



The Role of Options in the Dissolution of Electronic Contracts in Iranian Law

Hassan Amirghasemi¹, Ahmad Yousefi Sadeghloo^{2*}, Mojtaba Asgharian³

¹. Department of Law, Kish International Branch, Islamic Azad University, Kish, Iran.

Email: Hassan.amirghasemi@iau.ir

². Assistant Professor, Department of Law, Science and Research Branch, Islamic Azad University, Tehran, Iran (Corresponding Author)

Email: yousefi@srbiau.ac.ir

³. Assistant Professor, Department of Law, Kharazmi University, Tehran, Iran.

Email: Asgharian@khu.ac.ir

Abstract

Contract dissolution means the dissolution and severance of the legal relationship resulting from a valid contract, which may be done by the consent of the parties, by the will of one of them, or by law. This concept is distinct from the invalidity of a contract, because in invalidity, a contract is not fundamentally realized, while in dissolution, a valid and enforceable contract is destroyed for a specific reason. In the Iranian legal system, the reasons for the dissolution of a contract include rescission, termination, and annulment. In electronic contracts, despite the difference in the context of conclusion, the general principles and rules governing the dissolution of contracts are also applicable, and the Electronic Commerce Law of 2003 has also confirmed this in various articles. Options, as one of the most important reasons for termination, also play a fundamental role in the electronic space. Although some of them, such as the option of the assembly, are practically unenforceable due to the lack of a physical assembly in online transactions, other options, such as the option of defect, the option of breach of condition, the option of fraud, and the option of breach of description, have found new examples due to the characteristics of electronic transactions. In the meantime, the seven-day right of withdrawal of the consumer in Article 37 of the Electronic Commerce Law can be considered a special type of legal option that is envisaged with the aim of protecting the consumer in the digital context. A comparative study between traditional options and the rights provided for in electronic commerce shows that although the legal nature of these institutions has not changed, the method of applying and proving them faces new challenges such as the difficulty of digital documentation, changing the content of websites, and interpreting concepts such as the marriage contract in the virtual environment. Finally, it can be said that options in electronic contracts play a vital role in creating contractual balance and ensuring exchange justice, and by expanding concepts

such as the right of special termination and the right of withdrawal, the legislator has taken steps towards combining traditional jurisprudential rules with the new requirements of digital commerce.

Keywords: Contract dissolution, option, termination, rescission, rescission, electronic contract, right of withdrawal, electronic commerce law.

Received: 6 November 2023

Revised: 22 December 2023

Accepted: 31 December 2023

1- General

When a contract that meets all the basic conditions for the validity of contracts is concluded and is called a valid and enforceable contract, it loses its legal existence. For example, in employment contracts, when an employee resigns, a contract that has been concluded correctly is dissolved by going through the legal procedures governing the employment contract and its legal effects also change. Even if the parties to the contract show their dissatisfaction with the continuation of the contractual relationship, this will must be expressed in order to dissolve the contract.

It is worth noting that the dissolution of a contract is a different concept from the invalidity of a contract, and these two should not be considered the same concepts. A void contract is a contract that does not have the conditions that are considered necessary and essential for the validity and legal influence of the contract from the beginning. For example, if the contract is concluded for an illegitimate purpose, in such circumstances, a contract that is subject to dissolution is not formed in principle. In this situation, the law uses the description of the invalidity of the contract.

Termination of a contract, in the term, means a contract that is validly concluded and then, by the consent of the parties or by the will of one of them or without the intervention of the will, is dissolved and annulled from a certain date. In other words, dissolution of a contract is the breaking and disintegration of a contract that was validly concluded; but was dissolved due to some reason; and dissolution may be with the intervention of the contracting parties (such as termination by means of options and withdrawal, the subject of Articles 396, 219 and 283 BC) or without their intervention (such as the dissolution of a sale, by the destruction of the sold thing before receipt, the subject of Article 387 BC). Dissolution is one of the effects and consequences of a valid contract; and it should not be confused with the invalidity of a contract; because a void contract is meaningless if it has no influence and validity from the beginning. However, in the dissolution of a contract, a cause disrupts the existing contract and the court's ruling, if it is felt that there is a need for it, refers to the occurrence of this cause. So, in dissolution, a contract that has been validly concluded is dissolved due to a cause. But in invalidity, no contract has been concluded at all. In other words, a valid contract is terminated, cancelled, dissolved and annulled, and a void contract cannot be terminated, cancelled or annulled. Sometimes the dissolution of a contract is also confused with its execution: "The contract ends with the execution of all obligations arising from it, but this is not the natural development of the dissolution of a contract. Dissolution is spoken of when the contract, according to its provisions, has a place for execution but a special cause makes it ineffective." The effect

of dissolution refers to the future and has no effect on the past. That is, from the time the contract is concluded and the contract is formed until the time the cause of dissolution occurs, the contract is formed and effective; But from the time the cause of dissolution is realized, the contract and the contract are broken and its effects are also terminated. The dissolution of a contract can be done by agreement of the parties to the contract or by the decision of one of the parties to the contract. The agreement of the parties to the contract; the understanding of the parties to break the contract they have made is called aqala or tafasakh, and this means that the same people who created the contract agree to the destruction of the contract and with this secondary agreement they waive their obligations.

Dissolution by mutual consent, that is, the agreement of the parties to the contract or their representative to break and terminate its effects. Dissolution by mutual consent is known as "aqala" in Iranian law (Article 219 BC); and in jurisprudence it is called tafasakh. After the contract is concluded, the parties, by mutual consent, untie the knot that has been tied by means of aqala and conclude the dissolution of the contract separately. The effect of this dissolution is from the time of the cancellation and refers to the future. Considering the basis of rescission, which is the government of will, and the text of the civil law, all necessary contracts can be rescinded and dissolved by mutual consent; except for marriage and endowment contracts, in which rescission is not allowed.

The Iranian legislator has included rescission among the causes of the collapse of obligations in the second paragraph of Article 264 of the Civil Code. And in Articles 219 and 283 of the Civil Code, it has introduced rescission as one of the causes of the dissolution of a necessary contract. In addition to rescission causing the collapse of obligations and the dissolution of a contract; it is also a means of severing the effects of obligations and contracts that have been fulfilled and executed. Therefore, it seems that rescission has a wide scope that cannot be included under one heading and its position cannot be limited to one heading.

