

# CONTRACT WATCH

## E-signatures in Egypt



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In 2004, because of rapid developments, Egypt issued the E-signature Law, Egypt Law No. 15/2004 granting e-correspondences, e-signatures and e-documents the same degree of authenticity as non-electronic correspondence, signatures and documents governed by Egypt Law No. 25/1968 provided certain technical conditions are met. These conditions are outlined in the Implementing Regulation of the E-signature Law which was issued by Egypt Ministerial Decree No. 109/2005. Under Egypt Law No. 15/2004 the Information Technology Industry Development Authority is authorised to regulate and license entities in the country to provide authentication certificates for the satisfaction of the Technical Conditions in this law and any other e-signature-related services.

However, there are currently only two Licensed E-signature Services Providers. Their main role is to confirm if the Technical Conditions in Egypt Law No. 15/2004 are satisfied and provide authentication services for the relevant e-correspondence, e-signatures and e-documents accordingly.

### RECENT CHANGES

These Technical Conditions were recently changed by new implementing regulations in Egypt Decree No. 361/2020 which came into force on 23 April 2020.

These Technical Conditions include, the technical possibility of determining the exact date and time for creating the relevant informal or informal e-correspondence, e-signatures and/or e-documents, which are created through an independent electronic archive system which is not subject to the control of the person who created

the e-correspondence, e-signatures and/or e-documents. They also include the technical possibility of determining the source of the relevant e-correspondence, e-signatures and/or e-documents and to what extent the creator of the e-correspondence, e-signatures and/or e-documents controls the source.

According to the Technical Conditions, any change in an electronic document may be discovered using both the private and public keys to compare the authentication certificate and the e-signature's data with the original certificate and data or in any similar ways. Egypt Decree No. 361/2020 introduced a number of new provisions for the first time in Egypt in this area. For example, a number of definitions like electronic seals, which can be used by juristic persons to identify the person and the term time stamp which can be used to prove the existence of the relevant e-document at the time stamp were created. The Information Technology Industry Development Agency (ITIDA) can now provide a paid authentication service for e-signatures, electronic seals and time stamps. Licensed E-signature Services Providers now have to enter into any agreement with their customers unless the form of the agreement is certified by ITIDA in full compliance with the relevant rules and regulations adopted.

In addition, Licensed E-signature Services Providers must also now provide ITIDA with sufficient guarantees against any losses or risks associated with their services as required by ITIDA. ITIDA also now has the power to authorise Government entities in Egypt to provide e-signature authentication services within a specific framework and are authorised under Egypt Decree No. 361/2020 to certify non-Egyptian e-signature authentication entities in four cases subject to specific conditions being satisfied.

The Technical Conditions require the profile for the Public Key Infrastructure, an operational management protocol which must be based on PKIX (X.509-based PKI), a Certificate Revocation List

profile which must be based on X.509 5280 and its updates, a time stamp service which must be made in line with RFC 3161 and its update and an Online Certificate Status Protocol profile which must be based on the RFC 6960.

### GOVERNMENT CONTRACTS

There are also other Egyptian laws which cover electronic contracts. For example, the Governmental Contracts Law, Egypt Law No. 182/2018 and its Implementing Regulations issued by Egypt Ministerial Decision No. 692/2019, requires all entities, which are subject to this law and its Implementing Regulations to enter into public procurement contracts electronically using digitalised procedures through a unified and secured system which includes central registration for vendors, payment services providers, tender documents, an electronic bidding process, contract management and implementation and an e-billing system. This unified and secured system falls within the jurisdiction of the Government Authority for Governmental Services.

### COURT RULINGS

Finally, the Egyptian Economic Courts have issued a number of judgements based on e-correspondence, e-signatures and e-documents which did not even satisfy the Technical Requirements. This judicial exceptional precedent is subject to each court's assessment at its discretion on a case by case basis.

In some cases, the Egyptian Economic Court's assessment was based on the provisions of the Trade Code stating commercial relationships could be proved by any evidence means including e-correspondence. In addition, this assessment was also confirmed by the Egyptian Court of Cassation which also adopted a precedent confirming e-correspondence may only be challenged based on the Technical Requirements of the E-signature Law.



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