

Features of an Electronic Transaction as Evidence in Court

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Abstract

[Purpose] This article is aimed at revealing the theoretical features of an electronic transaction as evidence in the procedural and legal field of a judicial instance.

[Methodology/Approach/Design] The leading method of studying this issue is a combination of materials and methods of scientific knowledge. The main one is the dialectical method, which was used during the entire study and is considered the basic one in all components of the work, which made it possible to analyse comprehensively the theoretical developments of domestic and foreign scientists, as well as to study the judicial practice of applying the regulatory framework in the evidentiary process and the practical activities of leading lawyers in the judicial process of using electronic evidence.

[Findings] The relevance of this article is due to the increasing trend in the use of electronic transactions, as well as the use of the latter in court as evidence. So, the legal nature of electronic transactions is analysed here in detail, namely: the history of occurrence,

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approval by national legislation, methods and conditions of conclusion, as well as legal force in legal relations between individuals and legal entities, the methodological basis for the study of the concept of electronic transactions has been determined, and their sources of legal regulation of their existence have been identified. The article provides a list of characteristic features of electronic transactions, reveals the main methods of their conclusion, justifies the effectiveness of using electronic transactions in courts as an evidence base, identifies the main legal omissions and shortcomings of the regulatory framework.

[Practical Implications] The materials of this article provide applied value in the course of the reform and improvement of procedural legislation, as well as the development of methodological manuals for training and skill development of practising jurists and lawyers.

Keywords: Procedural Law. Evidence Base. Electronic Contracts. Electronic Documents. Judicial Process.

INTRODUCTION

Today, the expanses of the Internet have filled everyday life, and remote methods of communication and work have created many opportunities for implementing fast and comfortable cooperation of counterparties. Therefore, it is not surprising that most companies conclude transactions electronically to save time and resources (ANANKO, 2001). However, that practice also has negative cases, for example, the use of electronic contracts, which lead to the impossibility of their implementation, as well as the resolution of disputes regarding the recognition of contracts as invalid or broken. Even the adoption of new versions of the procedural codes and the introduction of periodic changes did not solve all the possible problems of using electronic documents (ALJNEIBI, 2016). The fierce competition in the market economy and the rapid growth of scientific and technological progress in the world have led to the development of new forms of trade and economic relations. Unfortunately, the practice of such forms, which appear behind the examples of developed countries, is ahead of the legislative framework for state regulation of this economic segment and creates conditions for the unregulated functioning of electronic trading, which in turn leads to a negative result (BIASIOTTI et al., 2018).

Such relatively new legal phenomena as the electronic document (including electronic evidence) and electronic digital signatures, which have emerged as a result of the rapid electrification of daily life through the introduction of various achievements of scientific research into the practical sphere. These institutions are now tools for ensuring the dynamism of civil law turnover and means of protecting the subjective rights and interests of participants in legal relations who conclude, modify and terminate agreements in electronic form, in case they lead

to the activation of the use of electronic evidence when considering the relevant dispute by the court. At the same time, the relative novelty of these institutions, as well as the diversity of their use, lead to a disharmony of legal definitions, approaches and methods of legal regulation. According to foreign researchers, the legal phenomena under study have a much longer history of use, and the novelty of the problems of proof under consideration arises from the novelty of the media, and therefore all law enforcement issues associated with them can be solved exclusively with the help of legislative innovations. In turn, electronic transactions in the process of proving as an independent type are distinguished on the basis of the characteristics of the carrier of such information (JOSEPH, 2002). That is, the source (carrier) of information having evidentiary value is electronic in its essence, and the information itself remains in the form of written signs, oral speech, and the like; in other words, everything that is suitable for direct perception and understanding of participants in judicial proceedings. The main purpose of the research is a comparative analysis of the features of electronic transactions in Kazakhstan and the leading countries of the European Union, using the example of Poland in the key of theoretical achievements and legislative reforms (MASON, 2016; MASON and SENG, 2017).

In addition, the origin of the legal nature of electronic transactions and the stages of their historical appearance were investigated by domestic and foreign scientists in their scientific works. The legal force in the evidentiary process of electronic documents, contracts formed as a result of the conclusion of electronic transactions is analysed in the works of representatives of legal science, namely: N.M. Vasilyeva (2006), A.M. Benesh (2018), V.S. Petrenko (2018) and others. However, a separate, complete, comprehensive study of the legal force of electronic transactions in court and the procedure for their argumentation is not yet available in legal science. Although the urgent need for this has already arisen due to economic development and the global digitization of legal documents.

