

Legal provisions for the subsequent stage of the offer: A comparative study In Egyptian and Emirati law

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Abstract

The offer is the fruit of pre-contractual negotiations, but it does not end the pre-contractual stage, because it does not alone lead to the conclusion of the contract, but rather a corresponding acceptance must coincide with it. An affirmation was addressed to him, i.e., it agrees with the offer in all the issues it addressed, it is equal in that these issues are essential or secondary, every issue mentioned in the offer must be dealt with by acceptance, regardless of its importance. And if the contract is concluded by the connection of acceptance with the knowledge of the obligor, the question arises whether it is sufficient for the contract to converge acceptance and offer on the essential issues, or should this extend to all the detailed issues, so does the agreement on the essential issues lead to the completion of the contract? Or is this considered a stage of the negotiations that did not take place after the contract, and the contract is not concluded until after the agreement is extended to secondary issues as well? By collecting jurisprudence, it is not necessary for the conclusion of the contract that all issues be agreed upon as a matter, but rather that it is sufficient to agree on the essential issues for the conclusion of the contract. The contract, then, is completed and the pre-contractual phase ends as soon as the parties agree on all the essential issues without the detailed issues, which justifies this provision is that these last issues are not essential in the contract, and that the law has assumed that the intention of the contracting parties has been to conclude the contract even if a dispute arises between them on These issues, as long as they did not stipulate that the contract is not concluded when they are not agreed upon. Explaining the intention of the contracting parties in this reasonable manner, the law permitted the judge to decide what they differed in according to the nature of the transaction and the provisions of law, custom and justice. The task of the judge, in this case, goes beyond the usual limit in his work, as he is not limited to the interpretation of what the contracting parties agreed upon, but goes beyond that to the management of what they differed in, so he contributes to the making of the contract. The acceptance, then, must be identical to the offer as we have explained, in order for the contract to take place, and the stage before the contract ends, The conclusion, then, is that the stage prior to contracting does not end as soon as the offer is issued, although the latter is a decisive and definitive expression of the contract, the imminent conclusion of the contract, and the end of the stage preceding the contract because it includes the essential elements of the contract to be concluded. The stage of negotiations following the offer is subject to two main principles, namely the principle of freedom to withdraw from the second offer, and the principle of freedom to accept or reject the offer.

keywords: Withdrawal of the offer, freedom to accept the offer, the offer, acceptance, the next stage of the offer.

Introduction

1. The offer is the fruit of pre-contractual negotiations, but it does not end the pre-contractual stage, because it does not alone lead to the conclusion of the contract. Rather, it

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must be accompanied by an identical acceptance. The contract is the fruit of the association of acceptance with the offer. In conformity with the offer, i.e., it agrees with the offer in all the issues it deals with, it is equal to these issues being essential or secondary, every issue mentioned in the offer must be dealt with by acceptance, regardless of its importance. Article 137 of the preliminary draft of the Egyptian Civil Code states: "The contract is not concluded unless the two parties agree on all the issues in which they negotiated the contract. As for agreeing on some of these issues, it is not sufficient for the parties' commitment, even if this agreement is proven in a written paper." But this article was omitted in the final draft because it was not needed (Al-Badrawi, 1986). because what was mentioned in it is only an application of the general rules in this regard. (Abdel Moneim ,1986)

2. If the contract is concluded by communication of acceptance with the knowledge of the obligor, the question arises as to whether it is sufficient for the contract to converge acceptance and offer on the essential issues, or should this extend to all the detailed issues, so does the agreement on the essential issues lead to the completion of the contract? Or is this considered a stage of negotiations that has not been concluded after the contract, and the contract is not concluded until after the agreement is extended to secondary issues as well? Article 95 of the Egyptian Civil Code states that: "If the two parties agree on all the essential issues of the contract, and retain detailed issues that they agree on later, and do not stipulate that the contract is not concluded when they are not agreed upon, the contract shall be considered concluded. If a dispute arises over issues that have not been agreed upon, the court shall rule on them in accordance with the nature of the transaction and the provisions of law, custom and justice. This was also stipulated in Article 141 of the UAE Civil Transactions Law, where it states: "If the two parties agree on the basic elements of the obligation and on the rest of the other legitimate conditions that the two parties consider essential, and they maintain detailed issues that they agree on later, and do not stipulate that the contract does not enter into force when there is no agreement on These issues, the contract is considered concluded, and if a dispute arises over issues that have not been agreed upon, the judge shall rule in them according to the nature of the transaction and the provisions of the law.

