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Address: College of Farabi, University of Tehran, Qom-Tehran Old Road, Qom,
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Public-Private Partnership for the Iranian Law in the Perspective of Iran Provision.

Abdolhossein Shiravi¹, Monireh Khodadadpour^{2*}

1. Professor, Department of Private Law, College of Farabi, University of Tehran

2. Ph.D Student in Private Law, College of Farabi, University of Tehran

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Abstract

The mechanism of public-private partnership (PPP) has been used in different countries. Many countries have enacted special laws to regulate PPPs. In Iran, PPP as such has been briefly mentioned in the Fifth Five Year Development Act and more details of PPPs were provided in the yearly budget acts of 1391 and 1392 (2012 and 2013). In the Budget Act of 1393 (2014) the detailed provisions regarding PPP have been eventually removed from that Act as being regarded by the Guardian Council of Constitution as having a permanent nature and could not be mentioned in a yearly budget act and therefore no detailed regulations regarding PPP are now effective. In this paper we review all laws and regulations so far enacted for PPP to see to what extent they could create a stable situation for the private sector to participate in state and public projects.

Keywords

Agreements, Projects, Public-private partnership, PPP.

* Corresponding Author

monir_kh_61@yahoo.com

The Unity or Duality of Causation in Civil and Criminal Law

Hassan Poorbafrani^{1*}, Elham Delpak Yeganeh², Mohammad Sadegh Tabatabaee¹

1. Assistant professor, Department of Law, College of Economic, University of Isfahan

2. M.A in Private Law, College of Economic, University of Isfahan

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Abstract

The causation (*Tasbib*) is a ground of liability in law which leads to compensation of damages in civil law and punishment in criminal law. As causation being discussed in both civil law and criminal law separately, it is generally perceived that the causation in civil law is different from that of criminal law. By reviewing the roots and conditions of causation, it becomes clear that the nature of causation in both fields is the same and there are no significant differences between them. By perceiving the causation as a similar concept in both civil and criminal law, we could conclude that separating the causation and dealing with it differently in civil and criminal law is not fruitful and rewarding and therefore it should be disregarded.

Keywords

causation, civil responsibility, criminal responsibility, liability.

* Corresponding Author

Email: hpoorbafrani@yahoo.com

The Objection to the Value of Relief Sought in Court Suit and Its Consequences

Alireza Fasihzadeh^{1*}, Seyyed Hossein Asadi²

1. Assistant Professor, Department of law, University of Isfahan, Iran

2. M.A Student in Private Law, University of Isfahan, Iran

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Abstract

One of the characteristics of pecuniary claims at the time of submitting the lawsuit is obligation of the plaintiff to mention the value of relief sought. The amount of relief sought plays a key role in the lawsuit which determines the competent court, the possibility of appeals. Basically, the value of relief is determined by the plaintiff which may be protested by the defendant. This protest requires certain conditions to be accepted; for example, it has to be raised by end of first session of the proceedings. In legal writings, the details of conditions for reliefs sought are not mentioned. On the other hand, if an objection is accepted, it will have important effects on the litigation. In this paper, the conditions of objection to value of relief sought are critically examined and the effects of raising such objection in civil proceedings are discussed and analyzed.

Keywords

Appeal, Civil proceedings, Claims, Value of relief sought.

* Corresponding Author

Email: fasihzadeh@gmail.com

The Explanation of Litigation Principles and Formalities in Arbitration

Alireza Azarbaijani¹, MohammadReza Samavatipour^{2*}

1. Associate Professor, Department of Private Law, College of Farabi, University of Tehran, Iran

2. M.A. in Private Law, College of Farabi, University of Tehran, Iran

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Abstract

According to the provisions of Civil Proceedings Code, courts procedural principles and formalities are not required to be respected in arbitration. Such provisions are differently interpreted by lawyers. Some lawyers believe that since arbitration is a kind of personal judgment, it should not be subject to the civil procedure and therefore arbitrators directly or with the request of the parties may refrain from applying the courts procedural principles and formalities in conducting arbitration. In contrast, some other lawyers argue that since such principles and formalities are compulsory, permanent and general, therefore it is binding for both court judges and private arbitrators. In this paper, this issue will be considered and discussed.

Keywords

Arbitration, Courts principles, Courts procedural formalities.

* Corresponding Author

Email: info@samavatipour.com

The Obligation to Pay Compensation to Individuals by States in the Law of International Responsibility of States

Mahdi Haddai*

Assistant professor, Department of International Law, College of Farabi, University of Tehran

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Abstract

In the system of international law, individuals enjoy some rights and states are initially obliged to grant of these rights, especially in the field of human rights and humanitarian law. If this obligation is not fulfilled, the responsible state has to compensate the injured individuals based on special rules of treaty laws and general rules of international responsibility, including customary rules of compensation. The right to compensation has been confirmed by the International Court of Justice and the Draft Articles of Responsibility of States for Internationally Wrongful Acts 2001. However, states are reluctant to accept the individuals' right to petition against the states before the international authorities.

Keywords

Obligation to pay compensation, Right to compensation, Rules of international responsibility, Specific rules of treaty.

* Corresponding Author

Email: mhaddady@ut.ac.ir

Common Intention of the Litigants in Commencing Civil Proceeding

Meysam Akbari Dehno^{1*}, Morteza shahbazinia²

1. M.A. in Private Law, Tarbiat Modares University, Tehran .Iran

2. Assistant Professor, Department of Private Law, Tarbiat Modares University, Tehran .Iran

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Abstract

One of the topics that today has attracted attention of civil proceeding lawyers is a contractual approach to the commencement of litigation. In this approach, the litigants may by mutual agreement refer their case to a specific branch of court. In this paper, we discuss the commencement of civil proceedings by the agreement of litigants and how far it is possible for the parties to select the court. The parties to a dispute may wish to limit themselves to initiate court suits in any place requiring them to bring their case in a specific branch of court. Other important example of the common intention of the litigants is the issue of notifications.

Keywords

Aourts, Jurisdiction by mutual agreement, Litigants, Notifications.

* Corresponding Author

Email: meysam.dehno@gmail.com

The Shortfalls of Iran's Code of Civil Procedure in Issuing Interim Orders by the Arbitrator

Laaya Joneidi*, Reza Haghparast

1. Associate Professor, Department of Private Law, College of Law, University of Tehran, Iran

2. Ph.D. Student in Private Law, College of Law, Allameh Tabatabaeei University Campus, Iran

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Abstract

One of the most important issues which has long been considered as a shortfall in the Civil Procedure Code (CPC) is the jurisdiction of the arbitral tribunal to issue interim orders. Currently, neither the court nor the arbitral tribunal can freely grant the interim measure so that the tribunals and the court hardly accept the plea for granting the interim measure. The reason lies in the shortfalls of the law as the courts' interpretation of Article 311 of CPC is that only the court receiving the case at the first place can grant such interim order as the issuance of interim orders requires specific authorization by the law. Such opinion is more emphasized when the parties to the dispute fail to clearly grant such authorization to the arbitrators. However, granting the right to arbitrators to issue interim orders is needed in for a sound arbitral proceedings. The present paper tries to clarify which authority has the jurisdiction to deal with urgent cases and issue interim orders in arbitral proceedings: the arbitral tribunal or the court or both? This paper also examines how it would be possible for arbitral tribunal to enforce an interim order. Finally, the consequences of the gap in the CPC on the issue of issuing interim orders by arbitral tribunal will be discussed.

Keywords

Arbitration agreement, Arbitral tribunal, Interim measure, Interim orders.

* Corresponding Author

Email: rezahaghparast@ut.ac.ir