

Judicial oversight of the application of the law in international commercial arbitration

Prepared by the student: Salsabela Fayez Al-Maaytah

Supervised by Dr.: Muhammad Fahmy Al-Ghazawi

Al-Zaytoonah University of Jordan, 2023-2024

Abstract

This study addressed the topic of “Judicial oversight of the application of the law in international commercial arbitration,” and addressed the problem of the extent to which judicial oversight is implemented over the arbitration process, especially with regard to issues related to determining the applicable law, and the extent to which the principle of arbitrators’ independence is affected in the event of judicial intervention and oversight. Arbitration process. The study aimed to explain how to choose the applicable law and identify cases in which it is not permissible to apply the law agreed to be applied in the arbitration agreement, in addition to explaining the impact of judicial oversight on the principle of independence of the arbitration panel, by following the descriptive and analytical approach in order to achieve the objective of the study. One of the most prominent findings of the study was that the absence of the will of the parties in determining the applicable law negates the role of the arbitral tribunal in determining this law and applying it to the arbitration procedures and the subject of the dispute, with a commitment that this law does not harm the interest of the parties or one of them. One of the most prominent recommendations was that the study recommends addressing the issue of the lack of will of the parties in determining the applicable law and not leaving it to the discretionary authority of the arbitral tribunal.

Keywords: applicable law, arbitration, party’s intention, arbitration tribunal, judicial oversight.