The decision of one party to the contract; Contracts may be terminated by the will of one of the parties, in which case the consent of the other party is not required and the contract is terminated by a unilateral declaration of will. For example, if the contract stipulates a period for the performance of an obligation, in the event of its expiration, the interested party has the option of claiming damages or terminating the contract. In some contracts, the possibility of termination by unilateral decision requires a stipulation, which is called an option.

1-1- Types of contract termination

Contracts are terminated in two ways: voluntarily or involuntarily, as follows:

Voluntary termination of contract:

➤ **Aqala**

After the conclusion of the contract, the parties do not have the possibility of returning the contract to its previous state unless they have been legally granted such a right. This

legal right exists in permissible contracts from the beginning, and in the case of necessary contracts, it is possible to cancel the contract under certain conditions. However, the conditions and reasons for cancellation are completely exceptional and the principle of necessity governs contracts. Contracts concluded through traditional means and electronic contracts are both common in this matter, and neither has any special characteristics compared to the other in this regard. Termination literally means getting rid of what the person is involved in, and it is also mentioned in the meaning of liberation from it. Termination is mentioned in Article 264 of the Civil Code along with other causes of the collapse of obligations. Termination is not simply a factor in the dissolution and destruction of the contract and, consequently, the obligation, but also has a constructive element because in some cases, especially after the obligations of the original contract have been fulfilled, the subject of the obligation must return to its original place through termination, and the parties accept a new obligation through termination. This distinction becomes more pronounced when the subject of the contract is a financial transfer and, due to the termination of the contract, it returns to the seller's ownership and causes possession.

➤ **Termination**

The word "rescission" means: "to remove someone's hand from a place, to ruin a decision, to break, to separate, to destroy, to make a garment old and torn, etc.) In another Persian dictionary, rescission means "to break a deal and invalidate a contract": Revocation is a type of credit and mental act that occurs unilaterally. Such an act, according to the general regulations and existing jurisprudential sources, is considered a legal act and, in terms of its nature, is a type of action that is carried out with a will.

Revocation is one of the causes of the collapse of obligations and a type of contract dissolution. The dissolution of a contract or contract is sometimes done by the consent of the parties, which is called *akhla*. Sometimes it is forced and by law, which is called *infsakh*, and sometimes it is with the presentation of one party, which is the same as rescission. Using the provisions of the Civil Code, termination can be defined as follows: "Termination is the termination of the legal existence of the contract by one of the two parties or a third party".

In fact, termination by termination means that one of the parties to the contract or a third party (in the case of a conditional option) acquires the authority to terminate the contract, based on the option he has acquired through the contract or the law (Articles 219 and 396 of the Civil Code); and by drafting it separately, he dissolves the contract.

This type of voluntary termination is called "termination" in Iranian law and jurisprudence; and the authority that one of the parties or a third party (in the case of a conditional option) acquires to terminate the contract is called "option". The effect of this termination is from the date of termination and refers to the future.

A) Conditions of termination

1- Intention to draft

Among the main conditions for termination is the intention to draft, which actually occurs with the will of the person who has the option. In other words, the act of terminating a contract requires the existence of an intention to terminate because it is considered a contract and is considered a legal act. The option holder must intend to terminate the contract, and if he terminates the contract with the intention of jokingly or inadvertently, his act will not cause the termination of the contract.

If a right or act is considered a contract, the intention to terminate must be considered one of its elements, otherwise it should not be considered a legal act. Basically, every contract must be executed with the intention to terminate in order to become the source of the effect, and it is clear that termination, like other contracts, must be executed with the intention to terminate and be put into effect, otherwise it will have no effect on the termination of the contract.

2- Consent

The consent of the terminator is also a condition for the validity of termination, and a termination that is carried out under duress and coercion is invalid because, unlike bilateral legal acts such as contracts, the lack of consent in contracts causes its invalidity, not lack of influence. In this regard, subsequent consent of the defendant in termination will not cause its occurrence and fulfillment.

3-Capacity

The holder of the option without having the capacity will not be able to terminate the contract as a rule because having the capacity to perform is an inseparable condition for the exercise of the right, as implied in the second part of Article 958 of the Islamic Law. However, if the holder of the option exercises his right of termination without having the capacity, his action is considered invalid. The capacity to perform is a characteristic and feature that every person must have in order to dispose of his rights and property. It is important that the holder of the right of termination has the capacity at the time of its exercise.

4-Existence of the contract

Termination is used only in the termination of contracts. That is, contracts cannot be dissolved by termination. It should not be concluded from these expressions that the termination of a contract is possible only by the act of termination because the contract; with the termination of legal termination or the return and revocation of the obligation also ceases to exist. It should be noted that contracts can be dissolved through the right of termination if they have been properly created, otherwise, if the contract is void, it will not be considered a contract at all.

Involuntary termination of contract:

- **Forced dissolution (dissolution)**

In addition to the fact that the parties to the contract can dissolve the contract and restore their position to the state before the contract, the occurrence of some events beyond the

will of the parties also causes the dissolution of the contract. In the case of electronic contracts, it is also possible to implement these rules in general, and the implementation of the general principles of law cannot be avoided due to the electronic nature of such contracts. As Article 39 of the Electronic Commerce Law has confirmed this issue. Accordingly, it must be accepted that the implementation of the general rules of contract dissolution due to force majeure or the loss of the subject of the transaction or the inability to fulfill the obligation by the obligor is also possible in electronic contracts.

A - Dissolution

When drafting contracts, it is possible to foresee conditions that, if fulfilled, the contract will be dissolved without the will of any of the parties. A point that should not be overlooked in this regard is that these conditions must necessarily cover matters beyond the control of the parties to the contract and the parties should not play a role in its occurrence, the most obvious example of which is the occurrence of force majeure during the contractual relationship that directly affects the fulfillment of the contractual obligation in a way that prevents the parties from performing their contractual duties.

Forced dissolution or rescission is that, "if a contract is validly concluded and then, for some reason, that contract is dissolved, and the intention of the contractee is not involved in this dissolution, this dissolution is called "rescission". This word is used in contrast to the word "termination", which is based on the exercise of the will of one of the parties to the contract. The destruction of the thing sold before receipt causes the sale to be dissolved. (Articles 483 and 387 BC)

In jurisprudence and law, the loss of the effect of a legal act, whether it is a contract or an agreement, outside the will of its creators, according to the Sharia, law, and custom, is called "rescission." As can be seen, in Islamic jurisprudence, rescission means necessity, and it disappears when the effect of a legal act disappears without the intervention of the will of anyone other than the law, Sharia, or custom. Revocation can also be interpreted as the forced dissolution of a contract.

