

Consumer Protection in the Case of Bad Contract Deals in Kosovo Market

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Abstract. The legal regulation of contractual transactions in the field of e-business in the last decade, in regards to respecting consumer rights, has marked rapid advancements which have never been seen before. However, in Kosovo, this issue is not only problematic but also complex. Sufficient attention has not been paid to legal regulation of business transactions made by electronic means. This assertion was elaborated from the perspective of comparative legislation in order to influence the local policy makers. This is because there is an urgent need to address the issues derived from this nature and this aims to influence the policy makers' dealing with electronic contracts and indent. However, this has led to the achievement of the provision of a high quality legal consent and a reduction in the probability of evidence for the existence and interpretation of the content of the electronic contract via electronic form as an essential condition for its validity. The Republic of Kosovo has a deficit in terms of completing e-business legislation and e-contracts. Local legislation needs to be completed in order to complement the elements for secure attachment of an advanced electronic signature and cohesive legal grounds dedicated to this issue, with particular emphasis on the standardization of electronic document integrity protection and the identity of the electronic signature. For the realization of this protection, referring to the comparative legislation, in the case of conclusion of an electronic contract with errors or the legal effects they produce in cases when certain quantities of goods or their values are exceeded, it should be regulated on the basis of specific information statements placed in the e-mail editorial office, which means their authentic and prior receipt and signature.

In addition, referring to comparative law, in the case of signing an electronic contract with irregularities, in particular its legal consequences in overcoming its quantity or value, in this case the contract should be amended based on clear information (specific conditions) stipulated by the editor (contractor) of electronic contract, which *inter alia* means prior acceptance and authentication signature.

Keywords: E-business, consumers, electronic contracts, electronic signatures, legislation

1. NORMATIVE AND THEORETICAL FRAMEWORK

The analysis in this paper is mainly in the form of a literature review, exclusively dedicated to electronic commerce regulation and consumer rights protection. Due to the nature of the paper, the analysis is more concentrated on EU, USA and Kosovo directives, norms and regulations regarding the electronic contracts which are the subject of this paper.

This paper initially begins with a brief historical focus on the genesis of legislation dedicated to consumer rights regulations, starting from United States of America, European Union and Kosovo. The whole study is analyzed by comparing the dynamical and massive electronic business issues and the slow and traditional process of issuing and harmonizing legislation to regulate these issues. Data for this research has been provided through references from extensive literature searches and by analyzing similarly published report (i.e. Web of Science, Scopus, EBSCO, etc). The resource structure is mainly made up of international legislation issued by international and regional organizations such as the United Nations Commission on International Trade Law (UNCITRAL) and the European

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Union Directives which, in the quality of international legal resources, have direct effect in certain countries. The paper serves two purposes: The first concerns the identification of certain factors that slow down the process of regulating the legal framework for consumer protection that can cause material and moral damage to consumers. This is as a result of errors in concluding electronic contracts and is also the awareness to guarantee the rights of consumers in e-business circumstances through legal measures which should urgently be regulated by national law in this area.

Specifically in Kosovo, e-commerce is at the early stages of its development. The number of operators providing these services is low. Among the identified problems is that the low value of payment transactions through the use of bank cards have relatively high relativistic costs in relation to the small value gained from sales. Therefore, one of the basic conditions for operating in electronic commerce is the implementation of the legal framework that serves to increase the guarantee of providing these services and also to protect the rights of consumers. In Kosovo, the legal basis for e-commerce has been drafted in recent years. For the first time, electronic commerce as a legal term is included in the 'Law on the Information of Society Services' adopted in 2012. However, this legal framework is by no means sufficient to regulate the essence of new relationships of certain forms of trade that were lacking. It is very much expected and anticipated that some amendments will be made to this law. According to official sources of Telecommunication Regulatory Authority in the Republic of Kosovo, changes have been requested by the European Union so that the law is harmonized with the directives of this institution.