3. The contract, then, is completed and the pre-contractual stage ends as soon as the two parties agree on all the essential issues without the detailed issues, which justifies this provision is that these last issues are not essential in the contract, and that the law has assumed that the contracting parties' intention was to conclude the contract even if a dispute arose between them on these issues, as long as they did not stipulate that the contract is not concluded when they are not agreed upon. Explaining the intention of the contracting parties in this reasonable manner, the law permitted the judge to decide what they differed in according to the nature of the transaction and the provisions of law, custom and justice.

The task of the judge, in this case, goes beyond the usual limit in his work, as it is not limited to the interpretation of what the contracting parties agreed upon, but goes beyond that to a measure in which they differed, if he participates in the making of the contract (Al-Sanhoury, 1998).

As we explained, for the contract to take place, and the pre-contractual phase ends, the pre-contractual phase continues until the moment an acceptance is issued that is identical to the offer. contractual agreement, and such acceptance is considered a new offer. This was stipulated in Articles 96 of the Egyptian Civil Code and 140/2 of the UAE Civil Transactions Law by saying: "If the acceptance is accompanied by something that increases, restricts or modifies the offer, it is considered a rejection that includes a new offer." The first offer, then, does not close the door of the offer. Negotiations, but the negotiation continues with the

issuance of non-conforming acceptance.

4. In summary, then, the pre-contracting phase does not end as soon as the offer is issued, although the latter is a definitive expression of the contract, the imminent conclusion of the contract, and the end of the pre-contracting phase, as it includes the essential elements of the contract to be concluded. The post-negotiation phase of the affirmative is subject to two main principles:

The first: the principle of freedom of return from the offer (the first topic).

The second: the principle of freedom to accept the offer or reject it (the second topic).

The first topic

Freedom to return from the offer

The general rule is that the offeror may retract his offer, so the offer according to the original is not binding on its owner, but this rule is not absolute, as there is an important exception to it, that the offer is binding on the offeror if he sets a date for acceptance, where he is obliged to remain on his offer until this time elapses.

We will first talk about the non-binding offer (the first requirement), then we will present secondly to the binding offer (the second requirement), as follows:

The first requirement

Non-binding offer

The principle in the affirmative is that it is not required, even from the one from whom it is issued, i.e., the obligator. The obligator has the right to withdraw from it after its presentation, that is, he may withdraw it as long as it remains a mere offer, i.e. it is not linked to an acceptance and in the Egyptian and the Emirati, where jurisprudence (Al-Sanhoury, 1976-1977). agrees that the principle of the offer is that it is not required, even from the one who issued it, i.e. the obligator, for this reason The latter may retract his offer after its presentation, i.e., he may withdraw it, as long as it remains merely an offer, i.e. it has not been attached to it after acceptance. The council and the offer is invalidated if the obligator retracts it after the offer and before acceptance, or if one of the contracting parties issued a statement or action indicating the rejection, and there is no lesson in the acceptance after that.” 1/ Emirati civil transactions, where it says: “If a date is set for acceptance, the obligor is obligated to remain in the original until the expiry of this date.” Assignment, so the general principle is that the offer or does not abide by his offer, meaning that he agrees It is not permissible for him to return to it, before it is accompanied by acceptance from the other party.