Therefore, forced dissolution, which is also called rescission, is a spontaneous dissolution without the intervention of the will of the parties, which does not require a separate contract. Such as the dissolution of a sale contract as a result of the destruction of the thing sold before the taking of possession (Article 387 of the Civil Code), the dissolution of a lease as a result of the destruction of the thing sold (Article 483 of the Civil Code), the death of the tenant whose stewardship is stipulated in the lease (Article 497 of the Civil Code), the dissolution of a contract that is permissible due to the death and imprisonment of one of the two parties (Article 954 of the Civil Code), and other cases mentioned in the Civil Code. The effect of forced dissolution or annulment is from the time of the occurrence of the cause and refers to the future.

The meaning of forced dissolution is that the contract is automatically terminated without the need for additional legal action, and the right of choice does not remain for the parties or the court. Therefore, the forced dissolution does not contradict the voluntary nature of its cause, for example, the parties may agree in advance that the

contract will be automatically terminated after three months. Therefore, termination means that the relationship resulting from the contract is destroyed without the intention and will of the parties to the transaction and by virtue of the law. For example, if in a sale contract, the thing sold is destroyed before delivery, the sale contract is terminated. Of course, it should be known that termination of a contract is different from its invalidity. If a contract is void, it means its invalidity and lack of effect, but a contract is terminated if the contract was first concluded correctly and then a reason causes its termination.

Types of options in the termination of electronic contracts:

As previously stated, electronic contracts are not much different from traditional contracts in terms of their nature, effects, and relevant provisions, and the general rules of contracts apply to them. Therefore, in an electronic contract, like a traditional contract, the parties or one of them can be given the right to terminate the contract. Most of these options, such as the option of embezzlement, the option of animal, the option of defect, the option of separation of the transaction, and the option of delay in payment, have the same provisions in both traditional and figurative cases, because their realization has little to do with the manner in which the contract occurs. Of course, the way in which some of these options appear may be different, considering that the contract is concluded in an electronic context, or it may not be possible to realize them at all. In this section, we will examine this type of cucumber.

The Majlis Option in Electronic Contracts

In the Iranian legal system, the Majlis Option, as one of the jurisprudential-legal options, gives the contracting parties the right to terminate the contract until the end of the negotiation session (before separating from each other). This right is based on Imami jurisprudence and Article 401 of the Iranian Civil Code, which stipulates: "Each of the parties can terminate the transaction as long as they are in the Majlis... However, in electronic contracts where negotiations and contract conclusion are carried out in cyberspace and without the physical presence of the parties, the implementation of this concept faces challenges. The following is a legal analysis of this issue: Given what has been stated, is it possible to exercise the Majlis Option in an electronic sales contract? To answer this question, we need to examine the various methods of concluding a contract in electronic space. In some electronic transactions, the parties are simultaneously exchanging information. Therefore, "data messages" that may contain an offer or terms of the transaction are immediately and in real time delivered to the other party, and his response in the form of "data messages" that may contain acceptance of the terms of the transaction is immediately and in real time delivered to the original sender, who is immediately notified. In these contracts, the parties are so-called online and may be carried out using various electronic tools such as e-mail, websites, telephone, telegram, telex, etc. In such transactions, although the idea of a meeting of the parties and the physical presence of the parties is not possible, it can be said that, due to the intellectual and psychological connection between the parties, the existence of a meeting option can be considered for the parties.

Absence of a physical meeting in electronic contracts, negotiations and offer and acceptance are usually carried out via email, messengers, or online platforms, and there is no physical meeting.

Determining the end time of the meeting, in cyberspace, determining the exact time of the end of negotiations (separation of the parties) is difficult. Is sending an offer via email and receiving an acceptance after a few hours considered a single meeting? Speed in concluding a contract, in online platforms (such as online shopping), the contract is often concluded with a click (Clickwrap) and the opportunity for immediate termination practically does not exist.

The approach of Iranian law to the meeting option in electronic contracts can be expressed as follows:

A. Silence of the E-Commerce Law, the Iranian E-Commerce Law (1382) has not explicitly mentioned the meeting option.

B. Legal interpretation, first theory (non-exclusion): Some jurists believe that the option of the assembly is specific to face-to-face contracts and that in electronic contracts where there is no physical assembly, this option is excluded.

Second theory (broad application): Some, with a broad interpretation of "assembly", assume that the time of virtual negotiations (such as chat or email) is the assembly and believe that the parties have the right to terminate until the end of the exchange of messages (before disconnection).

C. Article 401 of the Civil Code:

This article only refers to the "contract assembly" and can be generalized to cyberspace, but it requires judicial interpretation or practical procedure.

Thus, in electronic contracts that are made by two computer systems that work as agents of the parties to the transaction, we cannot assume that the contract assembly and the option of the assembly are realized.

Therefore, in general, it can be said that in electronic contracts, due to the existence of a virtual platform and the lack of physical presence of the parties in a meeting, there is no possibility of using the meeting's option to terminate the sales contract.

▪ **Option of viewing and violation of description in electronic contracts**

One of the cases in which the parties obtain the right to terminate the transaction is the realization of the option of viewing and violation of description. The option of viewing is: "The right of option resulting from viewing the item sold, unlike the way the item was previously seen."

A. Applying the option of violation of description in the electronic space: Online descriptions: On electronic platforms, sellers describe the goods through text, images, videos or technical specifications. In case of discrepancies in the descriptions, if the received goods do not match these descriptions, the buyer can terminate the contract by

citing the option of violation of description. The buyer must prove that there is a violation of description (for example, by providing a comparison of the specifications posted on the site and the received goods.)

B. Proof Challenges:

But there are challenges to exercising discretion. Document Storage: Buyer must take screenshots or PDFs of the original descriptions (web pages, emails, or messages from the seller). Website content changes, sellers may change product descriptions after the buyer objects. Using timestamping tools or Internet archive services like the Wayback Machine is essential to prove the original content.

