
Description of Judgment from the Perspective of Reviewability (Appeal)

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Abstract

There are several peculiarities for judgment, four of which are more important. These characteristics are related to reviewability of the judgments. These characteristics are considered binding and are enforced by sanctions: the characteristic of appeal; the characteristic of the way of appeal; the characteristic of appeal court and appeal time. These four matters are considered to be the matters of fact, and not the matters of law. These matters should be described while applying the rules on the specific cases. For this reason, the judge may not dismiss these elements by resorting to general assumptions such as people's awareness of the law. Three of these matters are grounded in the duty of judges to issue suitable judgments and the fourth is based upon the right of notification. The notification of judgment logically reflects and contains the notification of time of proceedings, unless if after the notification no legal action can be taken. This article strives to justify the judge's duty of description of those four characteristics. Finally, this paper discusses the legal sanctions on this respect.

Keywords: Characteristics; Dispute resolution; Certain judgment; Notification; Matter of fact.

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References

1. Abhari, Hamid, (2013), *Civil Procedure (2)*, Babolsar, University of Mazandaran Edition. (in Persian).
2. Beheshti, Mohammad Javad & Nader Mardani, (2007), *Civil Procedure*, vol. 2, Tehran, Mizan Edition. (in Persian).
3. Blondel, Philippe, (2004), *Pourvoi en Cassation*, in : *Dictionnaire de la Justice*, Sous la direction de Loïc Cadiet, Paris, Puf, p. 1003-1009.
4. Cadiet, Loïc et Emmanuel JEULAND, (2013), *Droit judiciaire privé*, Paris, LexisNexis.
5. Cadiet, Loïc, (2008), *La sanction et le procès civil*, in : *Mélanges J. Héron*, L.G.D.J. Lextenso éditions, p. 125-154.
6. Cadiet, Loïc, Jaques NORMAND et Soraya AMRANI MEKKI, (2013), *Théorie générale du procès*, Paris, Puf.
7. Croze, Hervé, Christian MOREL et Olivier FRADIN, (2008), *Procédure civile – Manuel pédagogique et pratique*, Paris, Litec.
8. Dauchy, Serge et Yves-Marie SERINET, (2014), *Notion et fonction des voies de recours*, in : *Itinéraires d'histoire de la procédure civile*, Sous la direction de Loïc Cadiet, Serge Dauchy et Jean-Louis Halpérin, Paris, IRJS Editions, p. 109-118.
9. Ghamami, Majid & Amirhosein Rezainejad, (2007), *Double Degree Jurisdiction in Iranian and French Legal System*, *Comparative Law Review*, New Edition Number 2, autumn and winter, Pp. 107-151. (in Persian).
10. Hormozi, Kheirollah, (2009), *Final Judgment in Iranian Legal System*, *Research of Law & Politic*, Number 24, Pp. 251-287. (in Persian).
11. Karimzadeh, Ahmad, (2002), *Disciplinary Control in Legal System*, vol. 3, Tehran, Official Journal. (in Persian).
12. Katouzian, Nasser, (1998), *Quiz of Appeal and Conflict of Social Power*, *Journal of Faculty of Law & Political Sciences*, Number 38, Pp. 5-18. (in Persian).
13. Katouzian, Nasser, (2005), *Res judicata*, Tehran, Mizan Edition. (in Persian).
14. Katouzian, Nasser, (2016), *Introduction to Law*, Tehran, Enteshar Co., (in Persian).
15. Matin Daftari, Ahmad, (2000), *Civil and Commercial Procedure*, vol. 2, Tehran, Majd. (in Persian).
16. Mohseni, Hassan and Hoomayon Rezainejad, (2012), *Third Party's Protest on Enforcement Proceedings in Comparison with Third Party's Objection to Judgment*, *Private Law Journal*, Volume 8, Number 1, Pp. 81-108. (in Persian).
17. Mohseni, Hassan and Mohamad Pourtahmasebifard, (2006), *Party autonomy in Procedure civil*, *Journal of Iranian Central Bar Association*, Number 21, Pp. 53-77. (in Persian).

18. Mohseni, Hassan, (2009), *Procedural Justice*, Journal of Faculty of Law & Political Sciences, Volume 38, Number 1, Pp. 285-319. (in Persian).
19. Mohseni, Hassan, (2012), *Civil Procedure of France*, vol. 1, introduction by Loïc Cadiet and Abbas Karimi, Tehran, Enteshar Co., (in Persian).
20. Mohseni, Hassan, (2014), *Organizing of Civil Procedure*, Preface by Nasser Katouzian, Tehran, Enteshar Co., (in Persian).
21. Mohseni, Hassan, (2015), *Civil Procedure of France*, vol. 2, introduction by Loïc Cadiet and Majid Ghamami, Tehran, Enteshar Co., (in Persian).
22. Mohseni, Hassan, (2015), *Formal & Substantial Defects in Civil Procedure*, Private Law Research, Year 2, Number 6, Spring, Pp. 139-159. (in Persian).
23. Mohseni, Hassan, (2015), *Formal & Substantial Defects in Civil Procedure in French Law*, Comparative Law Review, Year 2, Number 6, Pp. 793-808. (in Persian).
24. Mohseni, Hassan, (2015), *Situation of Conflict Resolution Counsel and Extraordinary Ways of Attack on its Judgments*, The Judiciary Law Review, Year 72, Number 92, Pp. 151-174. (in Persian).
25. Nahreini, Fereydoon, (2012), *Revision by Chef of Judicial Power*, Tehran, Ganjedanesh. (in Persian).
26. Research Institution of Judicial Power, (2015), *Supreme Court's Judgments (civil – winter of 2013)*, Tehran, Judicial Power's Edition Center. (in Persian).
27. Rezainejad, Amirhosein & Hoomayon Rezainejad, (2011), *Default Judgment*, The Judiciary Law Review, Year 75, Number 75, Pp. 173-197. (in Persian).
28. Rezainejad, Amirhosein, (2012), *Civil Procedure (ordinary way of attack on judgment)*, Preface by : Majid Ghamami, Tehran, Andishgaran. (in Persian).
29. Sadrzadeh Afshar, Seyed Mohsen, (2012), *Civil and Commercial Procedure*, Teharn, Allame Tabatabai University Jihad. (in Persian).
30. Salehi Zehabi, Jamal, (2011), *Principle of Relativity of Judgment*, The Judiciary Law Review, Year 74, Number 71, Pp. 41-71. (in Persian).
31. Sarshar, Mahmood, (1937), *Revision*, Law Review, Number 29, Pp. 26-28. (in Persian).
32. Shahidi, Moussa, (1962), *Judicial Principles*, Tehran, Elmi Edition (in Persian).
33. Shams, Abdollah, (2009), *Civil Procedure*, vol. 2, Tehran, Derak. (in Persian).
34. Vahedi, Javad, (1991), *Revision in Civil Cases*, Numbers 150-151, p. 11-46. (in Persian).
35. Youssefzadeh, Morteza, (2013), *Civil Procedure*, Tehran, Enteshar Co, (in Persian).