The principle of the freedom to reverse the offer was confirmed in Egyptian law by virtue of Article 94 of the Civil Code, saying:

1. If the offer is issued in the contract council, without specifying a date for acceptance, the offeror breaks his offer if the acceptance is not issued immediately, and the same applies if the offer is issued from one person to another by telephone or by any similar means.
2. However, the contract is concluded, even if the acceptance is not issued immediately, if there is no evidence that the offeror has rescinded his offer in the period between the offer and the acceptance, and the acceptance was issued before the contract council arose. Article 94, an Egyptian civil, states that if the offer is issued in the contract

council and without specifying a date for acceptance, the obligee may dissociate from the original if the acceptance is not issued immediately, and the same is the case if the offer is issued by another person by telephone, or by any similar means.

The obligator, according to this article, can immediately disengage from the offer, but there is nothing to prevent it from remaining on the positive (Ahwany, 1991 - 1992).

What is meant by immediacy here is the appropriate unit of time to respond to the offer, including the time needed to think about it before responding. Immediateness does not extend to the entire term of the contract council, because Article 94/2 Civil faces the case of non-issue of acceptance with the extension of the contract council. (Ahwany, 1991 - 1992)

We conclude from the foregoing that the principle is that the obligee has to rescind his offer until the acceptance is issued or the contract council is abolished, and in this the Egyptian and Emirati laws and an opinion of Islamic jurisprudence are in agreement.

But as an exception to this principle, it is not permissible for the obligor to reverse his offer if his offer is accompanied by an explicit date of acceptance or even an implicit date drawn from the circumstances of the case or from the nature of the transaction, where the obligor is obliged to maintain his offer throughout this period, and in this Egyptian and Emirati laws agree with Islamic Fiqh.

The second requirement

obligatory offer

If the general rule, as we have clarified, is that the offer is not binding, then the offerer can return to it as long as he does not meet with acceptance, but this rule is not absolute as an important exception is given to it, and the result of this exception is that the offer is binding and therefore the offeror refrains from recourse to it, if Set a date for acceptance, in which he is obligated to remain in his affirmative until the expiry of this date. In this, the Egyptian and Emirati laws agree, as jurisprudence unanimously agrees that the offer is binding on its holder if it is accompanied by a date for acceptance. This was explicitly stated in Articles 93 of the Egyptian Civil Code (Al-Badrawi, 1986). and 139 of Civil Transactions, saying:

- 1- If a date is set for acceptance, the obligee shall remain on the original until the expiry of this date.
- 2- The date may be derived from the circumstances of the case or from the nature of the transaction.

It is understood from these two articles that if the principle is that the offer is not binding, but that it is an exception to this principle, then the offer is binding, and the obligee may not withdraw from it, in the event that he sets a date for acceptance and on that, if the offeror sets a date for the offeree, in order for him to express During which he gives his opinion on the offer which he presents to him, whether acceptance or rejection, the offeror adheres to this date and refrains from retracting his offer, as long as the date remains.

Determining the offeror as a time for him to be calibrated, during which he expresses his opinion on the offer he presents, may come explicit, or it may be implicit.

The determination is explicit, if the obligor takes a way that indicates his will directly, without the need to implement the thought in the logical conclusion. An example of explicit

determination is when a certain person offers to sell his house to another at a specified price, leaving him a period of one week or more or less to think and measure and determine his position by accepting or rejecting the deal.

As for the implicit determination of the date of acceptance, it is that which is inferred from the circumstances of the case or from the nature of the transaction. Whoever submits an auction or tender bid is implicitly obligated to maintain his affirmative date for the time necessary to open the envelopes or decide the bid. And whoever offers to sell his car on the condition of trial is obligated to keep his offer for the period necessary to test the sale by the offeror. In a correspondence contract, the offeror is implicitly obligated to remain on his offer for the period necessary for the offeree to become aware of the offer and respond to it.

Thus, the circumstances of the case, here, indicate that the offeror wanted to abide by his offer for the necessary period of time, according to the usual, normal circumstances, in order for the offeror to decide in his opinion and this response reaches the offeror (Abdel-Baqi, 1984 AD).