Table 1: Difference between the visibility option and the description violation option

Option of breach of description	Option to see	Criteria
Non-conformity of goods with contractual description	No physical sighting of the goods before the contract	Application Basis
After discovery of breach of description	After sighting of the goods	Application Time
Need to prove discrepancy between description and reality	Requirement to prove no prior sighting	Required Documents
Direct application of option of breach of description	7-day right of withdrawal (Article 37)	Alternatives in Electronic Space

But there are also limitations in exercising the option:

- Proof of violation of description: Requires valid digital documentation.
- Content variability of websites: Sellers may modify descriptions.
- Lack of consumer awareness: Many buyers are not aware of their rights (such as the 7-day right of withdrawal).

However, the approach of the Iranian E-Commerce Law towards exercising these options is as follows:

Article 33: The seller is obliged to provide accurate and complete information about the goods or services.

Article 37: 7-day right of withdrawal for the consumer, which indirectly protects the rights arising from the option of visibility and violation of description.

Article 67: Providing false or misleading information is considered a crime and is subject to penalties under the Computer Crimes Act. The option of viewing in electronic space, given the possibility of virtual viewing of the product, has practically given way to the 7-

day right of withdrawal. The option of violation of description: is still applicable, but the buyer must provide sufficient evidence to prove the discrepancy between the descriptions and reality. Consumers are advised to carefully review the product specifications before purchasing. Use the 7-day right of withdrawal. In the event of violation of description, refer to the judicial or arbitration authorities by providing valid documents. In electronic contracts, although the option of viewing in its traditional form has limited application, modern mechanisms such as the consumer's right of withdrawal and violation of description provide the necessary protections for buyers. However, awareness of legal rights and preservation of digital documentation are the main keys to asserting rights in such disputes.

- **Option to Breach a Condition in Electronic Contracts**

The option to breach a condition is that the parties have stipulated a condition in the transaction and the party to be bound does not act on the condition, in which case the party to be bound will have the right to terminate the transaction. The provisions of this option are mentioned in Articles 234 to 245 of the Civil Code.

There are three types of conditions in the contract: "1- Condition of attribute, 2- Condition of result, 3- Condition of affirmative or negative action..." (Article 234 of the Civil Code)

The result of violating a condition of attribute that has been stipulated in the contract is the creation of an option to terminate in favor of the party to be bound. (Article 235 of the Civil Code) and the result of violating the current condition is to force the party against the condition to fulfill it (Article 237 of the Civil Code).

In electronic contracts, based on Article 30 of the Electronic Commerce Law, the general provisions of the option of violating the condition are subject to general rules, like other effects and provisions of options. Due to the fact that such contracts are concluded in electronic space and most of the characteristics of goods and services are raised as conditions in the contract, the possibility of realizing this option is also intensified.

It was said that in contracts concluded electronically, suppliers often introduce their goods by mentioning their characteristics and features on their websites or advertising websites, and rarely a transaction is concluded in a virtual environment based on sight. Sellers of goods or services take steps to conclude a contract electronically in any way.

Their product introduction is often in the form of conditions included in the contract (adjective condition or verb condition). In this way, it is observed that the possibility of realizing the option of breach of condition increases in electronic contracts. In this case, it does not matter whether the goods being traded are specific, general, or general in specific. In any case, if the party providing the service considers that there has been a violation of the terms and conditions mentioned in the contract, he will have the right to terminate the transaction or, if the said condition is a condition of the act, to force the party providing the service to fulfill the promise.

A point worth considering here is that in the Electronic Commerce Law, instead of giving the buyer the option to terminate the contract, the legislator in some cases gives the

supplier the possibility of delivering goods similar to what was promised. Accordingly, in Article 40 of the said law, it has set substantive rules contrary to the general rules of contracts and stipulates: “The supplier may deliver or provide goods or services similar to what he promised to the consumer, provided that he has declared it before the transaction or during the transaction”.

In this article, the legislator has prescribed the possibility of delivering a similar product by simply announcing it on the part of the seller. In domestic law, the principle is that if a certain product is sold to another, the same product must be delivered, and only in a general sale or a sale by sample (Articles 351, 350 and 354 of the Civil Code) is it possible to deliver one of the sold items in any way determined by the seller. In fact, in the domestic legal system, except in the case of similar goods that are sold in general, there is no possibility of delivering a similar product. Apparently, this article has accepted the principle of delivering a similar product in general and has not limited it to the sale of general goods.

However, accepting such a rule, conditional on the supplier having announced it before the contract, is somewhat defensible, and it is unlikely that the legislator would have applied this rule during the transaction and after the contract, because the buyer may not agree with this case and it is not permissible to impose the seller's will on the buyer.

▪ **Fraud Option in Electronic Contracts**

Fraud means to deceive and conceal the fact. Therefore, whenever a seller of goods, in order to deceive the buyer, attributes a false description to his goods, or covers up a defect in it, it is said that he has committed fraud in the transaction.

Article 438 of the Civil Code defines fraud as: “Fraud is an operation that deceives the party to the transaction”.

Therefore, for fraud to occur, first, an operation must be carried out, and second, this action must deceive the party to the transaction. If fraud causes an effective mistake in the contract, it will result in the nullity or non-implementation of the contract. However, fraud in the sense that is mentioned in the Civil Code and causes the option of termination is an intentional fault or an unjustified deception that causes damage to the contracting party, and in order to compensate for this damage, the deceived party is given the option of termination.

Article 439 of the Civil Code stipulates: “If the seller has committed fraud, the buyer shall have the right to terminate the sale, and the seller shall also have the right to claim compensation for the personal price in the event of fraud by the buyer”.

To the same extent that fraud is realized in traditional contracts, it also occurs in electronic contracts. Because in these contracts, the sale of goods is often based on descriptions and not on sight. Sometimes in Internet advertisements, the descriptions of the goods are overemphasized to attract customers, in such a way that a false description is attributed to the goods.

Since advertising in e-commerce plays a fundamental role in the contract and is an information tool that encourages potential customers to conclude a contract, the possibility of fraud and deception in the advertising and marketing process before the contract is concluded is more apparent than ever. The special feature of advertising in the Internet space requires that these matters be subject to clear principles and rules and have the necessary enforcement guarantees.

Accordingly, the Electronic Commerce Law, in an approach to support the electronic transaction platform, has mentioned several articles in the advertising rules and has left its basic criteria to the approval of the regulations.

In this regard, Article 50 of the Electronic Commerce Law stipulates: "In advertising their goods and services, suppliers must not commit any act or omission that causes confusion or misleads the audience in terms of quantity and quality".

Also, Article 52 of the aforementioned law stipulates: "The supplier must advertise in such a way that the consumer understands the information related to the goods and services accurately, correctly and clearly".

