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A COMPARATIVE STUDY ON ARBITRARY CLAUSES OF E-COMMERCE CONTRACTS

Abstract:

The arbitrary clauses are supplied by the professional or the stronger party in contracts concluded where one party is a weaker non-professional compared the stronger professional, with aims of realizing the interests of the non-professional at the expense of the other party. Compliance Contracts include arbitrary clauses and the emergence of compliance contracts was one of the most important reasons leading to the creation the arbitrary clauses. As a number of researchers have claimed it is the fertile field on which the arbitrary clauses clearly appear. This study explains the meaning and features of the compliance contract briefly, then goes on to explain to what extent E-Commerce Contracts along with compliance contracts can be considered by the consumer. The study also analyses the meaning of the arbitrary clause and its invalidity. Finally, the study will present the constitutions of arbitrary clauses in E-Commerce contracts and how to resist them. In particular, comparisons are made in the Egyptian and French legislations as well as a number of European directives and legislations, with an analysis on various legal provisions contained in Egyptian, French and other European directives. Attention will also be paid to Arab laws and articles which serve to regulate electronic transactions.

Keywords:

Arbitrary, Clauses, E-commerce, Compliance, Invalidity, Authority

JEL Classification: K12, K12, K12