The offeror must act in good faith by maintaining his offer for a reasonable period of time to receive the response. It is considered as a contract between absentees of the offer, which is made by telex or by fax, because the offeree does not receive the offer from the offeror immediately after it is issued, as happens on the telephone. When sending a telex or fax The offeror may not be present to receive it directly (Al-Ahwany)

If a period is specified to remain on the offer, or the period is deduced in the contract between absentees and where the reasonable period for the response to arrive in a timely manner, then the late acceptance is achieved either by the issuance of an acceptance after the expiry of the period, or by the acceptance and its export during the period, but the delay is represented in the failure to reach the offeror before It's too late.

It is assumed that the late acceptance in its two forms does not lead to the conclusion of the contract, because the offer lapses with the expiration of the period, but the late acceptance can be considered a new offer to the original offeror, which opens the door to negotiation again.

In any case, extracting the implicit determination of the date and extent of acceptance is a matter indicated by the nature of the transaction and the conditions of the contract, and it is afterwards a matter related to reality, and the judge of the subject has the right to decide on it, without oversight by the Supreme Court. The Egyptian Court of Cassation has ruled that the subject judge, in the event that the offer is issued to an absentee without explicitly specifying the date of acceptance, may derive from the circumstances of the case, the nature of the transaction, and the intent of the obligor of the date on which he was obliged to remain in his offer. It was issued by the offeror after the date of the offer and revealed his intent.

If the offer is issued by multiple partners from one transaction, it may be inferred from their united intention by matters that may have been issued by one of them revealing this intent (Lutfi, 1995 AD).

The subject judge - as we have said - is independent of estimating the time that is considered appropriate to inform the acceptance and is not subject to the oversight of the Court of Cassation.

In contracting between absentees or by correspondence, three elements must be taken into account in terms of the duration of the offer, the time required for the message to reach the offeree,

the time required for perusal and opinion formation, and finally the time required for the response to arrive. When assessing these matters, the means of correspondence, the nature of the transaction, and the quality of the obligee, a normal person or a businessman, shall be taken into consideration, as the latter is usually faster in responding than the normal person (Al-Ahwany).

But the question that arises here: What is the basis of the binding force of the affirmation?

There is no dispute in Egyptian and Emirati laws that if the offer is issued and the offeror agrees with the offeree that the offeror remains on his offer for a certain period of time, during which he may not retract it, then this agreement produces its effect, and the offeror is obliged to remain on the offer for the agreed period, as The offer shall be binding on him throughout this period and the same is the case, if there is no such agreement between the two parties, but the law stipulates that the offer in a specific case or in general is binding on its holder for a specific period, then the offer is also binding, and the source of this obligation is the text of the law.

If there is no agreement on that, and there is no provision in the law, then the traditional rules that govern the contract and determine the effect of the will in its formation refuse to have the sole will of the obligee having the force of obligating him to remain on the offer, and therefore it considers the offer permissible to return to it at any time as long as it is not accompanied by acceptance (Marks, 1987).

Withdrawal of the expression of the will is possible, if the person to whom a counter-expression is directed comes to his knowledge, before the first reaches him, or at the same time as his arrival, and then the original expression has no legal effect. It is true that the Egyptian and Emirati laws did not include a text declaring the ruling that we decided. However, we have no doubt in its implementation. It is merely an application of the rule contained in Articles 91 and 97/1, an Egyptian civilian (Al-Sanhoury, 1998), and Article 142/1, Emirati civil transactions (Ahwany, 1991 - 1992). Article 125/1 of the preliminary draft of the Egyptian Civil Code, which originally represented Article 91 of the law, included the provision we said (Zaki, 1976 AD). but the phrase indicating it was deleted from the review committee on the grounds that it was not needed (Shanab, 1976-1977).

However, modern jurisprudence saw that the need to provide confidence in dealing and to stabilize transactions necessitate considering the offer binding on its holder, even for a limited period, so that the person to whom it is directed can rely on it and arrange its affairs on its basis. What is the basis of the binding force of the affirmative in this case?

The answer to this question is different in Egyptian law than in UAE law. In Egyptian law, some jurists went to assigning the binding force of the offer to the sole will of the offeror, and they came to this by analyzing the effect of the will in the contract, they said that if the contract binds its two parties.

