

The judicial oversight of arbitration in partnership contract between the public and private sectors: An analytical study on Jordan's legislation

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abstract

The study aimed to achieve a primary objective of demonstrating the scope of judicial oversight on arbitration rulings in investment partnership contracts between the public and private sectors. Additionally, it sought to achieve several objectives by elucidating the concept and types of public-private partnership (PPP) contracts, clarifying the legal nature of investment partnership contracts between the public and private sectors, examining arbitration procedures and their suitability for investment partnership contracts between the public and private sectors, and determining the extent of judicial oversight on arbitration rulings in these contracts.

The study employed both descriptive and analytical methods by examining national legislation and referring to international regulations, particularly the New York and Washington Conventions when necessary.

The study recommended that the Jordanian legislator emphasize the administrative nature of PPP contracts, which is clearly reflected in the Public-Private Partnership Law. The Jordanian legislator successfully established a specific legal framework regulating key issues related to PPP contracts through the Jordanian Public-Private Partnership Projects Law No. (19) of 2023 and the Public-Private Partnership Projects Regulation No. (9) of 2023.

The study further recommended granting administrative courts general jurisdiction over all administrative disputes, including those related to administrative contracts, to enable them to exercise oversight over arbitration processes in international investment partnership contracts. It also suggested amending the Jordanian Arbitration Law to include detailed provisions on international arbitration, given the importance of this type of arbitration in international investment partnership contracts. Additionally, the study proposed that the Jordanian legislator, given the permission to resort to arbitration in PPP contracts, include a provision that exempts this type of contract from the list of matters that cannot be resolved through conciliation, to clarify that PPP contracts have a distinct nature and rules separate from concession contracts.