

The Leasing Contract in Palestine: Provisions and Termination

"A comparative and analytical study"

Abstract

This study deals with the leasing contract in Palestine in terms of its provisions and termination in comparison with the Palestinian Law-Decree No. (6) of 2014 on Leasing and other laws, in particular the Jordanian and Egyptian ones.

The first chapter of this study addresses the provisions of the leasing contract, in terms of the obligations and rights of both the lessor and the lessee, in which some of them were in agreement with the general rules of the lease contract, and others are totally different from these general rules. The reason for this difference is the particularity and the financing nature of the financial lease. The underlying reason for this difference is burdening the lessee with many of the obligations that were supposed to be the responsibility of the lessor, especially being responsible for the loss of the subject matter of the contract, its damages, and the damages caused to third parties by the use of the leased premises. In return, the financial lease contract grants the lessee the right to file a lawsuit against the supplier directly, and to buy the subject matter of the lease at the end of the contract period.

The study concluded that the Law-Decree No. (6) of 2014 is consistent with the Egyptian and Jordanian laws in the majority of its provisions, while some of them were inconsistent of these laws .The study illustrates both the aspects of agreement and disagreement between the compared laws and overweighs those which are better in this direction.

The second chapter deals with the expiration of leasing contract, whether as a result of the end of the period specified in this contract, or termination of the contract due to a variety of reasons, and finally the contractual liability as a result of the breach of the contract and cases of exemption. These topics have been addressed in accordance with the provisions of the Palestinian law-decree on financial leasing and the Jordanian and Egyptian laws. The study also refers to the general rules of civil law (the Mejella) in addition to the Palestinian Civil Code draft where is no explicit text in law-decree.

The aim of this comparison is to provide a comprehensive perception on the provisions governing the financial leasing contract in terms of termination; the accuracy and weaknesses of these provisions, and the way forward to amend them. A set of findings and recommendations have been reached.