This article briefly describes the mechanism for concluding an electronic contract. The specifics of contracts concluded with the help of the network, their regulation along with the legal requirements of the state are determined. The necessity of improving the legislative framework in the field of the legality of the use of electronic contracts is determined.

MATERIALS AND METHODS

The basis of the research methodology is a dialectical approach to the scientific knowledge of legal and social phenomena. The methodological basis of the scientific work is the complex application of general scientific and special methods of scientific cognition in their interrelation, chosen taking into account the goals and objectives of the research, its object and subject. General scientific

methods are presented in the work mainly by methods of formal and dialectical logic (analysis, synthesis, methods of induction and deduction, ascent from the concrete to the abstract and from the abstract to the concrete, the system-structural method, and others). The application of the dialectical method made it possible to establish links between electronic transactions and other related legal categories, to identify the essential features of electronic evidence, the factors that led to autonomy. The historical and legal method became the main one in the study of the experience of using various sources of information in the process of proving in historical retrospect, helped to determine the historical prerequisites for the use of electronic evidence as a means of proof. The formal-logical method was used to determine the main legal concepts and categories that make up the content of scientific research, to form the concepts of “electronic proof” and “electronic transaction”, to identify the main problems that arise when collecting, researching and evaluating electronic documents in civil proceedings.

The method of system-structural analysis was used to determine an electronic document in the system of evidentiary means, to study the structure of an electronic document. Thanks to this method, the interrelations between the constituent elements of electronic transactions (content, form, material carrier, file, format, external visualization) were also analysed, their existence in an organized system was substantiated. In the study of national acts of legislation and the legislation of certain foreign countries in terms of regulating relations arising during the collection and procedural consolidation of electronic documents, a comparative legal method was used. The analysis of the norms of the current civil procedure legislation and the practice of its application, the interpretation of the provisions of the relevant normative legal acts and materials of judicial practice is carried out using formally dogmatic and hermeneutic methods. The method of theoretical and legal modelling made it possible to substantiate proposals aimed at improving the provisions of regulatory legal acts regulating the procedure for collecting and procedural consolidation of completed electronic transactions, as well as the procedure for using an electronic signature when working with electronic documents.

The normative and legal basis of the research is based on international legal acts, acts of civil procedural law and individual foreign states. The theoretical basis of the research is the scientific works of domestic and foreign procedural scientists, as well as scientists in the field of general theoretical jurisprudence, civil, economic procedural law and other branches of the legal system. The empirical basis of the study is the decision of the European Court of Human Rights, as well as the decisions of national courts.

RESULTS AND DISCUSSION

The widespread introduction and use of digital technologies, electronic forms of communication and the Internet has had a significant impact on almost all spheres of public relations. The result of such transformations was the emergence of qualitatively new sources of evidentiary information, mechanisms and ways of working with it. In the conditions of continuous computerization and informatization, the problem of effective use of the achievements of scientific and technological progress in the consideration of legal cases has taken a worthy place among the main challenges of the theory and practice of the judicial process. Despite the constant development of procedural thought, the task of scientific and theoretical development of digital technologies in their procedural aspect is marked by its complexity and novelty. In addition, such factors as insufficient legislative regulation, lack of experience in the use of electronic evidence, including their varieties – electronic documents, the need for constant interaction with subjects of other sciences (cybernetics, computer science, document science), the growing role of IT technologies in the process of transformation of the main institutions of the state and law.

Taking into account the above, the intensification of scientific research in the field of digitalization of judicial evidence is extremely necessary. The corresponding efforts are justified by changes in the paradigm of the judicial process with its focus on the effectiveness of legal proceedings in general, the need for the implementation of European legal values by justice, the priority of solving the tasks of legal proceedings when determining the directions of scientific research. In addition, the legal doctrine of the state forms its own concept of electronic legal proceedings, in which, along with the procedural features of the use of electronic means of proof, a solution to the issue of the functioning of an electronic court requires a separate study. The emergence of e-commerce as one of the promising areas of e-business is gaining popularity both among consumers and manufacturers every year, which has come a long way. Intensive development, entry into new sectors of the economy and types of activities, the development of new mechanisms and tools of “e-commerce” complicates the formulation of an accurate and unambiguous definition of it, which would reflect all the directions of its development at the present stage.

