June 2018, Faculty of Law and Political Science, Mohamed Boudiaf University, Messila, p. 130.
[22] Article 06 of Law No. 18-05, dated May 10, 2018, relating to electronic commerce (JR No. 28 dated May 16, 2018).
[23] Muhammad Al-Saleh Ben Omar, "Electronic consent between the producer and the consumer in Algerian legislation", Al-Haqiqa Journal for Social and Human Sciences, Volume 18, Issue 01, March 2019, publication date 04/15/2019, p. 371.
[24] Nidal Ismail Barham, Ghazi Abu Orabi, op. cit. 42.
[25] Muhammad Sabri al-Saadi, op. cit. 110.
[26] Mohamed Sabri Al-Saadi, ibid, p.109.
[27] Article 124 of Ordinance No. 75-58, op. cit: "Any act whatsoever committed by a person through his own fault that causes damage to others, the person who was the cause of its occurrence shall be obliged to compensate."
[28] Nidal Ismail Barham, Ghazi Abu Orabi, op. cit. 45.
[29] Yamina Hoho, Aakd Al-Baye Al-Iliktroni fi Al-Qanun Al-Jazairi, first edition, Dar Belkis, Algeria, 2016, p. 88.
[30] Bin Saidi Salamah, Submission contract in controlling the abusive clauses and achieving contractal balance, Journal of Research in Contracts and Business Law, Volume 07, Issue 04, Publication date: 12/21/2022, p. 361
[31] Amer Rahmoun, Aakd Al-Idhaan FI Al-Fiqh Al-Islami wa Al-Qanun Al-madani Al-jazairi, a comparative study, Memorandum submitted for the degree of Master in Islamic Sciences, majoring in Sharia and Law, Faculty of Islamic Sciences, Youssef Ben Khedda University, academic year: 2012/2013, p. 20.
[32] Khaled Mamdouh Ibrahim, Al-Tahkim Al-Iliktroni fi Oukoud Al-Tijara Al-dawliya , First Edition, Dar Al-Fikr Al-Jamii, Alexandria Egypt, 2008, p. 85.
[33] Khaled Mamdouh Ibrahim, ibid, p. 83.

[34] Rabahi Ahmed, op. cit. 100.
[35] Khaled Mamdouh Ibrahim, op. cit. 89.
[36] Article 03/4 of Law No. 04-02 of June 23, 2004, defining the rules applicable to commercial practices, (JR No. 41 of June 27, 2004), amended and supplemented.
[37] Executive Decree No. 06-306 of September 10, 2006, specifying the essential elements of contracts concluded between economic operators and consumers and the clauses considered arbitrary, (JR No. 56 of September 11, 2006).
[38] Article 112 of Order No. 75-58, op. cit.
[39] Article 111 of Order No. 75-58, ibid.
[40] Article 106 of Order No. 75-58, ibid.
[41] Article 110 of Order No. 75-58, ibid.