Electronic contracts are just as legal as traditional contracts. Hence, just because they are not signed does not mean that they are not real and we should not follow them. Various forms of electronic contracts can be found on the internet and in addition, changes can be made that reflects the conditions of a business in any form. In these formats, there is the opportunity to easily change the terms and clauses and also formulate them depending on the client that is willing to sign the contract.

In principle, electronic contracts are the same as regular contracts. It has similar legal power as a regular contract and specifies specific business tasks or obligations between the two entities. Therefore, it is as legitimate as traditional contracts, and only because there is no sign of them, does not mean that they are not real and there is no need to respect the conditions set out in it. Forms of electronic contracts can be found online and in any form changes can be prepared in a way that reflects our business conditions. It is a possibility that the contractor easily modifies the terms, clauses and formulation depending on the client who will receive the contract to sign up (e.g., purchasing on the Internet through Amazon).

2. REGULATION OF ELECTRONIC CONTRACTS AND INTERNATIONAL LEGAL RESOURCES

The United Nations Commission on International Trade Law due to the continued growth of e-business relationships, in 1996, proposed the Model Law on Electronic Commerce. The UN General Assembly adopted this proposal in the form of a resolution and offered it to members of the United Nations for national codification of electronic commerce as an alternative to the traditional way of trade. The purpose of this Law is national law-orientated so that they are uniformly regulated throughout the world to provide and regulate functional systems adapted to the inadequate needs of carrying out international trade activity. It also aims to create legal certainty and an environment of appropriate legal framework for the

development of electronic commerce, as well as electronic contract closure. In reality, this model act had an effective impact on national and regional legislation almost all over the world. As such, the Model Law provides modalities for eventual problems related to the creation and validation of an electronic contract. In particular, these issues deal with the fact whether the written form of a contract is in accordance with the form written by the editorial office. It can be conclude that it shows whether the electronic transmission is equivalent to the written form; whether the required signature is valid for these contracts and what is considered as the signature code. Therefore, electronic transmission refers to electronic broadcasts known as evidence of the positive rules of member states. The Model Law concretely regulates issues in the field of binding and validation of electronic contracts. Proposed legal solutions regulate the problem of recognizing the legal effects of electronic information exchange in Article 5, Legal Recognition of Data Messages (II) and the termination and establishment of validity of the contract in Article 11, Chapter III (Formation and Validity of Contracts). That is why all other issues in the field of contract law and other branches of rights, which is related to electronic commerce, are left to legal regulation of current or future legislation of the UN member states.¹

In 2001, UNCITRAL also provided its model for the Electronic Signature Law. This model law prohibits the use of the prior licensing system which forces businesses to obtain a prior license for the creation and distribution of an electronic signature system. This source highlights the principle of technological neutrality of electronic signature, which really excludes the possibility of national legislation to favor any specific technology by creating electronic signatures.

2.1. European Union

Two Directives have been adopted in the European Union legal system: the Electronic Signature Directive and the Electronic Commerce Directive of 2000 (the Electronic Commerce Directive).² The purpose of these directives is to create a single legal framework for electronic commerce within the common market in order to ensure legal certainty for business entities and consumers, this is basically in accordance with Article 5 of the Treaty of Rome which establishes the principle of subsidiarity of EU law. This goal is achieved by harmonization of national rules in the field of conclusion and the legal effects of electronic contracts. In addition, the directives refer to the principle of the internal market clause. This means that if an undertaking commences the activity of electronic commerce in accordance with the law of the Member State in which it is registered, then the Member State in which the service or product is distributed by electronic commerce cannot in any way prohibit or limit such dissemination.³ These directives regulate a vast number of electronic goods and services distribution activities including online book purchases, booking of tourist services, banking services, newspaper access, music download.

The purpose of the Electronic Signature Directive is to recognize the validity of contracts made in electronic form and to reconcile their evidence with those made in traditional form.⁴

¹ Alghamdi (2011).

² Directive 2000/31/EC of The European Parliament And of the Council (2000).

³ Directive 2000/31/EC Article 5 of the European Parliament and of the Council (2000).

