LEGAL ANALYSIS OF MONOPOLY AND COMPETITION IN THE ENERGY MARKET, WITH AN EMPHASIS ON GAS AND ELECTRICITY INDUSTRIES; CHALLENGES AND OPPORTUNITIES

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Abstract

Competition law is known as one of the factors promoting the welfare and economic efficiency in a market economy. But in an economy all industries and all sectors of the Industry may not have the ability to accept the competition, in which the industries or the sectors are known as "Natural Monopolies". So it is said that Energy Industry is considered as one of the natural monopolies and therefore should be entirely in the hands of government. This paper, in addition to reviewing the basic concepts, attempts to address the issue that whether energy sector has acceptability and capacity for competition and how we can apply that. If the answer is positive, then which sector might have that possibility, and basically the promise is absolutely correct that the energy sector, particularly electricity and gas are known to be natural monopolies. This paper aims to both present the answers to the foregoing questions and study the infrastructure, challenges and opportunities of entering the competition in the energy market.

Keywords

competition law, energy market, essential facility, gas and electricity industry, natural monopoly, regulation.

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INTERNET BUSINESSES IN LAW MIRROR

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Abstract

Despite many researchers conducted on electronic commerce, few studies have been performed in the field of Internet Businesses (IBs) with no up-to-date and applicable law. As a result, using library and field study, in one section we state the general rules and regulations governing all IBs, and in the other section we survey appropriative rules and regulations governing every model of IB. Provisions for contract, consideration and contract parties are obligatory for all IBs. On the other hand, though in different sciences we see different classification for IB models, it seems in a legal classification, we can place all IBs under two general models: original model and brokerage model. Assigning fair fee for brokers in virtual space shall be based on their knowledge, capital and effort.

Keywords

brokerage model, electronic goods, electronic service, original model, virtual property.

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PLURALITY THEORY ON CLAIM OF CIVIL LIABILITY WITH A COMPARATIVE STUDY IN FRENCH LAW

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Abstract

The principle of "non-retractable agreement between contractual and non-contractual responsibility" is a traditional rule in the French law and countries adapting the French law of harmony and homogeneity; this rule means that if the claim for petition is based on the mistake, i.e., if it was meant to be based on contractual liability, rather than liability enforced in accordance with established liability or vice versa, a case will be rejected. This, theoretically, creates a dispersion and disorganization in addressing "the claims brought in the courts and the legal precedents"; the other defendant cannot found legal right to compensation. Thus this article gathers two liabilities predicted above.

Keywords

contractual liability, plurality, responsibility, selection between contractual liability and tort liability, tort, Unity Theory.

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LEGAL DEVELOPMENTS ARISING FROM THE MULTI-NATIONAL MARRIAGES IN THE LIGHT OF DEVELOPMENT OF DUAL NATIONALITY WITH AN APPROACH TO IRANIAN NATIONALITY LAWS

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Abstract

Today, more than ever, "multi-national marriages" are taking place, consequently many of the rules of citizenship have changed. Many countries have accepted the equality of citizenship for each party of marriage in a multi-national family and have orientated from "unity of nationality" to the "independence of nationality". Therefore, each parent can pass her nationality through it, and most countries have recognized it. Dual nationality may be happening more than ever and countries according to their own interests, have attempted to recognize and allow dual nationality and this type of nationality is expanding. Although context of nationality from multi-nationality marriages exists in Iran, the Iranian legal system has been less affected by the global developments. The principle still is the "unity of nationality" and transmission of nationality is possible only through father's nationality; although transmission of nationality may be on the basis of a single article of 2006 (Madeh Vahedeh, 1385), that is not enough. Although the dual nationality exists virtually, the Iranian legal system has not allowed it officially. Given the global development, it is better that the Iranian legal system based on the interest of country, reform and be compatible with existing realities and make it statutory. It can also be according to the new population policy of Iran.

Keywords

dual nationality, independence of nationality, multi-nationality marriage, nationality, unity of nationality.

