

A Comparative Study of Loss of Abstract Opportunity in French Law

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Abstract

The theory of loss of opportunity, which accepts the opportunity as a valuable advantage and distinguishes the ultimate loss from the loss resulting from the deprivation of opportunity, has provided the possibility of partial compensation for these losses. However, one of the main conditions for applying this theory is the existence of a serious and real opportunity; otherwise, the damage caused will not be compensable. At the same time, the way in which this theory is applied in some specific areas, such as civil liability claims related to the securities market, has changed. A new version of the theory of loss of opportunity, fundamentally different from the traditional one, is applied, sometimes referred to as the theory of loss of abstract opportunity. In this article, while examining French case law on the formation of the theory of loss of abstract opportunity in the aforementioned cases, the fundamental question is discussed: is it correct to develop the theory of loss of opportunity to this extent? In short, it seems that although it is very difficult to establish the causal relationship and certainty of loss in stock market cases, the application of the theory of loss of abstract opportunity in these cases also raises numerous ambiguities and challenges.

Keywords: loss of opportunity; abstract opportunity; seriousness of opportunity; reality of opportunity; information disclosure.

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