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Differences in the Bases of Arbitrability in the Laws of Iran, Germany, England and France

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Abstract:

Arbitrability means the ability to refer an issue to arbitration with the principles that are stated in the Iranian law in the international commercial arbitration law. In the Civil Procedure Law of Iran, there is no discussion about the basics of arbitrability, but according to Article 34 of the International Commercial Arbitration Law, public order, good morals and rules of procedure can be considered as the main basics of arbitrability. This research examines the different aspects of arbitrability in Iranian law and compares it with the laws of three European countries: Germany, England, and France. The findings of the research show that both in Iranian law and in the law of three European countries, the principle of arbitrability of claims is. In Iranian law, if there are issues that are in conflict with these principles, they cannot be referred to arbitration. In English law, the arbitration law of 1996 does not discuss the principles of arbitrability. According to the judicial practice of this country, public order is the most important basis for arbitrability. In English law, public order does not prevent the referral of issues to arbitration. But the arbitrator's opinion should not be against the principles of arbitrability. French law is similar to Iranian law in terms of fundamentals, and according to Article 20 of the French Code of Civil Procedure, public order and good morals and rules of procedure are considered to be the main bases of arbitrability. The country is arbitrable in relation to Iran's rights. In German law, public order and moral rules of conduct and public security are considered as the bases of arbitrability. In the laws of these three European countries, in addition to the internal bases of arbitrability, international public order and European Union laws should also be considered in the issues.

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Introduction

In Iran's domestic law and in the civil procedure law, there is no mention of the principles of arbitrability. Article 457 of the Civil Procedure Law postpones the referral of government and public claims to arbitration for the approval of the Board of Ministers without giving any reason for this. Article 496 of the Code of Civil Procedure considers claims regarding bankruptcy and the principle of divorce and its termination as non-arbitrable. On the other hand, the only article that is a little close to the principles of arbitrability is paragraph one of Article 489 of the Code of Civil Procedure regarding existing laws. It is right. According to this article, the arbitrator's opinion should not be against the laws of the creator of the right. Without mentioning the definition of the creator of the right and having made different definitions regarding the laws of the creator of the right. On the other hand, it can be seen that many claims are considered non-arbitrable. Lawsuits such as termination and invalidation of the transaction, intellectual property, invalidation of patent rights, and worker's and employer's claims, etc., the existence of this division and duality is due to the lack of identification and recognition of the bases of arbitrability. In Iranian law, the basis of arbitrability has been discussed only in one place. Also, in the third paragraph of Article 34 of the International Commercial Arbitration Law, it is stated in this article that if the arbitrator's decision is in conflict with the general order of good morals, mandatory rules and official documents, it is invalid. These grounds are known as the grounds for annulment of the arbitration award, if the civil procedure law only provides for the guarantee of the annulment of the arbitrator's award. These issues have caused in various cases, including instances of the right or necessity to appeal the votes in time. The annulment of arbitration, different theories and procedures can be seen. The correct diagnosis of arbitrability and the solution of these problems are possible with the basics of arbitrability. Public order and good morals are the most important bases of arbitrability in Iranian law. Considering that most of the laws are rooted in public order, it cannot be said that every matter in which public order is observed is not arbitrable. In French law, as in Iran, Article 2059 declares claims such as the principle of marriage, bankruptcy, and public law to be non-arbitrable. But due to the fact that in the latest revisions of the arbitration and international laws, they have become one and the international public order is superior to the domestic public order, the judicial procedure has greatly reduced the non-arbitrable cases. It is to find out how these countries have dealt with issues related to arbitrability. In the laws of three European countries (Germany, England, and France), referral to arbitration is prevented only when the violation of public order hurts public sentiments. A scale that prevents judges from abusing the issue of public order. Therefore, a European judge considers both domestic public order and international public order in determining public order. Based on this criterion, in English law, by using the judicial

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procedure in determining the examples of public order, the absolute majority of claims are arbitrable, because the legal system and judges of this country have greatly reduced the examples of public order and good morals with the numerous votes they issued. And German law has also followed such a procedure. The current practice of these three European countries is the arbitrability of issues with the roots of public order. Determining the basis of the arbitrability of claims is a formula that can be used in all issues.

-1Domestic and international arbitration law

In Iranian law, international arbitration is subject to the International Commercial Arbitration Law approved in 2016. International commercial arbitration law is about arbitrations

which has an international element. In fact, the international commercial arbitration law has incorporated the new and innovative regulations that have been expressed at the international level regarding arbitration to a large extent. Meanwhile, domestic arbitration is subject to the provisions of the Civil Procedure Law approved in 1379.

In terms of the fundamentals of arbitrability, there is no mention of this in the civil procedure law. Even the bases of mistakes have been explained in the Civil Procedure Law of Iran. For example, in Article 34 of the International Commercial Arbitration Law, the invalidity of the arbitration agreement is discussed, and grounds such as public order, good morals, and conflict with official documents are among the cases of invalidation of the arbitration agreement. This is despite the fact that Article 489 of the Civil Procedure Law does not mention invalidity and considers votes to be invalid. Also in line with protesting the arbitration decision within 20 days.

