

Comparative Analysis of the Status of Representative Contracts with Bad Faith in the Legal Systems of Iran and France

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Abstract

The formation of an agency contract creates rights and obligations for both parties involved. This includes the obligation for the representative to refrain from bad faith and misuse in transactions concluded on behalf of the principal. Sometimes, a representative may not exceed the limits of their powers and duties as defined in the contract. However, they might act in bad faith and misuse the rights granted to them under the agency agreement. As a result, they could conduct transactions that disregard the interests of the principal. Unlike the French legal system, which considers the right to invoke nullity for the principal in case of bad faith by the representative, the Iranian legal system has remained silent on the judgment of such transactions. However, based on jurisprudential and legal principles, the judgment of non-enforceability of such transactions seems more valid based on the principle of no harm or prohibition of misuse of legitimate rights, unless a legal act corrects the appearance of a certain type of legal act.

Keywords: agency contract; bad faith; good faith; no harm principle; the status of transactions.

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