This is only as a result of the power of the will and its ability to bind its owner. The binding force of the contract does not arise from the coupling of the two wills, but rather from the ability of the will of each of the two parties to oblige its owner, since the obligations of each of the parties as a result of his will is the result of the will of the other party, and the total obligations arising from The contract is in the hands of both parties as a result of the combination of the two wills. The binding force of the contract is the result of the force of will.

So the repulsive will may bind its owner, and accordingly the unilateral will of the obligor may be directed to oblige him to remain in his obligation for a certain period, and this obligation arises in his responsibility as a result (Al-Badrawi, 1986).

This view has been criticized on the one hand because Egyptian law does not recognize a single will with the ability to create an obligation in general, as the contract does, and on the other hand it does not contain any special provision that makes the offer binding.

Another side of the jurists went to establish the binding force of the offer, which is accompanied by a period of acceptance on the principles of tort responsibility (Marks, 1987)

If the obligee retracts his offer before the expiry of this period, his reversal is a breach of the legitimate trust of the obligee, and his return is considered a negligent error that requires compensation, and that the best compensation for concluding the contract is the establishment of that contract that is intended to be concluded. If the obligee is obligated to remain in his obligatory, because if he returns to it, the penalty for his return will be to impose on him the contract.

This opinion, in turn, was criticized, because it confiscates what is required, because retracting the offer is not considered a tortuous error that entails the responsibility of the offeror, unless the latter is initially obligated not to abandon his offer, and this obligation is what is intended to be interpreted.

Thus, it shows that this opinion does not advance or delay in proving the binding force of the offer. In addition, the recognition of this opinion makes the minor who retracts his offer responsible for that, while if he does not return and is accompanied by his acceptance of the offer, he may challenge the contract and invalidate it. This opinion, then, leads to obligating the minor who has renounced the origin to more than what the minor who has not reverted is obligated to (1)

A third side of the jurists went to the view that the offer, which is accompanied by a period of time, actually includes two positives, one of which is major and includes an offer to conclude the contract, and the other secondary includes a period of time to reflect on the offer.

And if the first offer has no effect except by its acceptance, then the second offer has its effect just because the obligee remains silent, because it results in his interest, and a contract is established between the two parties, resulting in the obligation of the obligee not to abandon his offer during that period (Al-Badrawi, 1986).

This opinion, in turn, was criticized, on the one hand, that saying that a contract was established between the obligee and the obligee in this case, just because the latter remained silent, implies an extravagance that cannot be tolerated by reality.

It seems to us that the first opinion is the most correct, as the basis for the obligation of the obligee to his obligation associated with a specific period of acceptance is the unilateral will. The text of Article 93 of the Egyptian Civil Code is explicit that the offer alone is binding, that is, the obligation is based on the unilateral will where it is a source of commitment, in addition to that, that the unilateral will is a source of commitment in Egyptian law.

Although the Egyptian civil code does not include any text deciding to consider the unilateral will as a general source for the origination of the obligation, it mentioned the title

“Singular Will” dedicated to it a separate chapter, which is the second chapter of the first chapter devoted to the sources of obligation, on the same level with the contract that He singled out the first chapter for it, and with the illegal work and enrichment without reason and the law, as he mentioned its provisions in the third, fourth and fifth chapters, respectively. It was subjected to a single application of a single will. It is the promise of a prize. However, the dominant opinion in Egyptian jurisprudence holds that a single will is considered in Egyptian law as a source of obligation, even if it is not a general source like a contract, but rather is a special or exceptional source in certain cases stipulated by law, including the case of an offer associated with a period of acceptance contained in a text Article 93 Civil.

In the UAE law, an opinion rightly went to the fact that the basis for “the obligatory’s obligation to remain in his obligation throughout the duration of the obligation is unilateral action (Ahmed, 2007 AD.).

This opinion is consistent with the provision of Article 278 of the Civil Transactions Law, which states that: The unilateral act is its pillar and its conditions, and the disposer may not withdraw from it unless the law stipulates otherwise.”