But still, e-commerce is a specific part of e-business, which includes public relations regarding the purchase and sale of goods, services and information via the Internet using all the tools available on the network. It develops and expands every year both in Kazakhstan and around the world and acquires new forms in which the manufacturer needs to adapt at a rapid pace – in order to get competitive advantages and highly effective tools for promotion; the consumer – in order to

save time and savings when purchasing goods and services with a significant improvement in the quality of service; to the state – in order to ensure international integration through a sufficiently effective form of commodity-money relations and build an electronic management system. E-commerce has entered the social relations of the parties so rapidly that not only did not have time to settle the legal relations but did not even have time to understand that such a settlement should begin in its global sense. The existing various approaches to the definition of e-commerce are due to the ways and means of its implementation as an economic activity or as a type of transaction, as well as issues of the technical component, that is, with the help of which means of telecommunications it can be carried out (via the Internet or using other modern technical means: telephone, fax, television, electronic payment and money transfer systems, electronic data exchange and other computer networks). The legal regulation of e-commerce is fragmentary and does not cover all the elements of e-commerce as a whole (except for Kazakhstan, where there is a legal act that considers e-commerce as a single process).

Virtual life has covered not only the spheres of social communication, but also greatly facilitated the procedures for obtaining certain material benefits. However, when legal relations have gone beyond certain agreements in the form of electronic transactions, there is a need for a legal mechanism for the forced return of agreements reached. A conflict arises which a court, for example, can join in resolving. And the court, as is known, is a bureaucratic body, it is not developed in electronic technologies. So, taking into account the lag of the legislator from the progress in the field of Internet technologies, the authors will analyse an electronic transaction in the form of an electronic contract for its legal existence.

It should be noted that a number of international organizations are currently engaged in the development of international standards and recommendations on procedures and rules for electronic document management. The main ones are: the Commission on Entrepreneurship, Business Facilitation and Development within the framework of the UN Conference on Trade and Development, the UN Commission on International Trade Rights and the Center for International Trade Facilitation within the Economic Commission for Europe; the International Telecommunications Union, which is a specialized telecommunications agency under the UN. The Protocol of Understanding was signed in 2000, which united the International Electrotechnical Commission (IEC), the International Organization for Standardization (ISO) and the International Telecommunication Union (ITU), which laid the foundations for standardization in the field of electronic commerce (electronic transactions). One should not underestimate the importance of another document, the UN-adopted UNCITRAL law “On Electronic Signatures”, because the existence of an electronic document is impossible without an electronic digital signature (RECOMMENDATION

REC..., 2001). This regulatory legal act is intended exclusively for the use of electronic signatures in the field of trade. According to this Law, electronic signatures are data in electronic form that is contained in a data message, attached to it or logically associated with it and that can be used to identify the signatory in connection with the data message and indicate that the signatory agrees to the information contained in the data message (KANEV and SHEVTSOVA, 2018).

But it is still necessary to mention that e-contracts are written evidence in the understanding of the theory of law. At the same time, such contracts must meet all the requirements established for electronic documents, namely: the information in such a document must be recorded in the form of electronic data, including the mandatory details of the document, and it must also be signed with an electronic signature. However, in practice, there is a problem with providing such evidence to the court. This can be done in the form of printouts of screenshots from the screen or even in more sophisticated ways – opening an email with a video recording of this process and providing the corresponding video recording of the court. After all, not every electronic legal transaction requires the creation of a separate electronic contract in the form of a separate electronic document. An electronic contract can be concluded in a simplified form, or it can be classic – in the form of a separate document.

An electronic transaction concluded by exchanging electronic messages is considered legitimate by legal consequences and is equated to a contract concluded in writing. Each copy of an electronic document with a signature superimposed on it is the original of such a document. It is indeed important that an electronic transaction made by means of an electronic contract includes all the essential conditions for the corresponding type of contract, otherwise, it may be recognized as not concluded or invalid, due to non-compliance with the written form by virtue of a direct indication of the law. It is important to understand in which specific case it is necessary to create an electronic contract in the form of a separate electronic document, and when it is enough to express one's will using electronic communication means. The purpose of signing the contract is the need to identify the signatory, confirm the signatory's consent to the terms of the contract, as well as confirm the integrity of the data in electronic form. If there is an electronic form of the contract, then you need to sign it with an electronic signature. Fixing on electronic media is somewhat more complicated, since it is clear that in the event of a dispute, each party can appeal to its own version of the information recorded on its electronic media. It is obvious that in order to eliminate disagreements between such versions of the electronic offer, the court will have to turn to a specialist for clarification in the form of explanations in court or in the form of a conclusion, for example, a forensic technical examination.

