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ELECTRONIC COMMERCE, A NOVELTY IN ALBANIA

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ABSTRACT

The fast development of economic relations in nowadays, the increase of trading exchanges, contracting from different countries of the world, has necessitated a new contracting form for the parties. In order to increase the flexibility as well as boosting the trade relations, which are the key of a developed economy, electronic commerce came to light. Parties are directed to electronic markets to buy goods and services, but electronic commerce is not only used by the consumers but also by powerful corporations and governments of different countries to realize their economic interests. On-line contracting allows the parties to enter into contractual relations by overcoming geographical barriers, save time and financial cost. Electronic commerce today has reached unimaginable levels of development and has been implemented as a tool that is dominating global trade. It has become the main form of contraction in the leading economies, such as the United States, Japan, but also other countries of Europe. It even finds development in Albania. This paper aims to address an overview of international trade, the development and the legal regulation. Also, electronic commerce will be specially treated in Albania, a country with aspirations to suit the requirements of international trade to develop economically. The paper addresses the Albanian experience in e-commerce which attempts to approximating international trade trends.

Keywords: Electronic commerce, on-line contracting, competition.

INTRODUCTION

Electronic commerce (e-commerce) remains a relatively new, emerging and constantly changing area of business management and information technology, in particular in Albania. There has been and continues to be much publicity and discussion about e-commerce. However, there remains a sense of confusion, suspicion and misunderstanding surrounding the area, which has been exacerbated by the different contexts in which electronic commerce is used, coupled with the myriad related buzzwords and acronyms. It is one of the most profound changes currently transpiring in the world of business is the introduction of electronic commerce. The impact of electronic commerce (ecommerce, or EC) on procurement, shopping, business collaboration, and customer services as well as on delivery of various services is so dramatic that almost every organization is affected. The paper aims to show how e-commerce is changing all business functional areas and their important tasks, ranging from advertising to paying bills.

This paper aims to provide an understanding of e-commerce's application and its importance. In order to understand electronic commerce it is important to identify the different terms that are used. The paper will be focused on giving a brief concept of e-commerce and its types and the evolution of it in Albania. The authors will give an overview of legal framework in Albania, analyzing the main law of electronic commerce. Also, the paper is aimed to treat the benefits of this kind of commerce.

LITERATURE REVIEW

Electronic commerce is sharing business information, maintaining business relationships and conducting business transactions by means of telecommunications networks¹. Zwass maintains that in its purest form, electronic commerce has existed for over 40 years, originating from the electronic transmission of messages during the Berlin airlift in 1948.2 From this, electronic data interchange (EDI) was the next stage of e-commerce development. In the 1960s a cooperative effort between industry groups produced a first attempt at common electronic data formats. The formats, however, were only for purchasing, transportation and finance data, and were used primarily for intra-industry transactions.

It was not until the late 1970s that work began for national Electronic Data Interchange (EDI) standards, which developed well into the early 1990s. EDI is the electronic transfer of a business transaction between a sender and receiver computer, over some kind of private network or value added network (VAN)². Both sides would have to have the same application software and the data would be exchanged in an extremely rigorous format. In sectors such as retail, automotive, defence and heavy manufacturing, EDI was developed to integrate information across larger parts of an organisation's value chain from design to maintenance, so that manufacturers could share information with designers, maintenance and other partners and stakeholders.

Electronic commerce has been re-defined by the dynamics of the Internet and traditional e-commerce is rapidly moving to the Internet. With the advent of the Internet, the term e-commerce began to include:

1. Electronic trading of physical goods and of intangibles such as information.
2. All the steps involved in trade, such as on-line marketing, ordering payment and support for delivery.
3. The electronic provision of services such as after sales support or on-line legal advice.
4. Electronic support for collaboration between companies such as collaborative on-line design and engineering or virtual business consultancy teams.

According to E. Turban, J. Lee, D. King and H.M. Chung electronic Commerce (EC) is where business transactions take place via telecommunications networks, especially the Internet. The wide range of business activities related to e-commerce brought about a range of other new terms and phrases to describe the Internet phenomenon in other business sectors³.

In explaining the legal and economic trends, it is inevitable that even Albania soon face the need for a legal framework on trade electronic, viewing this as a prerequisite to inclusion of Albania in the European Union. Best practices and the adoption of legislation with international legal requirements of EU Directives for electronic commerce, connection distance contracts and consumer protection, and electronic signatures will be Albania's guide to achieve and to comply with those standards.

