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"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"

Some legal aspects of the Electronic Trade in Mexico.

by Fermin Aramburu.

This is the first of several articles I will write on the subject. In this article we will talk about the law regulating electronic trade in Mexico.

As we all know, nowadays there are many doubts regarding the legal certainty a person has when he performs a transaction through the internet. Many people avoid doing this type of transactions because they have the belief that they are not properly regulated by the law. Such, in virtue that in Mexico contracts are written and signed by the parties with autograph personal signatures; which under an electronic transactions is not the case.

Hence, this article aims to comment and describe in general the laws that regulate the electronic commerce in Mexico and explain that even though regulation is limited, there effectively exists a regulation for it, which should be reason enough for people not to be afraid of using the internet as a way of commerce, for as described herein, users have all the rights to claim what was agreed.

“Many people avoid doing this type of transactions because they have the belief that they are not properly regulated by the law”.

Article 75 of the Mexican Commerce Code (“*Código de Comercio*”) enlists the acts of commerce under which we can find acquisitions and alienations, which by their nature are commercial activities and constitute consideration and mutuality of obligation between the parties. Nevertheless, it is **the second title (section)** of the Commerce Code that regulates electronic trade and commerce.

Article 80 points out that “the agreements and mercantile contracts that are celebrated by correspondence, telegraph or through the use of electronic devices, optics or of any other technology, will be perfected and valid at the moment the acceptance of the offer, or the modifying conditions are received”. Article 89 of the same code points that “in the commerce acts and in the execution of them, optics, electronical or any other technology may be used. Furthermore Article 89 bis states that “legal effects, validity or enforceability will not be denied, to any type of information for the sole reason that it is contained or encrypted under a data message. Therefore, such messages can be used as evidence in any diligence before any legally recognized authority, and will have the same effects as any printed evidence, so long said data messages attain to the regulations set forth in this Code and the corresponding regulations”.

The same Article 89 sets forth certain definitions regarding electronic commerce:

“Recipient: the person who is designated by the Issuer to receive the Data Message, but who is not acting as an intermediary regarding the message.

Issuer: Any person who, under the Data Message has acted under his own name or in its individual capacity, who’s name has been sent or generated by the data message if such is the case, so long

said person does not act solely as intermediary.

Electronic Signature: the data in an electronic form encrypted under a Data Message, attached to, or logically associated to the message by any technology, which are used to identify the Signatory and identify that the Signatory approves the information contained under the Data Message, and that produces the same legal effects as a personal and autograph signature, being so admissible as evidence under any trial.

Signatory: the person who possesses the data for the creation of the signature, and who acts under his own name and individual capacity or under representation of another.

Data Message: the information generated, sent, received or archived by electronic means, optics or any other technology..."

Meanwhile, articles 90, 90 bis, 91, 91 bis, 92, 93, 93 bis, 94 and 95 establish some rules to prove the sending and reception of data between the issuer and the recipient, as well as the form by which the parties can prove said sending and reception. These articles also regulate the reception and sending of the information, as well as the way to evidence the reception.

"From the interpretation of the before mentioned articles, we can conclude that electronic transactions, contemplated, defined and regulated under the Commercial Code can be used as evidence in trial and that the agreement amongst the parties through electronic means is valid and enforceable."

Article 1803 of the Federal Civil Code ("Código Civil Federal") determines that the consent and acceptance of the parties is to be considered explicit when the willingness manifests itself... by electronic means.

As we can appreciate the Law defines the parties in electronic commerce. The issuer, is the person who, through a computer (or any other electronic mean) accesses the electronic webpage of the recipient. At the time of access, the issuer sends a data message to the recipient, who receives them and proceeds in accordance with the instructions and purchase of the issuer. It is at this time when the agreement is perfected amongst the parties, and all that is missing is for the recipient to charge for the service or product related and the issuer receives said charge.