⁴ Siems (2002).

It should be noted that the Trade Directive includes the most contractual contracts, such as those concluded between the civil law subjects and those concluded between legal persons. Similar to the UNCITRAL Model Law on Electronic Signature, the Electronic Signature Directive requires that EU member states do not apply the principle of prior authorization and emphasize the principle of technological neutrality of electronic signature rules. The editors of these sources from their point of view agree that the principle of technological neutrality encourages the growth of e-commerce and exchanges in a legally regulated market from an approach that favors some digital signatures technology and that also provides more security and reliability of electronic transactions. It should be kept in mind that the rules of the two above-mentioned directives are of a framework nature as the purpose of the EU directives is not to unite the legislation of member states, but to approximate and harmonize them. Therefore, these directives, in particular the Electronic Commerce Directive, have no specific rules dedicated to the subject of contracts signed by e-mail, the conclusion of certain agreements by a click of a mouse button, the conclusion of a particular agreement, etc., which otherwise are included in other UCITA national codifications.

Apart from the above mentioned legal acts for the Kosovo legal system, it is of significant importance that the systematic harmonization of local legislation should be in accordance with the EU directives for this field. This is due to Kosovo, in the whole implementation of its legislative agenda, is defined in alignment with and in approximation with the European Union legislation.

Two directives have been adopted in the European Union legal system: the Electronic Signature Directive and the Electronic Commerce Directive of 2000 (known as the Electronic Commerce Directive).⁵ The European Parliament, on the proposal of the Council, on 25 October 2011, abolished the Directive 2011/83/EU on consumer rights. With this Act, the Directive Council of Economic Union 93/13/EEC and the Directive 1999/44/EC of the European Parliament and of the Council were abolished. It also included the abolishment of the Council Directive 85/577/EEC and the Directive 97/7/EC of the European Parliament and the Council.⁶

The purpose of the legal framework and their amendments is to create a legal framework for electronic commerce within the common market, in order to ensure legal certainty for business entities and consumers. This legislative activity, in addition to direct effect in EU member states, aims also at the unification of techniques in the area of harmonization of national rules in the field of conclusion and the legal effects of electronic contracts in other countries.

2.2. The United States of America

The reason for treating US legislation in the field of electronic contracts is because these acts are the first that regulate the protection of consumer rights but have, in particular, created institutional oversight mechanisms of consumers' rights in the field of internet-concluded contracts. The US is the first that stated that the legal content of these contracts is not only within common law but also in Articles 2 (Sales – Buying) and 2A (leases) of the Uniform Trademark Code (UCC) of 1952. Despite the changes, this base did not meet the needs of legal regulation of domestic and international transactions in the field of electronic

⁵ Directive 2000/31/EC of The European Parliament And of the Council (2000).

⁶ Directive 2011/83/EU of the European Parliament and of the Council (2011).

commerce. This is due to the fact that in these transactions, there were problems with virtually all aspects of the contract concluded through the internet, the fulfillment of contractual obligations and the provision of legal protection to the consumers.⁷ To solve these problems, a group of lawyers, judges and professors from the universities gathered at the National Commissioners' Conference on Uniform Laws of the State which in 1999 drafted the Uniform Computer Information Transactions Act – UCITA.

In fact, prior to the issuance of this act, the state of Utah was the first in the world to adopt the Digital Signature Act.⁸ Similar to UCC Articles 2 and 2A, UCITA has defined the rules regarding the completion and performance of electronic contracts. Through these rules, it was possible to answer many of the issues that may arise when it is marketed through the internet. Along with the aforementioned UNCITRAL document and UCCIT, UCITA falls into categories of model laws which, due to the constitutionally distributed jurisdiction in the US federal structure, cannot come into effect until they adopt them in their legislative procedures. Since 1999, most countries have included UCITA in their legislation. Due to the advantages of this act, uniformity in US legislation regarding UCITA was achieved and as such is considered as the basis of contractual right on the Internet and as one of the most important sources of commercial law in general.⁹