¹ Zwass, V. (2001) *Structure and macro-level impacts of electronic commerce: from technological infrastructure to electronic marketplaces*, <http://www.mhhe.com/business/mis/zwass/ecpaper.html> (accessed May 2001).

² E-business, take look at: The European E-business report, 2004.

³ Turban, E., Lee, J., King, D., and Chung, H.M. (1999) *Electronic Commerce: A Managerial Perspective*. Prentice Hall.

In order to examine the experience of European countries is necessary to review the directives on the use of electronic contracts. The three most important directives are:

1. Protect consumers Directive in contracts related to the distance of 1997 which includes even the forms of electronic connectivity contracts⁴. This directive is implemented by member states in June of 2000.
2. The directives for Electronics firms of 1999 which is implemented by member states from 19 July 2001⁵.
3. Electronic Commerce Directive of 2000 which is implemented by member states before 17 January 2002⁶.

This paper analyzes briefly the European legislation and the Albanian law on E-commerce. Development of information society dependent upon the adaptation of relevant legislation required. Until now, are drafted and adopted in accordance with commitments in SAA a significant set of rules in the field of information society:

Law No. 9880, dated 25.2.2008 “On the electronic signature”;

Law No. 9887, dated 10.3.2008, “On the protection of personal data”;

Law No. 9643, dated 20.11.2006, as amended, “On public procurement”¹⁹, which carries the possibility of electronic procurement;

Law No. 9723, dated 03.05. 2007, “On National Registration Centre”²⁰;

Law No. 9918, dated on 19.05.2008, “On electronic communications in the Republic of Albania”.

METHODOLOGY

The authors were based on the study of the Albanian legal acts and acts of the European Union to better understand the situation in Albania and how close are we to the European criteria in this regard. This paper is mostly narrative, because the authors have chosen to disclose the legislation and the situation broadly, as meaning, special advantages etc. In order to write this paper, it is used international and Albanian literature. The authors arrive at some important conclusions by interpreting them.

RESULTS

The field of e-commerce is broad. There are many applications of EC, such as home banking, shopping in electronic malls, buying stocks, finding a job, conducting an auction, collaborating electronically with business partners around the globe, and providing customer service. There is no one commonly agreed definition of e-commerce or e-business. Thus, there is a need to clarify terms being used and explain the context in which they are being applied. E-commerce has an impact on three major stakeholders, namely society, organisations and customers (or consumers). There are a number of advantages, which include cost savings, increased efficiency, customisation and global marketplaces. There are also limitations arising from e-commerce which apply to each of the stakeholders.

⁴ Directive 1997/7/EC, dated 20.05.1997 “*On the protection of consumers in respect of distance contracts*”, text available at: http://europa.eu.int/eur-lex/en/lif/dat/1997/en_397L0007.html

⁵ Directive 1999/93/EC, dated 13.12.1999 “*For electronic signatures*”, text available at: http://europa.eu.int/eur-lex/en/lif/dat/1999/en_399L0093.html

⁶ Directive 2000/31/EC, dated 08.06.2000 “*Directive on electronic commerce*”, text available at: http://europa.eu.int/eur-lex/en/lif/dat/2000/en_300L0031.html

These include information overload, reliability and security issues, costs of access, social divisions and difficulties in policing the Internet. In order to aid general understanding of e-commerce a number of frameworks have been introduced to explore it from different perspectives. These frameworks help identify the elements of e-commerce and how businesses can better understand e-commerce and its practical applicability.

DISCUSSION

Definition of electronic commerce: Classification.

Electronic commerce gives the parties the opportunity to sign contracts from every corner of the world, to enter into contractual relations and overcome physical barriers or time. This trade is developed in the virtual space of the Internet is creating a world hooked trend which is adapted economic relations with technological developments and the growing needs of international business⁷. Electronic commerce (e-commerce) describes the buying, selling, and exchanging of products, services, and information via computer networks, primarily the Internet. Some people view the term *commerce* as describing transactions conducted between business partners. To them, the term *electronic commerce* seems fairly narrow, so many use the term e-business (electronic business) instead. It refers to a broad definition of EC, not just buying and selling, but also servicing customers, collaborating with business partners, and conducting electronic transactions within an organization.