It is observed that due to the virtual environment of electronic contracts, the possibility of fraud has increased many times over that of traditional contracts, and for this reason, the legislator has mentioned special rules and regulations and guarantees of specific implementations (including Article 67 of the Electronic Commerce Law).

Of course, since in electronic contracts money is usually paid for goods or services and not goods, it is not possible for the customer to commit fraud. Unless an exchange of goods is agreed upon in some way. In this case, fraud can also be committed by the customer. In any case, what is noteworthy is that only the way fraud appears in traditional and electronic contracts is different, but the legal rules governing fraud in traditional and electronic environments are the same.

▪ **Option and the right of termination specific to electronic contracts**

The option to terminate a contract, which is stipulated in the contract for one of the two parties or both or a third party, is called option. Article 399 of the Civil Code stipulates in this regard: "In a sales contract, it may be stipulated that the seller or the buyer or both or a foreign person has the option to terminate the transaction within a certain period".

Therefore, the option has the characteristic that it is made by the consent of the two parties to the contract. In other cases, including the option of defect and embezzlement, the option is realized in any case when the conditions come together, even if it has not crossed the minds of both parties.

However, the option is conditional upon real consent and is created in a way that both parties have consciously decided on it.

The Iranian legal system, the option clause and the special right of termination in electronic contracts have unique characteristics according to the specific laws of electronic commerce and the general principles of civil law. In the following, these

concepts and how they are applied in electronic contracts are analyzed. In fact, the option clause allows the parties to the contract to include a specific condition in the text of the contract, which, if fulfilled, will create the right to terminate the contract for one or both parties (Article 399 of the Civil Code). For example: the condition of terminating the contract in the event of a delay of more than 10 days in the delivery of the goods.

Applying the option clause in electronic contracts, in electronic contracts, the termination clause must be clearly and clearly stated in the text of the contract in order to be relied upon. Of course, there are limitations in applying the option clause, such as the condition must not be contrary to public order, good morals, or Islamic law (Article 975 of the Civil Code). In standard contracts (such as the terms of use of applications), unilateral conditions must be fair and abuse must be prevented. For example, in an electronic contract for software rental, it is stipulated that in the event of non-payment of the monthly fee, the provider company has the right to terminate the user's access. This condition is valid in compliance with the laws.

.2Special right of cancellation in electronic contracts

The special right of cancellation refers to the rights that the legislator has considered to protect one party to the contract (usually the consumer), without the need to include a special condition in the contract. The most important examples of this in Iranian law are:

A. Consumer right of withdrawal (Article 37 of the Electronic Commerce Law):

The consumer in offline purchases (such as online purchases) can cancel the contract within 7 days of receiving the goods or services, without giving a reason. Exceptions: Custom-made or perishable goods (such as food). Digital services that are activated immediately after purchase (such as software subscriptions).

B. Right of cancellation in case of violation of description (Article 424 of the Civil Code):

If the goods or services provided do not match the contractual descriptions, the buyer has the right to cancel.

The challenge in the electronic space is that proving the discrepancy requires the storage of digital evidence (such as a screenshot of the product page).

C. Right to terminate in case of violation of privacy (Article 58 of the Cybercrime Law): If the seller discloses or misuses the consumer's personal data without his consent, the consumer can terminate the contract.

Table 2: Difference between conditional option and special termination right

Special right of withdrawal	Option of condition	Criterion
Law (consumer protection or public order)	Agreement of the parties (contract)	Legal origin

Fulfillment of legal conditions (e.g. breach of description)	Fulfillment of the condition stated in the contract	Conditions of application
Non-waivable (except in special cases)	Agreeable or eliminated by the parties	Modifiability
7-day consumer withdrawal right	Cancellation in case of delayed delivery	Example

Challenges of exercising option in electronic contracts

A. Proof of fulfillment of the condition or breach: Need for authentic digital evidence such as system logs, emails, or electronic signature certificates.

B. Changeability of website content, sellers may change the content of the contract or product descriptions after conclusion. The use of tools such as time stamps or Internet archives (such as the Wayback Machine) is essential.

C. Conflict of laws in cross-border contracts In international transactions, the determination of the governing law and jurisdiction for exercising the option of the condition or the right of termination is particularly important. The parties must state the termination conditions in a precise and unambiguous manner in the electronic contract. Example: "If payment is not made within 15 days, this contract will be automatically terminated".

Finally, it can be stated that the option clause in electronic contracts is subject to the principle of sovereignty of will, and the parties can determine the terms of termination by observing mandatory laws. The special right of termination (such as the 7-day right of withdrawal) is a protective mechanism that guarantees the rights of consumers in the digital space. Consumers must keep transaction documents and refer to judicial authorities or protective institutions (such as the National Union of Virtual Businesses) in the event of a violation of their rights.

- **The basis of the option**

The option subject to Article 37 of the Iranian Electronic Commerce Law, although it is very similar to the animal option, seems to have a fundamental difference from the animal option. Because this option is a completely new right of termination and has no historical precedent. The basis of this option seems to be only "consumer protection", which this law has given great importance to and has not even considered an agreement to the contrary to be enforceable.

- **The ability and nature of option waiver**

Option waiver is a unilateral legal act and does not require the consent of the other party. Jurists discussing the effect of option waiver have likened it to rescission, therefore all

the effects that apply to rescission also apply to waiver. Including the fact that the effect of option waiver is from the date of realization of waiver.

Conflict of laws and options Considering the nature of electronic contracts and the involvement of the international element in such contracts, the possibility of legal and legal conflict in such contracts is possible. Accordingly, it must be determined which legal and legal rule will govern this legal act in the event of a conflict in the exercise of options. The Civil Code and the Electronic Commerce Law do not have any specific provisions regarding the existence of a rule in this regard and the application of the desired ruling in this regard. Accordingly, the general rules governing this matter should be used. Given that exercising an option is one of the legal acts that requires a written will, it should be considered a preemption. If the law governing the electronic contract is the law of the place where the contract is concluded, for example, the law of Iran, undoubtedly the options stipulated in the civil law, if the conditions for their realization exist, will also apply to this contract and their exercise will be subject to this law. However, if the law governing the electronic contract is the law of a foreign country in which contractual options have not been recognized, the contract cannot be terminated by citing Iranian law and arguing that the place of exercise of the option is Iran. Given that in most cases the basis of the option is to ward off loss, this tool should not cause another loss in the hands of its holder.