It is worthy to note that for the amendment of some parts of the legislation in the sphere of comparative legislation, UCITA represents a comprehensive codification of the electronic commerce law, which is fully adapted to the needs of e-commerce. While other codifications mainly relate to the problems of electronically signing contracts and the accuracy of their content, UCITA as a *lex specialis* in US commercial law covers almost all aspects of the right of electronic contracts such as duration, the right to duplicate the software, performance, forgiveness, irresponsible contracts, rights and obligations of the contracting parties (warranties), breach of agreements, remedies, cancellation, damages, the right to improve a contract, the creditor's right to eliminate the errors, the clauses of legal remedies, etc.

In addition to UCITA, the Uniform Electronic Transaction Act (UETA) has also adopted the Modified Uniform Trademark Act which aims to adopt uniform rules for electronic records of contract texts and electronic signatures. Two principals have been established with this act: an electronic register that meets the requirements of written agreement and the electronic signature which is equivalent to the signature in writing even when a notary is required, provided that the contract is verified electronically by the authorized person (notary).¹⁰ The Notary Institution is established also in Kosovo and is important for the linking and validation of contracts. Additionally, it would be urgent that on the basis of UCITA, models establish legal bases for the notarization of electronic transaction by also regulating the territorial competences.

3. CONSUMER PROTECTION WHEN CONCLUDING ELECTRONIC CONTRACTS

The comparative legal framework that is dedicated to electronic contracts in general should contain rules for consumer protection, especially in those cases where they commit unintentional errors on condition that the consumer immediately after knowing the error

⁷ Dempsey (2003).

⁸ Notarization and Authentication of Documents and Electronic Signatures 2000.

⁹ Siemer (2011) 35.

¹⁰ Uniform Electronic Transactions Act of 1999.

notifies the other contractual party; did not profit from the use of the information or the third party, to submit all copies of the information to the other party; or to destroy all copies in accordance with the instructions of the other party and, on the other hand, pay all transport and processing costs.¹¹

These rules will not apply if the distributor offers the consumer a satisfactory program to avoid errors or to verify the sales information at least twice (clicking the mouse for a second time) before processing the electronic order. In fact, this is exactly the case with the certification of the electronic signature of the contract.¹²

Subsequently, the Republic of Kosovo, in Chapter V of the Law on Computer Services, regarding consumer protection for commercial communications, comprehensively defines the obligations to provide information that contracting parties should make available to each other in cases where they decide that they should have an electronic contractual relationship. In this context, sanctions have been made together with the rules for the professions. Analyzing Kosovo's national law, it turns out that there are no concrete and clear legal provisions that would apply if consumers made certain errors when concluding an electronic contract.

4. AUTHENTICATION OF ELECTRONIC SIGNATURE

Authentication can also be done by using the attribution procedure in order to verify the data and eventually eliminate the errors or changes in the data. This procedure requires the use of codes, algorithms, words and numbers for the code, removal of call and other validation types.¹³

In practice, the authentication procedure usually applies when a consumer buys internet software on a website that works through an electronic ordering system. Consumers are required to enter their name, surname, address, phone number, credit card information, information about the computer from which they are ordered and the PIN number. The electronic agent then requires the consumer to verify all the information for a second time before the consumer accepts the bid by clicking the appropriate place in the web application. Accordingly, under the specific conditions only, retailers allow consumers to 'download' the software from the internet on his computer.

An authenticated contract implies that it should have an additional electronic form, in effect, to transfer the signature to an edited article in an electronic contract by attaching a symbol, sound or electronic message. Thus, this in reality is an integral part of the editorial board or is related to the editing of the written contract.¹⁴ Therefore, the electronic certification of this contract ensures the ease of identification of one of the contracting parties so that it can be concluded with certainty that the data cannot be registered by anyone other than the person who took the action personally or through its electronic agent.

¹¹ UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006.

¹² According to the German law consumers are even protected with the ability to remove an electronic contract within 14 days from the date of termination, with the exception of contracts that are the subject of providing food or travel services.