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APPLICATION OF COMPETITION LAW ON GOVERNMENT’S AUTHORITY (ACT D’AUTORITE) AND INCUMBENCY (ACT D’GESTION) ACTS

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Abstract
In this article, we attempt to answer this question whether it necessary and appropriate for government's actions to be follower of inspections of competition law or not? Therefore, first we will describe the literature related to question, then we will answer to the mentioned question in different hypotheses and with paying attention to both performed action in general's power area of authority and merely as a commercial and economical act. Finally, we will present comparative evidence with an emphasis on the US's legal system. Findings of this article are applicable in both areas of internal competition law & international competition law. Since so far, no common treaty or regulation has been enacted concerning the extraterritorial anticompetitive acts. Therefore, pursuing anticompetitive acts which have either international dimensions or are done in the internal market, will be accomplished in national legal system.

Keywords
competition law's exemption and immunity and responsibility of state, government's Authority Act, government's Incumbency Act, international competition law.

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QUASI-NEGOTIABLE INSTRUMENTS

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Abstract
Modern world revolutions have created some instruments known as quasi-negotiable instruments which are different from negotiable ones, despite having some similarities to them. Commercial custom recognizes them as quasi-negotiable instruments. The principle is that we don't need new legal regime for this new category because they are right in personam when they are created and rights in rem when they are circulating in the second market but if they needed new rules according to the custom or market needs, it should be satisfied. The transactions of these instruments are explained according to the assignment in the stage of creation and estoppel when they are circulating in the market in common law. In Iran law, we try to analyze them according to legal fiction and a quasi-estoppel rule.

Keywords
assignment, estoppel, nature, negotiable instrument, properties, stock.

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LE PRINCIPLE DE PRECAUTION EN DROIT AGRO-ALIMENTAIRE ET DROIT D'ENVIRENMENT

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Abstract

The fields of agri-food law and environmental law are based on a set of principles referred to as family of the prudence principle. Among these principles, the precautionary principle is of particular importance and wide application. This principle is a source of multiple obligations and commitments for public authorities and private sector actors in these fields. It has entered into numerous national and international legal texts and has been frequently invoked by courts. Determination of the concept and legal framework of this principle, as well as the process of its establishment is the subject of this paper offered to the realm of research as onset for more and better studies in the mentioned fields.

Keywords

environment, food security, precautionary principle, principle of prevention, Rio Treaty of 1992, WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) of 1994, R l.

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REFLECTION ON THE RELATIONSHIP BETWEEN INTELLECTUAL PROPERTY LAW AND ENVIRONMENTAL LAW

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Abstract
This paper examines the relationship between environmental law and intellectual property law in light of international documents and procedures. The key question raised here is the role of intellectual property law in conservation of global environment. In this regard, we can express two general approaches: the neutral theory of intellectual property right and the systemic theory of intellectual property right. Transfer of environmentally friendly technologies, protection of traditional knowledge in preservation of environment, and protection of less polluting innovation and works are areas which challenge the neutral theory. The fundamental assumption of this paper is based on the principle that environmental aspects of intellectual property rights show that these two areas of law move towards greater convergence. This matter is under influence of environmental concerns in contemporary legal systems. Necessity of attention to environmental considerations in the identification of intellectual property rights is the most important finding of this study.

Keywords
cartagena protocole, convention on biological diversity, environmentally sound technology, international environmental law, intellectual property law, new varieties of plants, Rom convention.

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STEPS IN THE DESIGN OF GOVERNMENT'S CIVIL LIABILITY ARISING FROM PERSONAL ACT AND ACT OF OTHER AND ACT OF OBJECTS IN IRANIAN AND FRACH LAW

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Abstract

In the old law, the government had no civil liability and gradually through legal regimes mentioned this responsibility. In Iranian law, civil liability of government is proposed apparently in Article 11 of the law of civil liability that was adapted from old theory of the 19th century in French. However, the analysis of aforementioned article shows that the government's civil liability simply is not acceptable. Whereas, today in the law of France and other countries, government's civil liability has been proposed as a principle. And not only personal responsibility, but the responsibility resulting from act of other and liability of act of objects has been accepted for states. Government's liability for the acts of the legislative and the judiciary has been proposed. In Iranian law, in the current status, the principle of separation of powers, design acceptance of government's liability for the acts of others have faced some difficulties. On the other hand, a bill was introduced in this context; if approved, that would somehow resolve the defects of Iranian law, but if the bill was ignored, that will be examined in this paper.

Keywords

employee, governance practices, government, incumbency practices, responsibility.

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