Legal rules for exercising options in electronic sales:

According to its destructive nature, exercising an option is considered a will, and this will must meet the conditions stated for the validity of legal acts, including sound will, capacity, etc., and exercising an option by an incapacitated person will not be acceptable. On the other hand, exercising an option and its creation are realized when it is declared by the holder of the option, in other words, as long as the intention and intention of the contracting party is internal and has not yet reached the outside world, it will have no effect. Although the civil law, in accordance with jurisprudence, has made the internal will the principle, it should not be overlooked that the internal will must appear externally, and this appearance is important for individuals.

Declaring the will in the case of exercising an option is somewhat different from other cases because as soon as the contract is concluded, it becomes clear that the contract has definitely been created, and in order to destroy it, certain dissolution is also required. This is why the contracting party demands the execution of the effects of the option from the court. It should not be overlooked that the court's intervention does not mean its role in the realization of the termination, but rather the court merely announces the realization of the termination and the obligation of the defendant to execute its effects. The situation is similar in electronic contracts, especially electronic sales, and this statement must be announced in order to exercise the option. The Electronic Commerce Law does not specify the method of express declaration, and this matter is left to the parties to determine the method of declaring their wills in an appropriate manner. However, if there is no contrary condition in the contract between the parties, the

declaration of will must occur in a way that allows the contracting party to be aware of this. In other words, in electronic contracts, given that the means of communication between the parties are digital devices and the contract is concluded in this way, the declaration of will regarding termination must also be made using this tool, because this will be evidence of the other party's awareness. The point that should be noted is that if in electronic contracts the holder of the option announces his will regarding termination through non-digital means, it can hardly be considered a type of termination because, considering the means of concluding the contract, it is expected that the termination of the contract will also be carried out in this way and using that means because in this regard, this method will be the most common and reasonable method. Considering that in most cases the basis of the option is to ward off loss, this means should not cause another loss in the hands of its holder. The implementation of the options and consequently the uncertainty of the contract must have a limited period because the continuation of this will lead to the harm of the other party. Accordingly, the legislator in various articles has limited the exercise of some options to a specified time (the option of delay in payment), considered the necessity of immediate exercise of some others as a condition (the option of fraud and defect and violation of description, embezzlement), and in some cases has considered the limited and definite time of the option essential (the option of condition). In all these cases, the urgency of exercising the option is customary urgency, not mathematical urgency. Accordingly, a one-week delay in terminating a one-billion-dollar contract cannot be contrary to the urgency of the matter. On the other hand, the same rules will apply to electronic contracts, and if any of the civil law options are realized in contracts concluded in the electronic space, the rules of options regarding urgency, etc. will apply. It should be noted that the urgency of exercising the option in electronic contracts will also be measured according to the conditions and means of concluding the contract. Given that options are among the financial rights, the transfer of these rights through contractual and compulsory means is also possible and is subject to the general rules of the civil law.

✓ **The presence or absence of options in electronic contracts**

The way electronic contracts are concluded can lead to the suspicion that, given the methods of concluding such contracts, it is not possible to realize the option in them. However, it should be noted that the principles relied on in options also exist in contracts concluded electronically.

Therefore, considering the principles of options, including the rule of harmlessness, the will of the parties, and the jurisprudential tradition, these principles also exist in contracts concluded electronically. Accordingly, it should be noted that all options, considering the principles relied on, are also included in electronic contracts, except for the parliamentary option. Considering the nature of the parliamentary option and the conditions for its realization, it should be noted that such an option cannot be realized in electronic contracts because it requires the existence of a contracting assembly to create it, while at least physically there is no contracting assembly, even though there is intellectual solidarity between the parties. In the parliamentary option, the physical

presence of the parties to the contract in the parliament is the principle of the contract, not solidarity or intellectual coordination, because if the criterion for the parliamentary option was the intellectual solidarity of the parties, the parliamentary option would also be allowed in electronic contracts.

Another option whose existence or absence in electronic contracts is questionable is the conditional option. In this regard, in addition to observing the principles of the Civil Code regarding the certainty of its duration (401), the mandatory rules of the Electronic Commerce Law must also be observed.

Accordingly, the conditional option included in electronic contracts cannot be contrary to the consumer's right of withdrawal or contrary to fair principles, otherwise it will not be valid (Article 46 of the Electronic Commerce Law). However, in the case of other options, the possibility of its realization in electronic contracts does not face any obstacles, and in this regard, only the mandatory rules of the Electronic Commerce Law, especially the observance of consumer rights, should be paid attention to. The possibility of including contractual terms in electronic contracts and the occurrence of options in these contracts has also been accepted in other legal systems.

Basics of E-commerce Termination

One of the topics of e-commerce termination is related to the basis for termination of this type of sale. The basis for termination of e-commerce must be obtained from both the United Nations Convention on the Use of Electronic Communications in International Contracts, adopted on November 23, 2005, and the Iranian Electronic Commerce Law, adopted in 1382.

✓ **Right of Withdrawal**

The right of withdrawal is one of the important principles of consumer protection that allows the customer to withdraw from the concluded contract without giving a reason and within a specified period of time and return the purchased goods or services or terminate the contract. This right is of particular importance in electronic contracts and distance purchases, because the customer cannot physically see or try the goods before purchasing. The principles of the right of withdrawal are based on several principles:

1- Consumer protection, reducing the risk of purchase and increasing trust in online transactions.

2- Information transparency The seller is obliged to provide complete information about the goods, price, delivery conditions and right of withdrawal before purchasing.

3- Balance of interests of the parties: The right of withdrawal should not be such that the seller's rights are severely impaired.

The period of application of the right of withdrawal is usually between 7 and 14 days from the date of delivery of the goods or the start of the service, and the customer must declare his withdrawal in writing or electronically. The goods must also be returned undamaged, without unusual use and in the original packaging. Exceptions include

custom-made goods, opened hygiene goods and services that cannot be returned after their performance has begun. The seller's responsibilities include transparent information, acceptance of the returned goods and reimbursement of the customer's payment (usually within 14 days). This mechanism makes the right of withdrawal practically and effectively enforceable for the customer and makes electronic transactions safer.