¹³ Link 1.

¹⁴ Link 3.

5. LEGAL ENVIRONMENT OF ELECTRONIC CONTRACTS

The electronic contracts in some laws are named and defined in different ways. As a rule, despite these definitions in practice, it is allowed to link an electronic contract not only via the internet but also through other information systems. UCITA precisely uses the term 'Computer Information Transaction' with regard to electronic contracts.¹⁵ The UNCITRAL Model Law defines the same legal term as a business activity through the exchange of information generated, deposited or sent via electronic, optical or analogue means, including EDI,¹⁶ e-mail, telegram, tele-copying, etc. In the terms used in the contract, meaning and economic and informational connotation are always prevalent. In accordance with the principle of contractual freedom and the principle of consent, the UNCITRAL Model Law and all comparative legislation, including international sources, clearly recognize the validity of electronically-linked contracts. The Electronic Signature Directive requires members to provide an advanced electronic signature of the same legal effect as the traditional personal signature.¹⁷ Exceptions to this principle are usually individual contracts and other legal transactions that are yet to be completed in a traditional way and are most often linked to contracts that transfer immovable property rights (except the right to lease), contracts where the objective right requires explicit form of judicial evidence, notary form or form of a public document, the right of pledge and guarantees provided by persons not registered therein and contracts and legal matters in the field of family law and hereditary.

It explicitly excluded the possibility of concluding notarial contracts electronically. In reality, this seems to be a stumbling block that is incompatible with the tendency to reform this aspect of legislation in line with the needs of market operations electronically.¹⁸

6. CONFIRMATION AND INTERPRETATION OF ELECTRONIC CONTRACTS

The existence and content of the contract can be verified by all means of proof including the data in electronic form. The UNCITRAL Model Law and the EU Electronic Signature Directive explicitly require member states not to exclude in their legislation the possibility of certifying electronic signature in legal proceedings only because they are provided electronically.

The issue of certification is particularly apparent in the aspect of keeping electronic records that confirms the existence and content of these contracts. In French law, professionals (traders, entrepreneurs) are obliged to archive all records for a period of 10 years from the moment of entering into or executing the contract with the immediate execution of the cuts. These persons are obliged to provide access to these data at the request of the other party if the value of the contract exceeds 120 Euros.

¹⁵ Article 102(a) (11) UCITA.

¹⁶ Alghamdi (2011).

¹⁷ 'UNCITRAL Model Law On Electronic Commerce Guide To Enactment With 1996 With Additional Article 5 As Adopted In 1998 Bis'.

¹⁸ 'UNCITRAL Model Law On Electronic Commerce Guide To Enactment With 1996 With Additional Article 5 As Adopted In 1998 Bis'.

7. RULES AND TECHNIQUES TO CONCLUDE AN ELECTRONIC CONTRACT

In international legal frameworks and in comparative legislation, the view is that an electronic contract can be linked in any way that expresses the agreement in a qualitative manner, the clarity of the content of the subject matter of the contract and the true acceptance which determines the behavior of the negotiating parties and the functioning of the electronic agents. It is important to note that most of the European legislation forces the entities to implement the Article 9 of the E-Business Directive, which protects consumers from unwanted or occasional conclusion of a contract. In order to make such a contract produce a legal effect, in more frequent cases, the parties should provide each other with the opportunity to verify all contract points, in particular the price and the possibility of correcting errors after which can achieve a full agreement that produces contractual effects.

As a rule, at least two ‘clicks’ are required in the technical plan to complete such a contract. The first click is on the initial order and the second is for confirmation. In the case of consumer contracts, in some cases, it is necessary to exchange up to seven effective messages.¹⁹ This is the case when the offer is sent or accepted respectively or will be accepted or promising that the copy will be sent in the future or by sending a copy at the same time. In any case, in most jurisdictions and even in US law, the offer is considered to be accepted when the electronic receipt has been accepted by the bidders. Admission containing the changed points between legal entities, business entities respectively, will lead to the creation of an electronic contract, unless the bidder informs the receipt party within a reasonable time that the contract should not be concluded. If the Bidder expects the Bid Acceptance to be complete, i.e., referenced to all bids placed on the Bid, whether essential or non-essential, the acceptance that contains the revised bids will not lead to the conclusion of an electronic contract but will represent a counter-offer.