According to Lou Gerstner, IBM's CEO, "*e-business is all about time cycle, speed, globalization, enhanced productivity, reaching new customers, and sharing knowledge across institutions for competitive advantage.*" E-commerce is a very diverse and interdisciplinary topic, with issues ranging from e-technology, addressed by computer experts, to consumer behavior, addressed by behavioral scientists and marketing research experts. There are several other important types of EC:

Collaborative commerce (c-commerce). In this type of EC, business partners collaborate electronically. Such collaboration frequently occurs between and among business partners along the supply chain.

Business-to-consumers (B2C). In this case the sellers are organizations, the buyers are individuals.

Consumers to businesses (C2B). In this case consumers make known a particular need for a product or service, and organizations *compete* to provide the product or service to consumers.

Consumer-to-consumer (C2C). In this case an individual sells products (or services) to other individuals.

Intrabusiness commerce. In this case an organization uses EC internally to improve its operations. A special case of this is known as B2E (business to its employees) EC.

Government-to-citizens (G2C) and to others. In this case the government provides services to its citizens via EC technologies. Governments can do business with other governments (G2G) as well as with businesses (G2B).

⁷ Malltezi, A., Rystemaj, J., Pelinku, A. (2013) *Aspekte të së drejtës së biznesit në Shqipëri*. Mediaprint, Tirana, pg. 479.

Mobile commerce (m-commerce). When e-commerce is done in a wireless environment, such as using cell phones to access the Internet, we call it *m-commerce*. Each of the above types of EC may have several business models. For example, in B2B one can sell from catalogs or in auctions. Buying can be done in several models such as reverse auctions, group purchasing, or negotiations. The field of e-commerce is broad. There are many applications of EC, such as home banking, shopping in electronic malls, buying stocks, finding a job, conducting an auction, collaborating electronically with business partners around the globe, and providing customer service.

Electronic commerce affects not only the economy of a country, but also it has a significant impact on the labor market. It enables the creation of new jobs for the creation of websites, maintenance and management, data security on the Internet, or etc.

E-commerce in Albania: Legal framework and development

Albania is a country that has not been left out of the trade development and electronic deployment. Firstly, our country has a significant increase of Internet use, which directly affects the individual access to electronic markets. Also, the increased Internet access business makes many of them prefer electronic markets to advertise products and services that Albanians offer. Many internet users choose electronic commerce to make their purchases, taking into account the advantages and facilities that they are offered.

Recently, in the framework of the obligation assumed by SAA, for aligning the legislation with the *acquis communautaire* in our country there are a number of laws aimed at regulating this field. We mention: the law "On electronic commerce" no.10128 dated 11.05.2009, as amended, "On electronic document" no. 10273 dated 29.04.2010; "On electronic signature" no. 9880 dated 25.02.2008, as amended; "On electronic communications" no. 9918 dated 19.05.2008, as amended by laws and their implementation.

These laws not only regulate electronic commerce in our country, but also serve as a driving factor for the development of electronic commerce in the Albanian area. However, the law has a limited scope of action because it excludes the application on several issues, which are:

1. Notary acts or other similar actions directly related to the exercise of public authority;
2. The representation of persons and protection of their interests before the courts, and in any organ, where the person's appearance can be done by third parties, through acts of representation;
3. Activities paid for participation in sporting bets, lotteries, gambling, electronic games, racetracks and casinos.

The law also does not extend to the legal relationships created; in the field of taxation; for the protection of personal data; on issues related to the practice of agreement, regulated by competition law; on issues related to intellectual property rights and industrial rights. The experience of the neighboring countries offered available models for Albanian road of economic growth. According to the period 1990-1997⁸ may be considerate as the first stage for economic development of Albanian businesses. This period is characterized with a

⁸ Açka, Sh. (2012), *E-commerce like a quickly manner for economic development- Albanian case*, Electronic International Interdisciplinary Conference 2012, <http://www.eiic.cz>, 354-358, Albania

convulsive development of financial and non-financial sector. Period 1997-1999 is considered like second stage for Albanian economy and businesses. Differently from first stage, in this stage the economic growth rate is declined sensitively; inflation is grown-up, while most of foreign investors left Albania. Period 1999-2009 was the third stage for Albanian business development in which started again the raise. From 2008 till today can be considered as the fourth stage for Albanian business development.