Another promising way is to fix and provide screenshots to the court. A screenshot is a copy of a screen that contains information on an Internet page. Notaries now refuse to notarise printouts of electronic correspondence, including screenshots. However, this path has been tested in the Russian judicial system. Printed and signed and sealed by a party to the case, screenshots are accepted by the Russian courts as admissible evidence (Resolution of the Federal Antimonopoly..., 2010). In addition, the legislation of the Russian Federation on notaries allows notaries to conduct a review of websites with recording in the protocol of all stages of the review to provide evidence. And the courts give their preference to notarised screenshots (Resolution of the Federal Antimonopoly..., 2009). Similar legislation on the rights of a notary exists in the Republic of Belarus.

It should be noted that the legal provisions concerning the receipt of documentary evidence in the Republic of Poland apply to such documents that contain text and allow identifying their publishers. The document can be emails, SMS messages, pdf files containing electronic signatures of the parties, photos. The Civil Procedure Code of the Republic of Poland (CPC) (1964) regulates not only what can be considered evidence in a case, but also what is the subject of evidence. In accordance with Article 227 of the CPC: The subject of evidence is facts that are important for the resolution of the case. Thus, everything that can be useful for establishing facts, for example, agreements between the parties, proof of contract performance, etc. Including documents in electronic form that can be used as evidence in a court case. This is also stated in Article 46. eIDAS (REGULATION (EU) NO. 910..., 2014). Another important issue is the reliability of such a document in the courts of the Republic of Poland according to the current legislation. In the judicial process, the opposing party may declare that the document constituting the evidence in the case is false. In this case, the court may take the testimony of witnesses, hear the parties, or instruct an expert to verify the authenticity of a document, including an electronic one. The court may also apply to the issuer of the document with a request for access to the data carrier on which such a document is stored. This was regulated by article 254. §2 of the Civil Procedure Code of the Republic of Poland (1964).

An electronic document does not make significant changes to a traditional (paper) document, since it does not lead to the removal of elements that make up its content. This leads to the conclusion that it is subject to the same strict requirements as its traditional counterpart. The introduction of an electronic document into the procedural law of Poland is connected with the recognition by the legislator of the need for changes taking place in society related to the development of science and progress in the field of computerization and digitization, as well as with the obligation to adapt Polish legislation to

international law, including those arising from EU regulations. For this reason, it is necessary to emphasize the need to take into account technological changes in the functioning of the judicial system. It is necessary to emphasize the need to popularize and operate IT systems based on the latest technological solutions that are necessary for the presentation of evidence to the judicial body that has a source in the electronic media. This, of course, will have a positive impact on the growth of citizens' confidence in the judicial system, which, by applying to the court, implements its constitutional right to a fair trial. In addition, it will also increase the efficiency of the organizational units of the courts and will contribute to the improvement of procedures, which can have a positive impact on the economy of the entire process.

Since progress does not stand still, there is a high probability that in the near future the domestic legal proceedings will completely switch to electronic evidence and allow an absolute rejection of personal communication between the participants in the process and between the judge and the participants in the court case, which, in turn, will lead to the need to review the essence and content of many of the fundamentals and principles of judicial proceedings, primarily the principle of the immediacy of judicial proceedings. In addition, it should be noted that electronic evidence is information recorded on an electronic medium, has the necessary details that allow it to be identified and used in the relevant court proceedings since it can refute or confirm facts that are important for the decision on the merits of the court case. An electronic document will act as a written means of proof to the same extent as a paper document, if the facts recorded on it will have evidentiary value. At the same time, since judicial practice continues to be ambiguous in deciding which electronic evidence (in what form, on which carrier, etc.) is considered acceptable means of proof, the legislator should immediately eliminate these contradictions by making appropriate clarifications in the current procedural legislation of the state.

