

# Contract law analysis persuasive



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Contract A contract is a promise between two or more persons involving the exchange of some good or service. Some of the basic elements of a contract include: an offer and an acceptance; “ capacity,” or being of legal age and sound competence; “ mutual assent,” or agreement on the terms of a contract; and “ consideration,” or compensation for goods or services rendered.

The element that distinguishes a contract from an informal agreements is that it is legally binding: the law provides a remedy in the event that the promise is not fulfilled. Bylaw, certain types of contracts must be in writing, but oral contracts are valid in many situations. An oral contract may be held to exist even in the absence of agreement as to all its terms. Contract provides the same meaning of Turkey and America .

so it does not matter wherever you are. There is no differences between two law systems about contract. Turkish contract Law Due to the fact that the Turkish Code of Obligations has been adopted from the Swiss Code of Obligations, it is useful to analyze the Swiss legal literature and the court precedents on this subject. The Turkish Supreme Court of Appeals also refers to the Swiss legal literature and case law in a number of its decisions Under Swiss law, the “ two-stage theory” (Zweistufentheorie) applies to determine the legal regime which would apply to the private law contract executed for the performance of some services of the administration by private law persons.

The first stage takes place before the execution of the relevant contract with the private law entity. This stage consists of the commencement of a bid or

similar process, principles to be followed in this regard, realization, and finalization of bidding procedures. All sorts of acts and procedures carried out by the Administration during this first stage have an “ administrative” nature and are subject to the rules of administrative law. The second stage is, however, is framed by the execution stage of the administrative act which is completed in the first stage. Following the completion of the first stage, which is subject to the rules of administrative law, a private law contract would be executed. This second stage, namely the private law contract so executed, will entirely be subject to private law and the necessary legal forum for the settlement of disputes in this context would be the civil courts, or the arbitration tribunal if the parties’ contract contains an arbitration clause.

As for the consequences that may result from the “ two-stage theory”: all problems related to the private law contract executed at the second stage, for instance, whether such contract is valid or terminated or other similar matters, would be exclusively subject to the Code of Obligations.

Consequently, any invalidity that might occur at the administrative act stage or cancellation of some or all of the administrative acts regarding that stage shall never affect the validity of the private law contract. The validity of the contract shall be decided only on the basis of the rules of the Code of Obligations to which the contract is subject. American contract Law Due to the fact that the American Code of Obligations has been adopted from the England Code of Obligations. The Statute of Frauds was enacted in England in 1677, and it has been adopted in one form or another by all 50 states.

In order to prevent fraud on the part of either party in the exchange of goods, the statute requires a written contract for: one, the sale of land; two, the assumption of the obligations of another party, such as the co-signing of a loan; three, transactions that take more than one year to complete; and four, sale of personal property for more than \$5, 000 . One of the largest misconceptions about contracts is that they have to be in writing to be enforceable. Written documents do not create a contract. Contractual relationships can be, and commonly are, evidenced by written agreements, but they can also be proven by behaviour of the parties and the existence of multiple documents (faxes, email, hand written notes) that prove the elements of a legally binding contract.

Legally binding contracts can, and often are, oral in nature. Oral contracts can be enforceable by US courts. Contracts are reduced to writing and signed by parties to the contract largely to provide objective proof that a contractual relationship exists, and to provide written guidance as to the terms and conditions thereof. Without written documentation that shows a contractual relationship exists, it can be quite difficult and time consuming to prove the terms of a contract in a dispute and can include protracted litigation. In basic terms, a common law contract is not a promise to complete (or refrain from completing) an action. First of all, we do not have the Turkish equivalent of the American Statute of Frauds under Turkish Laws, since judiciary systems are quite different in Turkey and USA.

In Turkey, we have Civil Law system, where codes make the law, whereas in USA, you have Common Law system, where the legislations are made by the court precedents. That is why, we may not be able to find exactly compare

between two law system. Finally if we take a look at those two contract law systems , there is a big difference about the judiciary systems . I think the USA judiciary system is little bit better than Turkish system because Turkish system based on only judge decision .

But USA you have different people who are the juries. They look at the trial like a objective.