Among the specific problems that pose a complex issue is the conclusion of contracts through the electronic agents that are widely used today in order to accelerate and simplify the sale of goods and services. It is about sales through a telephone system or a computer set up by the seller for the purpose of receiving orders. If a buyer/consumer made the order of a product through that system and their offer contains different points from the general terms of the contract that the seller has offered to them, such a contract will be created but their case will not contain such items. Indeed, counter-offers are not effective if they are made by electronic brokerage agents.

8. RIGHT TO INFORMATION SOCIETY SERVICES IN THE REPUBLIC OF KOSOVO

In the Republic of Kosovo, the e-business aspect is regulated within the Law on Information Society Services. In reality, this law comprehensively defines documentation in electronic form that is legally considered equivalent to the traditional paperwork presented in the paper format. This facilitates electronic services that are included but are not limited to sales by consumer via the Internet (E-commerce), electronic banking and financial services (e-payment), provision of government services (e-government), e-procurement by electronic means (E-procurement) and electronic signature application. The purpose of this law is to create opportunities and favorable conditions for the development of electronic commerce,

¹⁹ Larrieu (2010).

the use of electronic transactions and the use of e-signatures by government, businesses and citizens. Also, this law aims to reduce the potential problems of misuse during electronic transactions as well as address security of IT systems.²⁰

This law regulates the application for any kind of information provided in the form of a data message. Some of the exception is in cases where contracts create or transfer immovable property rights and rental rights. Other exceptions includes contracts that by law require the involvement of courts, public authorities or professional bodies that exercises public authority; contracts of guarantee provided and collateral provided by persons acting for purposes outside their commercial business or profession scope; and contracts governed by Family Law or the Law on Inheritance.²¹ This legal act specifically regulates the content of the juridical nature of commercial relations. As such, it has ranked all issues arising from commercial or contractual relationships. Commercial nature relationships include, but are not limited to, transactions such as any trade transaction for the supply or exchange of goods and services, distribution agreements, commercial or agency representation, factor, hire-purchase, etc.

Digital identity is a necessity of time and technology. The use of services in the digital world is a widespread phenomenon with the development of information technology. The wide spread of the Internet and the large volume of its use brings with it new problems and phenomenon. Therefore, Kosovo law regulates the electronic signature as an act which contains electronic data that is logically attached to or associated with the data message. In addition, it can be used to identify the signatory in relation to the data message. Specifically, the advanced electronic signature must also specify the requirements to ensure that it is exclusively affiliated to the signatory. Hence, this is able to identify the signatory, which is created by the use of means that the signatory can only keep under his control. Furthermore, it is associated with the data to which it relates in such a way that any subsequent change of data is distinct.²²

To ensure the signature and advanced electronic signature, provisions are also made for the necessary technical measures such as the signature creation device – the software or hardware configuration that is used to apply signature-creation data. The device for the creation of a secure signature includes a signature-creation device that, by appropriate technical and procedural means, meets legal requirements.

9. THE RIGHT OF CONSUMERS TO WITHDRAW FROM THE ELECTRONIC CONTRACT

It should be noted that commercial communications, which are part of the information and technology service, must comply at least with the conditions set out in the law. In this context, these communications must be clearly identifiable. Consequently, the natural or legal person on whose behalf the commercial communication is made must be clearly identified. Advertising bids (discounts, prizes and gifts) must be clearly identified and the conditions to be met to qualify for them must also be easily accessible, clearly visible and clearly displayed in regards to competitions or advertising games. The permission under the law where the service provider is established should be clearly identifiable as such and the conditions of participation should be readily accessible and clearly presented.

²⁰ Law on the Information Society Services, Art 1.

