

The legal system for arbitration in partnership contracts between the public and private sectors (a comparative analytical study in the light of legislative developments)

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Abstract

The legal system for arbitration in partnership contracts between the public and private sectors. The study aimed to shed light on the importance of arbitration in order to settle any disputes that may arise from partnership contracts between the public and private sectors. The study also aims to indicate the strengths and weaknesses of the law of partnership between the public and private sectors, in comparison with some comparative legislations, in order to reach, at the conclusion of the study, recommendations that would overcome the procedural and legal obstacles contained in this law. The study concluded several results, the most important of which are: that arbitration is an effective mechanism for balancing between the privileges of public authority enjoyed by public persons and the will of the contractor to settle disputes of partnership contracts between the public and private sectors, especially those of an international nature, and that resorting to arbitration would simplify the procedures for adjudicating these disputes. And that the Jordanian legislator has permitted resorting to arbitration in administrative contract disputes implicitly through the text of Article Three of the amended Jordanian Arbitration Law No. (16) of 2018. The study recommends that we wish the Jordanian legislator to amend the definition of the partnership contract contained in Article (2) of the Partnership Law Between the public and private sectors No. (17) for the year 2020 by giving these contracts an administrative character by expressly stipulating that, avoiding the controversy surrounding the legal nature of these contracts.

Keywords: arbitration, partnership contracts, legal system.