

Recognition of Electronic Documents in Denmark

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What is an Electronic Document?

Particular information stored electronically

May contain records of intention

A move away from the concept of “originals”

A collection of references to information

Can a collection of e-mails constitute a document?

Is an electronic ticket an electronic document?

What is it used for?

Record, store, archive

Distribute, retrieve, search

Validate, identify

What is Recognition?

Validity as proof in a court of law

Medium for documenting obligations

Proving ownership or other rights

Transport documents, tickets etc.

Satisfy as a medium for fulfilling requirement

Communication between citizen and state

Fulfilling public information requirements

Accounting, taxes, trade record etc.

Right of access to documents

Basis for public registration

Obstacles to Recognition of Electronic Documents

“In writing” or “on paper” requirements

May serve valid purposes

Consumer protection (warning about seriousness)

Paper is a good recording and identification device

Practical issues

Reliable and recognised electronic storage

Long term archival issues and security

Formatting

A pro pos: Open Document format in the Danish
Ministry of Science, Technology and Innovation

Functional Equivalence

UNCITRAL Model Law on e-Commerce art. 5

Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message

E-Commerce directive art. 9(1)

... ensure that the legal requirements applicable to the contractual process neither create obstacles for the use of electronic contracts nor result in such contracts being deprived of legal effectiveness and validity on account of their having been made by electronic means

Digital signature directive etc.

The Situation in Denmark

The civil area

Point of departure: No formal requirements

The contract is a manifestation of intention

Some exceptions

E-documents as credit card fraud prevention

Electronic documents as proof

Judges' discretion to evaluate evidence

The Situation in Denmark

The public area

Communication with government

eDay 2 allowing secure, electronic communication

Wide access to electronically submit information

Land, car etc. registration (electronic systems)

Only physical documents, some electronic access

2006 report suggest full electronic registration
with digital signature

The Danish Official Gazette

Fully electronic (PDF, no paper)

Since 15 October 2005

Thank you for your attention!

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