²¹ Law on the Information Society Services, Art.1, Paragraph 3 and Art. 44.

²² Law on the Information Society Services, Art. 1 and Art. 52.

The Kosovar right for information and technology services in accordance with international standards has foreseen the right of consumers to be able, in certain cases, to withdraw from the contract. In this context, for a distance contract, the consumer must be given at least seven working days within which they can withdraw from the contract. The sole obligation of the consumer, due to the exercise of the right of withdrawal, is the direct cost of returning the goods.²³ If the consumer has exercised their right to withdraw, the supplier must be obliged to compensate the amounts paid by the consumer. Moreover, the consumer does not have to pay. The only payment that the consumer has to make is the cost incurred for the return of the goods. Such compensation shall be given not more than thirty days.²⁴

10. CONCLUSIONS

In the modern world, most international and local legal resources are synchronized with the aim of regulating e-business by providing the acceptance of the validity of electronic contract. It has become a powerful legal instrument for the development of business relations between the parties, because through it legal deals in business, work, sales or similar are realized quickly, without wasting time, regardless of the geographical distance of the contracting parties.

However, the electronic contract, though the same in many elements, as the traditional contract is a specification that should be legally regulated. In fact, in accordance with the principle of consent, these rules apply equally to the conclusion of informal contracts on the basis of a simple agreement reached by electronic means even in the case of formal contracts which traditionally require a written form in writing. It was, however, confirmed by signing the parties at the end of the text. Much of the comparative legislation for electronic contracts is regulated by the impact of the guidelines of the model laws such as UNCITRAL and EU directives.

Practically, both models have been the source for standardization methods, though fragmentary, regarding the subject of electronic contracts. All this was done in order to unify the validity of the contract in a written and signed form with the contract signed electronically or in an electronic form. Despite the aforementioned acts, United States legislation is among the only ones to regulate electronic commerce comprehensively by clarifying the meaning, content and structure of all contractual terms and conditions.

The US legal framework is the only country that has regulated comprehensively the electronic commerce by clarifying the meaning, content and structure of all contractual terms and conditions. In a comparative sense, the US legislation is certainly much more successful than the legal framework of other countries. The success of electronic commerce codification from the US is a reflection of the volume and intensity of electronic transactions in their market and the development of legal awareness of the need for the proper legal regulation of these transactions. Most of the legislation does not allow electronic means to bind a contract in a notarized form or in any other expanded form that explicitly requires the active involvement of judicial authorities, or the fulfillment of qualified legal conditions or retroactive consent.

In most cases, contracting parties, particularly consumers, are protected from the unwanted or accidental conclusion of a contract. This is regulated more by the technical-

²³ Law on the Information Society Services, Art. 17.

²⁴ Law on the Information Society Services, Art. 33, Paragraph 6.

editorial aspect by providing the parties with the ability to control each element of the contract, in particular the price and the ability to correct any eventual errors. Protection from these actions is dealt with in the procedure for concluding contracts based on clicks depending on the types of electronic contracts.

In the vast majority of comparative legislation, the exception is made by the Republic of Kosovo. Also, the legal framework is administering e-commerce which is applied to open systems. This implies the fact that these legal resources in relation to other sources of law are automatically considered *lex specialis* in relation to the general rules on contract law. There are no doubts that *lex specialis*, dedicated to e-commerce, is more appropriate and standardized with regard to contract construction that are electronically linked at all stages ranging from negotiation to the moment of authentication of content integrity, signing and eventual changes to the contract.

The legislation of the Republic of Kosovo in this area should urgently amend and supplement the provisions of current law particularly in the area of reviewing and supplementing primary and secondary legislation in the sense of their harmonization with the Directive 2011/83 / EU on Rights of the customer; reviewing and supplementing other legal acts that regulate legal protection of consumers in order to enable and facilitate the correction of errors due to erroneous connection of electronic contracts; clarifying the rules for electronic signature by expanding the scope of its application with the aim of opening computer systems even in cases where the contract is related by persons who were not previously known.

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