The development of information and communication technologies in Kazakhstan can guarantee the implementation of at least two latter ideas. The concept of e-government was developed to make the interaction of citizens and the state convenient, simple, accessible and understandable. The creation of e-government was necessary to make the work of the authorities more efficient and accessible to citizens. In the past, every state institution "lived in isolation" and could not communicate with others, and citizens had to go through crowded instances to collect various documents, such as certificates and confirmations. All this forced the threshold of crowded institutions to use only one type of service. Today, thanks to e-government projects, it is outdated. E-government is a single mechanism of interaction between the state and citizens, as well as state bodies, providing partial coordination through the use of information technologies. It is

this mechanism that has allowed government agencies to reduce queues, simplify and speed up the issuance of certificates, licenses, permits and much more. Next to this, electronic transactions in various social relations of society have gained the speed of their development. In the Republic of Kazakhstan, one of the main documents in the field of creating electronic justice is the “Concept of informatization of the judicial system of the Republic of Kazakhstan until 2020” (2014).

As the priority direction of the development of a socially-oriented state, this program highlights the further improvement of the electronic state, as well as electronic justice as a judicial branch of government. In addition, this program describes the main stages of the use of electronic evidence in the judicial process, in particular electronic contracts, as a result of electronic transactions. Currently, a regulatory framework has been formed, consisting of the following laws: Law of the Republic of Kazakhstan No. 418-V ZRK “On Informatization” (2015), Law of the Republic of Kazakhstan No. 370-II “On electronic document and electronic digital signature” (2003), Decree of the President of the Republic of Kazakhstan No. 1471 “On the State Program for the Formation of “Electronic Government” in the Republic of Kazakhstan for 2005-2007” (2004), Decree of the President of the Republic of Kazakhstan No. 310 “On Further Measures to Implement the Development Strategy of Kazakhstan until 2030” (2007). Since 01.01.2016, in Kazakhstan, the legislator has provided for the possibility of making written transactions, both on paper and in electronic form, while it is allowed to sign the transaction with an electronic digital signature (paragraph 1-1, paragraph 2 of Article 152 The Civil Code of the Republic of Kazakhstan (1994), while paragraph 3 of this article allows concluding a written contract, including by exchanging electronic documents, electronic messages. Thus, the Civil Code of the Republic of Kazakhstan took into account and recognized the practice of using an electronic digital signature that existed before its adoption, taking into account the possibilities and procedure for its use defined by the law, the agreement of the parties. In addition to this, the legislation of Kazakhstan has regulated Requirements for submitting electronic documents, as a result of electronic transactions to the court, according to which such evidence is permissible.

In further studies of e-commerce in Kazakhstan, the priority tasks are a deep analysis of each of the transaction models of e-commerce, identifying their specifics and features, which will make it possible to obtain accurate data and form an idea of the e-commerce system as a whole. Electronic document management systems form a new generation of automation systems for various processes in the country. The introduction of electronic document management in state and local government bodies should be carried out on the basis of the same approach and the use of a single software tool. All this will optimize the work of

state bodies, increase the level of services provided by them to citizens. It should be noted that this process requires the improvement of the existing regulatory framework and the adoption of a number of new special regulatory legal acts. Laws and other regulatory acts should not contain detailed technical requirements, only refer to the relevant standards and GOST standards. In addition, when developing regulatory legal acts, it is necessary to pay attention to the needs and expectations of businesses, individual users and consumers regarding the availability, volume and quality of electronic services, because the existing regulatory documents are mainly aimed at solving problems in the field of public administration.

The process of studying and researching the features of electronic transactions as evidence in court made it possible to substantiate the lack of fundamental research and analysis of the problems of full-fledged legal regulation of electronic commerce on the example of the countries of Kazakhstan and Poland. During the analysis, there was definitely a lack of appropriate legislative regulation of electronic commerce, namely: the absence of a special regulatory act, the lack of information policy, the lack of regulation of the sequences of conclusion, execution and control of electronic transactions, the lack of legal confirmation of the legal force of electronic transactions and their application in court in the process of proof.