The explanatory memorandum of the Civil Transactions Law commented on this text by saying: “A unilateral act is characterized by being held by one will without the need for acceptance, and this is what separates it from the contract. This is because a unilateral will (or a unilateral act) is considered in the UAE law as a general source of commitment, just like a contract. This was explicitly stipulated in Article 124 of Civil Transactions, saying: “Obligations or personal rights arise from actions, legal facts and law, and the sources of obligation are:

1. Contract
2. Unilateral Action
3. Harmful deed
4. Beneficial Deed
5. Law”

Article 276 of Civil Transactions stipulates that: “It is permissible to dispose of the unilateral will of the disposer without stopping the acceptance of the disposer, unless it obligates others to do something in accordance with the provisions of the law, all of this unless the law provides otherwise.” The explanatory memorandum to the Transactions Law was suspended. The UAE Civil Transactions Law provides for this text by saying: “A disposition in Islamic jurisprudence is done by an offer and acceptance if it would lead to an obligation on the part of each of the two parties, even if it ends. It is as if the obligation in its establishment suffices the will of the obligee alone, as if the contract itself is an offer and an acceptance based on the commitment of each party to his will without regard to the will of the other party, and accordingly it can be said that the basis for actions in Islamic jurisprudence is the singular will, not the contract” (Al-Sharqawi, 2008).

The second topic

Freedom to accept or decline the offer

We have already clarified that the offer alone is not sufficient to form the contract, for in addition to it there must be acceptance, as this can happen compatibility between the two wills, which is the basis of the contract.

In principle, the person to whom the offer is made is completely free to accept or reject it, and in this respect the Egyptian and Emirati laws are in agreement. The jurisprudence has unanimously agreed that the one to whom the offer is made may accept it or reject it, without being obligated to do so in this or that. The matter, in principle, is left to his discretion (Al-Sharqawi,

2008). The obligee has a choice between accepting the offer or rejecting it, and he does not have to accept it, otherwise the contract is based on the offer alone. This was explicitly stated in Article 136 of the UAE Civil Transactions Law by saying: “The two contracting parties have the option after the offer to go to the end of the council.

The explanatory memorandum of the UAE Civil Transactions Law commented on this text by saying: “In this article, the legislator acknowledges, taking into account the Hanafi school, that the offer remains valid until the end of the council, but the obligator has to withdraw from it unless it was accepted by the addressee. Before acceptance, the obligee has the right to return, and the offer is also forfeited if a statement or action is issued by the obligee or to whom it is directed, indicating the reluctance. To accept as long as the council is standing and did not amend the obligatory and did not issue from it what indicates the rejection in word or deed (Al-Sharqawi, 2008).

The principle is that the choice of acceptance, if it is decided, has the right of its owner, that is, the one who is obligated to him - as we have already said - to express his will in the way he likes. The rule is that there is no special way to express the will, and this is only an application of the principle of consensual contracts, which states that the contract is based on the mere presence of consent without what is necessary for the expression of the will in any form, except in cases where the law requires a special form for the establishment of the contract, as This is the case with the gift and insurance mortgage contracts, where it is imperative that the expression of the will come in the form prescribed by the law.

The origin - also - is that the option of acceptance, if it is decided, has the owner, i.e. obligated to him to express his will - as we have already indicated - explicitly or implicitly. The choice of acceptance does not require its use, the necessity of express expression, but it can be deduced implicitly and implicitly, and the original - as well - that the one who has the choice of acceptance, the one who is obligated to use it, can use his choice without any responsibility. He may accept the offer if he deems that his interest is in that and he may also reject it if he finds that it is in his interest in that, and without giving reasons, the option to accept is a purely voluntary choice, i.e. its use depends on the pure will and will of its owner, he joins that category of options named By discretionary or absolute options, that is, not causing their use, and which are not subject to judicial oversight with regard to their use, as the judge does not have the authority to research and estimate this use and its motives.

It is agreed that the use of a purely voluntary option does not require a specific justification or motive, but can be exercised whatever the motive for this use, as long as it is legitimate. The use of a purely voluntary option is characterized by being related to the person who owns it and is closely related to him (Al-Layl, 1994).

