

OPEN PEER REVIEW

Feasibility of Contractual Liability of Foreign Investment Companies in Iraq

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1. Round 1

1.1. Reviewer 1

Reviewer:

The sentence “Drawing upon the theoretical foundations of civil and commercial law, this study aims to define contractual liability precisely and distinguish it from other forms of liability (such as tortious liability).” — The article promises to rely on theoretical foundations but does not explicitly name or summarize key theories (e.g., Sanhoury’s general theory of obligations). Please integrate a short, critical discussion of these frameworks to ground the study and clarify how they guide your analysis.

The sentence “Legally, the parties to an investment contract may agree to aggravate the contractual liability of the foreign investor toward the host state.” — Please clarify whether this principle has been tested in Iraqi courts or arbitration practice. Adding case references or scholarly debates would strengthen the argument’s practical relevance.

You write “Studying the concept of contractual liability of foreign investment companies in Iraq first requires defining ‘foreign investment’ and then clarifying the intended meaning of ‘contractual liability.’” — After this statement, a transitional paragraph linking foreign investment realities (oil, construction, technology transfer) with practical breach scenarios would make the section more context-driven and less purely doctrinal.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

You quote multiple definitions (Mustafa, 1991; Al-Qasabi, 1993; French Court of Appeal) but do not analyze their conceptual divergences. Add a comparative paragraph explaining why the selected definition is most relevant for Iraq's legal and economic context and how it informs your subsequent liability analysis.

The article states "Contractual liability, in all its forms, arises only when three essential elements — breach, damage, and a causal link between them — are present." However, no conceptual diagram or table summarizing these elements appears. Including a figure or tabular synthesis could enhance clarity and accessibility for readers.

The discussion of "external cause" is doctrinally accurate but remains abstract. Provide one or two real or hypothetical Iraqi investment disputes where force majeure or third-party acts were successfully invoked to exclude liability. This would make the concept operational.

The statement "This analysis clarifies that exemption relieves the company but still allows the host to pursue claims directly against third parties." — Consider citing or discussing whether Iraqi law or arbitration practice has recognized this route, and whether there are limits for host states suing subcontractors directly.

While the paper notes Iraq's reconstruction and need for foreign capital, it does not situate Iraqi contractual liability rules against other MENA or developing economies. Adding a short comparative remark (e.g., how UAE or Jordan handle exemption clauses) would strengthen international relevance.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.