

The Impact of the Principle of "competence – competence" on the Arbitration Process: In the Light of the Jordanian Arbitration Law No. 31 of 2001 amendments

Prepared by

Abed Al - Rahman Ahmad Al - Jboor

Supervised by

Dr. Mohammad Hussein Al - Majali

Al-Zaytoonah University, 2023

Abstract

This study aims to shed a light on competence - competence principle and its impact on arbitration. The latter principle is one of the important principles that regulate arbitration. That is because this principle has an impact on the arbitration process and is considered beneficial in this process. Therefore, through this thesis, the researcher aims to examine the authority of the arbitrator in settling the dispute in accordance with his/her jurisdiction. It aims to do that with shedding a light on two aspects. The first aspect aims to identify the meaning of the term (competence - competence principle) and the stand of the Jordanian legislator and the comparative legislations on this principle and its associated provisions. The second aspect aims to identify the cases in which the arbitration tribunal doesn't have jurisdiction and the associated impacts of complying with this principle. The study adopts the descriptive and comparative analytical approach. It reached several results. The most important results include the following: The arbitrator has jurisdiction to look into the cases that fall under his/her jurisdiction. That applies whether this principle was mentioned or not in the relevant legislations. The study offered several recommendations. The most important recommendations include the following: The Jordanian legislator should take into consideration the judicial nature of the task of the arbitrator through enacting a legislative text suggesting that the arbitrator serves as a judge in the arbitration process. The arbitrator serves as the judge settling the dispute in the arbitration process. Enacting this legislative text shall lead to ending the jurisprudential debate about the legal basis for arbitration.

Keywords: competence - competence principle, the Jordanian Arbitration Law, arbitration, jurisdiction of the arbitration tribunal.