Even though in year 2008 Albania adopted the law for electronic commerce, this isn't sufficient for the most of Albanian businesses to apply e-commerce⁹. A key issue and limiting factor for e-Commerce is security, a requirement that is becoming more crucial in the current Albanian e-Commerce environment. Albanian consumers are interested in purchasing online while worried and skeptic about privacy and security issues. These result to be the main obstacles to the e-commerce development as regarding the consumers. Central Bank of Albania and major banks operating in Albania (like Intesa San Paolo bank, Raiffeisen Bank, National Commercial Bank etc) that facilitate the e-commerce process by providing and improving the security of electronic payment methods. The Chambers of commerce and industry have a special role to play as they act between the government agencies and their companies-members in order to influence the latter towards the adoption of electronic commerce.

Towards the necessity of regulating the domestic framework and towards the road of joining EU, very important steps in this direction have been made not only through the adoption of the Inter Sectional Strategy of Information Society by Decree No. 59, date on 21.1.2009, but also with expectations in terms of electronic communication containing various laws recently adopted, as for example law No. 9874, date on 14.02.2008 ““For the public auction”, law No. 9723, date on 03.05.2007 “On National Registration Centre”, law No. 9643, date on 20.11.2006 “On public procurement”, change and other by-laws which provide the opportunity for the performance of electronic means.

It must be admitted that there is no need to make changes in contract law in order to ensure the functioning of electronic commerce in Albania. Presumption that existing law is generally suitable for electronic commerce allows us to offer solutions to address and stamped over the years by different generations of lawyers.

Advantages of e-commerce

Electronic commerce has many advantages. From this kind of commerce the ones who benefits are organizations, consumers and the society as a whole. By becoming e-commerce enabled, businesses now have access to people all around the world. In effect all e-commerce businesses have become virtual multinational corporations¹⁰.

Operational cost savings. The cost of creating, processing, distributing, storing and retrieving paper-based information has decreased.

Mass customisation. E-commerce has revolutionised the way consumers buy good and services. The pull-type processing allows for products and services to be customised to the customer's requirements.

⁹ Ibid

¹⁰ Advantages of e-Commerce for Business - <http://www.limecanvas.com/advantages-of-e-commerce-for-business/>

On the other hand, the Internet is much cheaper than value added networks (VANs) which were based on leasing telephone lines for the sole use of the organisation and its authorised partners. It is also cheaper to send a fax or e-mail via the Internet than direct dialing. Also, businesses can be contacted by or contact customers or suppliers at any time. E-commerce enables customers to shop or conduct other transactions 24 hours a day, all year round from almost any location and customers not only have a whole range of products that they can choose from and customise, but also an international selection of suppliers. Benefits of e-commerce to society are as below:

1. Enables more flexible working practices
2. Connects people.
3. Facilitates delivery of public services

CONCLUSIONS

Electronic commerce is spreading in our country as a consequence of increased access to the Internet, where B2C contracts remain the dominant form. Tourism, goods and services, but also public procurements are areas where it is more evident. Electronic commerce presents some outstanding advantages, such as speed, flexibility, cost reduction, eliminating geographical barriers etc. E-commerce allows people to carry out businesses without the barriers of time or distance. One can log on to the Internet at any point of time, be it day or night and purchase or sell anything one desires at a single click of the mouse. The direct cost-of-sale for an order taken from a web site is lower than through traditional means (retail, paper based), as there is no human interaction during the on-line electronic purchase order process. Another important benefit of Ecommerce is that it is the cheapest means of doing business.

Harmonization of legal framework to guide the formation of electronic contracts in Europe seems a logical line with efforts to promote and facilitate electronic transactions that would eliminate concerns and lack of forecasting which still characterizes the contracting procedure by means of electronic tools. However achieving a uniform solution in this regard cannot be easy if you refer to the historical course of drafting the Directive on electronic commerce.

Harmonization of the law that deals with the formation of contracts electronically should not be separated from efforts being made to harmonize the law of contracts in general and also this harmony can be possible only when based on the provisions that are already known as an acceptable compromise for Europe for the regulation and formation of contracts such as the Principles of European Contract Law.

Albania is moving towards the road to membership in the European big family. Therefore, it is essential that the economic development, increasing local investment and foreign one, increase the number of Internet users and promote electronic commerce as a very favorable to doing business. All these will lead the country towards the necessity of regulating all these activities by law.

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