A. Basis of the right of withdrawal in electronic contracts

The right of withdrawal allows the customer to withdraw from a contract concluded with a seller or service provider without giving a specific reason and within a certain period of time. In electronic contracts, this right is of particular importance, because the buyer purchases the goods or services without physical observation or full examination and may change his mind after receipt. Importance in electronic contracts In the e-commerce space, the consumer cannot touch or test the goods before purchasing. Therefore, the right of withdrawal plays a protective role and helps to build trust in online transactions. This right allows the customer to make purchases with more confidence and reduces the risk of undesirable purchases. The legal basis of the right of withdrawal is based on the principles of consumer protection and information transparency. In Iran, laws related to e-commerce and consumer protection emphasize this issue. The aim of the legislator is to ensure fairness between the seller and the customer and to prevent abuse in online contracts. The seller's duties Before concluding a contract, the seller is obliged to provide complete and transparent information about the goods, services, price, delivery conditions and the right of withdrawal. Transparent information allows the customer to accept the contract with full knowledge and to be aware of his rights if he needs to withdraw.

One of the fundamental principles of the legal basis of the right of withdrawal is consumer protection. In electronic or distance purchases, the customer receives the goods or services without the possibility of physical inspection and may withdraw from his purchase after delivery. By granting this right, the legislator tries to protect consumer rights against undesirable or deceptive purchases and increase public trust in online transactions.

1- The principle of information transparency The right of withdrawal is based on the principle of information transparency. The seller is obliged to provide complete and correct information about the goods or services, price, delivery conditions and the possibility of withdrawal before concluding a contract. This legal requirement provides the basis for informed decision-making by the customer and limits any ambiguous or deceptive contract.

2- National and international regulations in Iran provide for the right of withdrawal in the form of the e-commerce law and consumer protection laws. Also, at the international level, European Union laws and consumer protection conventions emphasize this right. These laws specify the time frame, manner of application and responsibilities of the seller and create uniform standards in online transactions.

3- Balance of interests of the parties The legal basis of the right of withdrawal also emphasizes maintaining the balance of interests of the customer and the seller. This right should not be such that the seller's rights are unreasonably violated, for example, used or opened goods are excluded from this right. The law attempts to strike a balance between the customer's freedom to withdraw and the seller's rights in transactions so that the legal system remains fair and enforceable.

B. Right of withdrawal in electronic contracts

One of the specific conditions of electronic contracts that is stipulated in the Electronic Commerce Law as a consumer right is the right of withdrawal with a seven-day period for the consumer. Article 37 of the Iranian Electronic Commerce Law states: "In every distance transaction, the consumer must have at least seven working days to withdraw (the right of withdrawal) from his acceptance without incurring a penalty or giving a reason. The only cost imposed on the consumer will be the cost of returning the goods." The aforementioned article is adapted from Article 6 of the "European Union Directive on the Protection of Consumers in respect of Distance Contracts of 1997." Article 6 of the "European Union Directive on the Distance Marketing of Consumer Financial Services of 2002" states: "Member States shall ensure that the consumer has at least 14 working days to withdraw from the contract, without paying a penalty or giving a reason. In life insurance contracts covered by Directive 90/619/EEC, that period is extended to 30 working days. The right of withdrawal is given special attention in the "Proposed EU Directive on Consumer Rights" (Brussels, 2008) (Articles 12-19 of the Directive). In this proposed Directive, the period of time given to the consumer to withdraw from the contract is 12 working days (Article 12(1) of the Directive).

Given the generality of the provision of Article 37 of the Code of Conduct, in any transaction in electronic space, whether it is a specific or non-specific contract, the buyer of goods or services can cancel it within 7 working days; even if the contract in question is a specific contract and the right of cancellation of the parties in the said contract has specific provisions.

In the rules of domestic law, in transactions and contracts, the principle is based on the necessity of contracts, and Article 396 of the Civil Code has specifically accepted options to protect the rights of the parties to the transaction. Of course, according to Article 448 of the Civil Code, the lapse of all or some of the options is accepted during the contract. This is true even in the case where, in a specific way, depending on the conditions and circumstances of the contract, the parties to the transaction have the right to terminate, but in this case too, the principle of necessity can be supported and all options can be waived.

Meanwhile, Article 37 of the Civil Code has recognized a general right of termination without any reason or basis and only in terms of the fact that the type of transaction is a distance transaction, for at least 7 business days. Exercising this right is, in fact, accepting a general option to terminate distance transactions, which is somehow contrary to the general rules, especially the principle of necessity. Lawyers usually consider the rule of

no harm when citing options, while Article 37 in practice means that all distance transactions are permissible for at least 7 business days. Most importantly, Article 46 of the Q.T.A. apparently indicates that the ruling in Article 37 is a mandatory ruling and part of legal obligations and that the waiver of this right is not permissible and that the general ruling of the option of termination in distance transactions is mandatory until the end of its term, that is, 7 business days, and the agreement of the parties to the contrary is not accepted. However, this does not comply with the general rules of options contained in the Civil Code and the rules of transactions in Imami jurisprudence. In this regard, the aforementioned right of termination is in a superior position to the usual options in jurisprudence and civil law. The legislator has recognized this right only for the consumer, not for the parties to the transaction. Therefore, from the perspective of the right holder, it is more limited than the parliamentary option because the parliamentary option is foreseen for the parties to the sale, but from the perspective of the subject, it is inclusive of the parliamentary option because it is not specific to the sale, but can be applied in any remote transaction.

Therefore, in Iranian law, the difference between the parliamentary option in electronic sales and the right of withdrawal is that:

- The right of withdrawal exists in all remote transactions, while the parliamentary option is specific to the sale contract.

- The right of withdrawal is specific to the consumer (buyer), while the parliamentary option exists for both parties.

- The right of withdrawal is part of the mandatory rules, so the parties cannot waive it (Article 46 of the Civil Code), while, based on Article 448 of the Civil Code, the loss of the parliamentary option can be stipulated in the contract.

- The right of withdrawal begins to apply in the case of the sale of goods from the date of delivery of the goods to the consumer, and in the case of the sale of services, from the date of conclusion of the contract (paragraph "a" of Article 38 of the Civil Code), but the option of the parliament begins from the date of conclusion of the contract, in the parliament.

- The consumer's right of withdrawal begins to apply after providing information that is necessary in the context of electronic transactions and is listed in Articles 33 and 34 of the Civil Code (paragraph "b" of Article 38 of the Civil Code), but the option of the parliament is not subject to mentioning the details of the transaction.