The analysis of electronic commerce as a legal category and its individual elements on the example of electronic transactions, namely their origin, concept, legal nature, legal force were investigated in the works of N.M. Vasilyeva (2006), V.S. Kanev and Yu.V. Shevtsova (2018) which described some aspects of the basics of modelling and managing operational risks in e-commerce and telecommunications. A.M. Benesh (2018), I.T. Medveded (2007) studied and analysed the issues of notary security on the Internet, electronic document and notary activity, namely the use of new information technologies in the arbitration process and in the implementation of notary activities. So, analysing the legal nature of electronic transactions, it can be stated that it is possible to file electronic evidence in court. However, it should be remembered that the originals of electronic evidence exist exclusively in the form of electronic data on portable media or on the Internet, and therefore, submitting copies of them to the court in the form of, for example, screenshots, printouts or Internet links, their proper certification and the safety of the originals from their destruction should be ensured. It is advisable to file a petition for securing such evidence by examining it by the court before filing a claim. In addition, the legislative provisions concerning the electronic policy of the Republic of Kazakhstan, the Concept of the development of an electronic parliament, legislative acts that regulate the digital policy of the state were analysed. In particular, the articles of the

procedural codes are analysed in detail on the subject of the stage of proof in the judge, namely: the subject of proof, types of evidence and electronic evidence (KOSCIOLEK et al., 2016).

Thus, in the process of improving the methods and processes of legal regulation of electronic transactions, the level of information technologies, electronic commerce and electronic court in the state is increasing. In this process, there is a high level of use of budget funds in favour of the economic development of the country (VASILYEVA, 2006). The analysis of the legal literature, the regulatory framework, as well as judicial practice, made it possible to come to a conclusion and outline the basic rules of permissible electronic evidence in court, namely:

- Storing evidence of valid negotiations by e-mail with the agreement of the essential terms of the future contract;
- The actual existence of real relationships, which is confirmed by systematic document management in electronic form;
- Mandatory designation in the contract of e-mail addresses created in the domains of the parties;
- Sending a scanned copy of the contract from an e-mail with the exact details; and
- Sending a scanned copy of the contract by inserting pages directly into the text of the email, rather than attaching a file.

In their works, the scientists considered only the theoretical aspects of the budget system, but did not pay due attention to the practical obstacles to its legal regulation. However, the availability of theoretical recommendations based on the practical budgetary activities of the authorized bodies will allow introducing correct changes to the current legislation, reforming the budget system referring to the processes of decentralization, taking into account inter-budgetary relations at various levels in the state (KANEV and SHEVTSOVA, 2018). In today's world, any innovation, any technology that saves a fraction of the time it takes to perform an action or carry out any operation is of great value. The information sphere, in the process of its development, is the main generator of new opportunities, new advantages and, at the same time, new legal relations. Since daily life often consists of contractual legal relations, they are all moving into the field of information technology with each passing day. That is why the laws of many countries of the world are trying to improve their legal norms in the process of developing this sphere. Fortunately, Kazakhstan is no exception, and the adoption of relevant regulatory legal acts regulating the method and procedure for

concluding transactions in electronic form is a positive moment in writing the information history of the state.

Thus, according to the results of the analysis, it was found that the e-commerce markets in Kazakhstan and Poland are very promising, since their growth rates are quite high. In terms of revenue from e-commerce, the Polish market is several times larger than the market of Kazakhstan, but compared to Poland, Kazakhstan has a low percentage of Internet penetration, which means that the market of electronic transactions will also scale with its growth. The obstacles that hinder the development of electronic communication are: a low level of user trust, imperfect state regulation, unsettled mechanisms for protecting consumer rights, a low level of Internet penetration, instability of the exchange rate, etc. However, subject to the implementation of foreign experience and taking into account global trends by domestic e-commerce entities, this sector will actively develop and at the same time contribute to the development of the country's economy as a whole.

CONCLUSIONS

The use of electronic evidence in court proceedings provides more opportunities for proof. And in a separate category of cases, for example, defamation disputes, disputes in the field of intellectual property, electronic evidence is sometimes crucial. It is recommended to submit electronic evidence in electronic and paper copies, showing copies and sending them to other participants in the case. Before using the evidence, the electronic evidence should be recorded. An expert institution, specialised organisations, online services, own review and protocols of the recording can assist in the recording. It is common in judicial practice to use more than one source for recording each piece of evidence in order to guarantee their credibility. But still, the most ambiguous issues remain the review of electronic evidence and the need to involve experts. The court should be inquired about whether it is technically feasible to review electronic evidence or should be provided with access to the network.

The electronic transaction has taken place in legal science. Legally, it already exists, but it is still clear that to a full-fledged and perfect legal instrument, it still needs to go through the path of legal application, through the accumulation of judicial practice as the basis for state reforms. So, electronic contracts when using modern information technologies must comply with the procedure established by law. At the same time, it is important to establish such mechanisms for concluding these contracts, which will not save electronic contracts from legal force, because otherwise the potential of the Internet will not be fully used.

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