THE LEGAL SYSTEM OF THE ELECTRONIC SIGNATURE IN THE ELECTRONIC ADMINISTRATIVE DECISIONS

SALEH AL-SHARARI

Al-Hussien Bin Talal University
E-mail: salehsharari2016@hotmail.com

Abstract -
The main problem faced the recognition of the electronic administrative decisions is the safety of those decisions and their evidential value, which solved according to the provisions of the Jordanian electronic transactions law, when the legislator considered the electronic record that connected with a protected electronic signature the same evidential value of the ordinary bond.

Keywords - Electronic Signature, The Electronic Administrative Decisions, The Evidential Value

INTRODUCTION

The public administration was able to keep up with the massive technological development, and to make use of computer technologies in accomplishing its legal and material work, so it moved from the concept of traditional administration to electronic administration.

Since the administrative decision is one of the most important legal tools used by the public administration in operating the public facility, and the administrative jurisprudence admitted the administrative authority to benefit from computer techniques in issuing its administrative decisions, but the main problem facing this type of decisions is their legal integrity and the possibility of attributing the decision to whoever issued it.

Undoubtedly, dispelling any concerns that related to the integrity of the electronic administrative decision and verifying that it was issued by the competent authority it requires in particular that the decision be linked to an electronic signature, as the importance of the electronic signature is highlighted as a means to prove the issuance of the decision by the competent authority to issue it and ensure the integrity of the Electronic administrative decision from tampering or change.

Therefore, this research paper came to address the legal system of the electronic signature in the electronic administrative decisions through a statement of its concept, and its evidential value in electronic administrative decisions.

1. Defined the electronic signature, and its important in the electronic administrative decisions

The signature in general considered a means of proving the source of the administrative decision, as it takes the meaning of asserting the direction of the will to create a legal effect. Law .

In fact, the signature is not considered an major formality, but its importance is highlighted by proving that the decision was issued by the authority person to issue it in accordance with the provisions of the law[1].

A signature is defined in general as "the written mark that a person places on a written document, expressing his physical presence in acting or endorsing the content of the document issued by him.[2]"

As a result of the use of the computer in completing transactions in civil, commercial and administrative matters, a new form of signature has appeared that takes the form of electronically processed symbols or numbers that indicate the identity of the person from whom the work or act was issued, which is known as an electronic signature.

The Jordanian Electronic Transactions Law defined the electronic signature as Electronic, numeric or photic data or others taking the shape of letters, numbers, symbols, or signs, or the like in a data message or added or related thereto, having a shape identifying the person who timed or distinguished it from others for reasons of the person's signature and the approval of content[3]. And defined in the article (2/a) in the UNICTRAL model law on the electronic signatures as" data in electronic form in, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message[4]. and jurisprudence defined electronic signature as the use of any electronic method expressed by a (code), which is a number or symbol[5].

As a result of the recognition of the administrative authority that it uses information technology in the completion of its legal work, and in particular the

[1] Qubilat, Hamdi, the electronic public administrative law, Dar-Althqafa, Amman, Jordan, 2020,p127.
[2] Poullet and vanden, telebanking, teleshopping and law, New York,1988,P6.
[3] Look, Article (2), the Jordanian Electronic Transactions Law, year 2015.
[4] UNICTRAL model law on the electronic signatures.
[5] Zuhra, mohmmad, The extent of the authenticity of the electronic signature in evidence in civil and commercial matters, cairo, 1994, p 65.

administrative decision, the importance of the electronic signature appears in administrative decisions that it indicates the direction of the will of the authorized person to create a specific legal effect, whether by creating, amending or canceling legal status.

2. The evidential value to the electronic signature in the electronic administrative decisions.

The Jordanian legislator recognized the evidential value of the electronic signature in general, so if any legislation requires submission of any contract, document in writing, the submission of the electronic record will produce the same legal effects[6], and he consider the electronic record connected with a protected electronic signature is the same evidential value of the ordinary bond[7].

The Jordanian legislator provides specific conditions to be the electronic signature protected that is:

1- If it is unique in its connection to the pertinent person.
2- Sufficient to identify its owner.
3- Generated in a manner or means specific to that person and under his control.
4- Connected to the record related thereto in a way that does not allow modification to that record after signing such without altering the signature[8].

Therefore, according to the above legal provisions, it's clear for us If the administrative authority uses information technology to issue its administrative decisions, those decisions which connected with a protected electronic signature will have the same legal effects as ordinary decisions.

Finally we should be noted that the electronic signature in the electronic decision is not consider as a major formality, but as a means of proving that the decision was issued by the authority person.

CONCLUSION

In this paper, we discussed the legal system of the electronic signature in the electronic administrative decisions, where we reached the following conclusions:

1- The administrative jurisprudence recognize to issue the administrative decisions electronically
2- The main problem faced by the recognition of the electronic administrative decisions is the safety of those decisions and their evidential value.
3- The Jordanian legislator recognized the evidential value of the electronic signature, and he considers the electronic record connected with a protected electronic signature is the same evidential value of the ordinary bond.
4- The electronic signature in the electronic decision is not consider as a major formality, but as a means of proving that the decision was issued by the authority person.

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[5] The Jordanian Electronic Transactions Law, year 2015.

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[6] Article (6), the Jordanian Electronic Transactions Law, year 2015.
[7] Article (17/a), the Jordanian Electronic Transactions Law, year 2015.
[8] Article (15), the Jordanian Electronic Transactions Law, year 2015.