Given that during an electronic transaction, the buyer is generally not able to see the goods before paying, therefore, the legislator has established the right of withdrawal in order to protect him. Below, we will examine this right.

Conclusion

The present research was conducted with the aim of examining the role of options in the dissolution of electronic contracts in the Iranian legal system. Termination of a contract, as one of the fundamental issues of civil law, has always played an important role in

maintaining contractual balance and justice between the parties. In electronic contracts, although the form and context of conclusion have changed and many interactions are carried out in cyberspace and through electronic intermediaries, the theoretical foundations and legal principles governing the termination of a contract still follow the general rules of contracts.

In Iranian law, the grounds for the dissolution of a contract can be divided into three main categories: rescission, termination, and annulment. Among them, annulment is most closely linked to the institution of options, because an option is a legal or contractual authority to terminate a contract, which is given to one or both parties if certain conditions are met. In electronic contracts, the parties may also want to terminate the contract for various reasons, including a defect in the product, a violation of a condition, or fraud in the introduction of the product. Therefore, understanding and analyzing the implementation of options in this context, especially in light of the electronic commerce law, is of great importance. One of the most important results of this research is that most traditional jurisprudential and legal options are also applicable to electronic contracts, although the way they are implemented and applied may change due to the characteristics of the digital environment. For example, the defect option in online transactions applies when the delivered goods or services do not match the characteristics announced on the seller's website. This type of non-conformity is, in fact, a clear example of defect or fraud, which, according to Articles 422 and 438 of the Civil Code, gives rise to the right of termination for the buyer. On the other hand, the breach of condition option also applies when the seller or service provider does not adhere to its obligations in accordance with the conditions stated in the system or platform.

In contrast, some options have practically lost their application due to the specific characteristics of the electronic environment. For example, the assembly option, which is based on the physical presence of the parties in a contract assembly, has no specific application in the electronic space; because the assembly does not exist here in the physical sense and communication is usually carried out through automated systems or clickable contracts. However, some jurists, with a broad interpretation of the concept of the assembly, have tried to interpret the assembly of the contract as "the time of establishing electronic communication until the finalization of the transaction," but such a view has not yet been established in judicial practice.

One of the important achievements of the Iranian Electronic Commerce Law (approved in 2003) is the provision of the consumer's right of withdrawal in Article 37, which allows him to withdraw from the transaction within seven days from the date of delivery of the goods or conclusion of the contract, without incurring any costs. This right is actually considered a type of "special legal option" that is envisaged in order to protect the weaker party to the contract (the consumer). Although the nature of this right differs from traditional options, in terms of its effects and function, it is similar to the right of termination as a result of the option and can be analyzed within the framework of the theory of contract dissolution.

According to the research findings, the function of options in electronic contracts has two main aspects:

1-Maintaining contractual balance and preventing abuse in non-face-to-face relationships,

2- Ensuring public trust in digital transactions by granting the right of cancellation to the injured party.

Given the speed and scope of electronic transactions, achieving these goals requires transparency in announcing the terms of the transaction, the possibility of electronic proof of events (such as providing a digital receipt, recording the date and time of the contract), and the development of specific judicial procedures in the field of exercising options.

On the other hand, a comparative study shows that in advanced legal systems, institutions similar to options in the form of the “right to return goods” or the “right to cancel without reason” have been envisaged to protect the consumer. Therefore, Iranian law has also taken steps towards convergence with modern systems by accepting institutions such as the right of withdrawal and the possibility of electronic cancellation, although there is still a need to revise and explain more precisely concepts such as electronic cancellation, the time of announcing the intention to cancel, and the method of proving digital fraud.

Finally, it can be concluded that options in electronic contracts have not only not lost their function, but also have become more important and necessary with the development of the digital commerce space. These institutions, as tools for controlling imbalances in offline transactions, guarantee legal and economic security in cyberspace. However, it is suggested that the legislator provide a more coherent and transparent legal framework by amending and supplementing the relevant regulations, especially by adding interpretative articles to the Electronic Commerce Law and providing specific provisions on options applicable to digital contracts.

In summary, the present study showed that:

1- The general principles of contract termination in electronic space are the same as in traditional contracts.

2- Traditional options, especially the option of defect, fraud, and breach of condition, are widely used in electronic transactions.

3- Some options, such as the parliamentary option and the animal option, are practically excluded or have no subject matter.

4- The right of withdrawal stipulated in the Electronic Commerce Law can be considered as a special legal option for the consumer.

5- In order to fully realize contractual justice in the digital space, it is necessary to provide technical and legal infrastructure for exercising and proving options electronically.

Therefore, the adaptation of traditional Iranian civil law institutions to technological developments is not only possible, but also necessary. Options, while maintaining their classical nature, have been able to remain an effective tool for ensuring the justice, trust, and efficiency of contracts in cyberspace.

References

- 1- Al-Kashif Al-Ghita, Ali ibn Jafar; (Bita), Risala fi al-Khayyarat, lithography, Bija, Sheikh Ahmad Shirazi
- 2- Abhari, Hamid, Mohammadi, Sam, Afchangi, Zeinab, Validity of the Termination Clause and the Conditions for Its Realization in Iranian Law and Imami Jurisprudence
- 3- Asadinejad, Seyyed Mohammad and Baharlu Qara-Baltaqi, Javad; (2011), Termination Clause
- 4- Bagheri Asl, Haidar, Termination of Option Contracts, Majd Publications, First Edition, 2019,
- 5- Bagheri Asl, Haidar, General Provisions for Termination of Necessary Contracts, Tabriz Publications, Tabriz, First Edition, 2012
- 6- Habibzadeh, Tahir; (2007), Realization of Fraud in the Conclusion of Electronic Contracts, Rah Publications
- 7- Jafari Langroodi, Mohammad Jafar; (2009), General Encyclopedia of Civil and Commercial Law, Law of Obligations, Contracts and Rhythms,
- 7- Shahidi, Mehdi; (2003), Principles of Contracts and Obligations, Dadgostar Publishing, Tehran, First Edition,
- 9- Rezaei, Ali 2008., Electronic Commerce Law, Mizan Publishing,
- 10- Dekhoda, Ali Akbar; (1994), Dekhoda Dictionary, Volume 10.
- 11- Safaei, Seyed Hossein (2004), Introductory Course in Civil Law, Mizan,
- 12- Katouzian, Naser; (2002), Introductory Course in Civil Law, Legal Practices, Contract-Effect