From the interpretation of the before mentioned articles, we can conclude that electronic transactions, contemplated, defined and regulated under the Commercial Code can be used as evidence in trial and that the agreement amongst the parties through electronic means is valid and enforceable.

Notwithstanding the regulation, we can observe that much remains to be regulated for electronic commerce practices, especially for it to be a perfectly safe legal instrument for transactions.

Salary's degradation is caused by the productivity loss: OCDE.

The worker's productivity loss has caused a deficient salary growth in relation to the general recovery of the global labor market. The 2008 crisis redeployment is considered to be the main cause of this productivity collapse, because workers originally working in a determined sector were moved to another in which their labors don't match with their abilities; consequently, they become a lower wage. The income loss has been estimated in 25% in relation to the salary growth levels before the crisis. It is as well an important issue, that gender barrier continues to assign best paid jobs to men rather than to women. OCDE's general secretary proposes a public policies revision, especially in education and professional development, in order to increase worker's abilities and productivity. www.elfinanciero.com.mx 07/07/2016.

Mexico's Educational Reform and Violence side by side.

In early June two CNTE leaders were arrested on charges of money-laundering and aggravated robbery respectively. Union members cried foul and protests intensified. On June 19th police challenged a barricade outside the town of Nochixtlán in north-west Oaxaca; in the resulting clash, eight protesters died. When the authorities do try cracking down, things can go awry, as the events at Nochixtlán show. An investigation is in progress, but the town has joined the list of places where atrocities have been blamed on state actors. On July 1st Mr. Osorio gave an ultimatum of sorts, saying that "before long" decisions would be taken to unblock strategic roads. People sympathetic to the teachers fear more draconian moves. But both sides seem keen to avoid more violence, and a negotiated dismantling of the blockades looks more likely. Then real arguments about the future of education in Mexico can begin. www.economist.com 09/07/16.

Arbitration tribunal has ruled against China on the South China Sea.

The ruling of July 12th on the South China Sea by the Permanent Court of Arbitration go further than expected in saying China is violating international law in the South China Sea. The case was brought by the Philippines in 2013, after China had grabbed control of a reef, called Scarborough Shoal. The Philippines, asked the court to declare that "historic rights" claimed by China in the region were only valid if they accorded with the UN Convention on the Law of the Sea (UNCLOS). The court agreed with the Philippines. The line has no standing in international law. The court found China had infringed Philippine sovereign rights. China refused to take any part in the proceedings and said that it would not "accept, recognize or execute" the verdict. The new president of the Philippines, Rodrigo Duterte, has said he wants better relations with China. That must be the main hope: that the court's rulings usher a period of negotiations, rather than hostilities. www.economist.com 13/07/16.

Artificial intelligence in the legal profession should be regulated, op-ed argues.

Artificial-intelligence providers should not be allowed to hold themselves out as providing legal services without an actual lawyer's involvement and supervision. Lawyers using artificial intelligence technology have an ethical obligation to spot mistakes and recognize anomalies. Artificial-intelligence providers should not be allowed to hold themselves out as providing legal services without an actual lawyer's involvement and supervision. The industry is moving along without us. Very quickly. We must act, or we will be left behind. www.abajournal.com 14/07/2016.

IMF estimated global growth has been negatively impacted by BREXIT, Mexico will rebound.

Brexit phenomena, caused by Great Britain's separation of the European Union has materialized an important risk for the global economy. IMF's growth estimation has been adjusted from 3.2% to 3.1%. Apparently, this effect will mainly impact European advanced countries; whose economic growth for the rest of 2016 has been estimated in 1.6%. In relation to emergent economies, IMF's estimates received no adjustment; however, it is important to appoint that this behavior is expected in the southeast Asian countries. Latin-American's economy will be pulled down by Brazil's collapse of 3.3% and has an estimate deceleration of - 0.4%. Considering this context, IMF's estimation about Mexican economy seems to be benign with a 2.5% growth for the rest of 2016. www.aristeguinoticias.com 19/07/2016.

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