But as an exception from the previous principle, circumstances may make the obligee obligated to accept, and this is achieved if he was the one who called the obligee to contract with him.

The preliminary draft of the current Egyptian civil code included a text establishing this provision, as Article 136 of this draft stipulates: “The person to whom the offer is made may reject it, unless he has called for it. In this case, he may not refuse the contract unless If it is based on legitimate reasons.” But the review committee decided to delete it because it is not necessary (Lutfi, 1995 AD). because there are no practical applications for it, and it is just that it is a mere application of general rules, especially after the theory of abuse of the use of the right has gained legislative regulation.

The practical applications of this case are many and varied, as there are sects of people who urge others to the affirmative and invite them to it, such as merchants in bulletins, advertisements and price lists that they direct to the public, and like hotel and restaurant owners who open their doors to the one who knocks, and like industrial owners who invite workers to work in their industries. If this invitation to contract is accepted, then this invitation is an affirmation that is distinguished from other forms of the offer in that the person to whom it is addressed may not reject it without a legitimate reason (Al-Sanhoury, 1998) .

otherwise, he would be arbitrary in this rejection. The explanatory note for the preliminary draft of the current Egyptian civil legalization justified this just ruling as follows: “This legal effect is only a result of the situation created by the claimant, but rather an application of the principle of abuse of right or abuse of it” (Al-Sanhoury, 1998). However, abuse in this imposition is a response to a mere license, and this is a specificity that draws attention (Hegazy, 1955).

The Egyptian legislator has deliberately neglected to specify the penalty that results from the arbitrary refusal, as such refusal entails undoubted responsibility. The compensation may be limited to a sum of money if this penalty is sufficient. The judge may, in some cases, go further, and consider that the contract was concluded as compensation, if the circumstances necessitate that” (Al-Sanhoury, 1998)

It is not permissible, then, for the one who called the obligor to contract, to return and refuse his offer except for a legitimate reason, otherwise he would be arbitrary in his refusal.

This arbitrary refusal entails asking the person who invited the contract, and the judge has the choice between limiting his ruling to obligating the obligee to pay a sum of money as compensation or considering the contract as existing as compensation if circumstances so require.

Thus, it seems to us that considering the option of acceptance as an absolute option does not preclude subjecting it to the theory of abuse of the right, as it is a general theory of application and the option of acceptance by its nature is a temporary option, so it is not reasonable for it to be decided permanently. The longest possible period during which he can manage his matter and decide in the affirmative based on a slow study, deep thinking and an informed opinion. maybe. The principle is that the choice of acceptance is for the person to whom the offer is made, whether he is the other party to the contract or if he is his representative.

Conclusion

After we finished studying the legal provisions of the pre-contracting phase in the Egyptian and Emirati laws, a comparative study, we refer to the most important results we reached:

1. The pre-contracting stage is not subject to unified legal provisions, but rather its provisions differ according to the stage reached by the negotiations. There is the stage prior to the offer, and there is - also - the stage following the offer.
2. The stage of negotiations following the offer, like the stage before it, is also subject to two main principles: the principle of freedom to withdraw from the offer and the principle of freedom to accept the offer.
3. The principle is that the obligee may reverse his offer. The original obligation is that the obligee may rescind his offer until the acceptance is issued, or the contract council

is abolished. But as an exception to this principle, it is not permissible for the obligor to reverse his offer if his offer is accompanied by an explicit date of acceptance or even an implicit date drawn from the circumstances of the case or from the nature of the transaction where the obligor is obliged to maintain his offer throughout this period, and in this opinion agrees in Islamic jurisprudence and Egyptian and Emirati laws.

4. The person to whom the offer is made is completely free to accept or reject it without being obligated to do this or that. The matter is originally, ordered and left to his discretion. The obligee has the choice between accepting the offer or rejecting it, and he does not have to accept it, otherwise the contract is based on the offer alone, which no one says. In this, Islamic jurisprudence and Egyptian and Emirati laws agree.

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