Many of the grounds that are considered null and void in Iranian law are mentioned in the civil procedure law under the title of annulment of arbitration award, and this is despite the fact that there is a big difference between annulment and annulment, which are different from each other in terms of basis. It renders the arbitrator ineffective from the very beginning, but invalidates the arbitrator's decision after the arbitration has begun.

In English law, which is derived from judicial opinions and written laws, there is a ruling regime in domestic and international arbitration.. Shiravi, 2013, p. 13 (in fact, it is the English Arbitration Law approved in 1996, which applies both to domestic and international arbitrations. International arbitration is applicable. There is no mention of the grounds of arbitrability in the English Arbitration Law, but the judicial practice in England has helped to explain the grounds of arbitrability. What is stated in Article 7 and 30 of the Arbitration Law of England, according to the Law of Arbitration, is an inherent jurisdiction that is established by law and is separate from the jurisdiction of public courts. Actually, in English law, there is no difference between domestic and international arbitration and the rules governing it. As a

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result, the provisions of arbitrability in English law are the same in domestic law and international law.

In German law, the arbitrability of claims under the German Arbitration Law is known as zpo, which is applicable both in domestic law and in international law. Of course, the German Arbitration Law is similar to Iran's International Commercial Arbitration Law, inspired by the UNCITRAL Model Law. It is clear that the principles of arbitrability of Iran's Commercial Arbitration Law are very similar to the German Arbitration Law.

In French law, domestic and international arbitration has gone towards unification, which we will explain below. In fact, in French law, arbitration is according to the civil procedure law of this country, which is used both in domestic law and in international law. (Langerodi 2014 p. 519)

The unification of domestic and international arbitration has many advantages, such as considering the observance of regulations in the international field, including international public order, and considering the principle of arbitrability of international commercial claims, the basics of arbitrability are explained in such a way that many claims under Include arbitration. For example, while the arbitrability of claims such as competition and government in Iranian law has some limitations, these limitations are not seen in the laws of three European countries. Of course, French law is limited considering that it has written law and has spoken in this field in Article 2060. Another advantage of unification of domestic and international arbitration is to achieve unity in terms of fundamentals. In the laws of all three European countries, if the arbitrator's decision is against public order, it is considered invalid. Of course, the judicial procedure in these three countries has moved towards the exclusion of public order cases from arbitrable issues. But in Iran's internal law, all examples of public order are considered as the law that creates the right, and the decision can be overturned if the issue is not correct.

1-1- The supremacy of international arbitration and its provisions over domestic law

According to 972 of the Civil Code, foreign rulings and regulations in Iranian law can be recognized in Iran if they do not conflict with domestic public order. International law cannot be recognized in Iran's domestic law according to the civil procedure law.

This issue is somewhat different in French law. In French law, the French Court of Justice announced in 1971 that the provisions of Articles 2059 and 2060 of the French Civil Code cannot be applied in international arbitrations. As a result, France does not have the same procedure in the concept of public order and the arbitrability of claims in the domestic and international environment, and many issues, including the arbitrability of government property, which are not arbitrable in domestic law, are considered arbitrable in the international

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environment. This important point shows the superiority of international arbitration over domestic arbitration in French law, because France is also part of the European Union and follows the rules and opinions of the European Court of Justice and the European Community. As a result, it is different from Iranian law. Lehmann, op.cit, p.61. 38.). (

It seems that the legislator has not determined the enforcement guarantee for articles 2059 and 2060 of the French Civil Code regarding claims that cannot be referred to arbitration, which is different from Iranian law. However, according to the fifth paragraph of the last article, one of the reasons for the annulment of the international arbitration award in France is when the recognition or implementation is in conflict with the international public order. This shows that sometimes the international public order is superior to the domestic public order in the field of arbitration in French law.

Therefore, it is concluded that the degree of importance and application of domestic public order in French law is not very high and they give more importance to international public order. Examples of these cases are given below.

we will pay:

In German law, considering that domestic and international arbitration laws are the same, international arbitration rules and principles are preferable to domestic laws. (Norton rose op Cit 11)

Of course, English law is similar to Iran. In some jurisdictions of England, the judges argued that if it is an international contract, it should be checked whether it is under the international public order or not. Therefore, in English law, unlike the French law, judges are not required to obey the international public order. (Lawrens op.cit, p.371)

1-2- The supremacy of domestic public order over international

One of the results of the principle of superiority of international arbitration over domestic is to accept the principle of superiority of international public order over domestic public order. While such a principle and assumption is not accepted in the law of Iran, the situation is completely different in the law of the three European countries, Germany, England and France, and the international public order is superior to the domestic public order. Why is the arbitration of these three European countries based on Arbitration is international and the law of domestic and international arbitration is the same in the laws of these three countries. This issue also causes differences in the field of public order.

2-Difference in the foundations of public order in arbitrability

In Iranian law, the principle is arbitrability of claims. But Iran's judicial practice does not accept this principle and considers the matter non-arbitrable in terms of non-observance of the laws

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that create the right, compliance with the mandatory rules and the connection with public order. For example, intellectual property claims or employee and employer claims and many claims are theoretically arbitrable, but in the judicial procedure, these issues are considered non-arbitrable.

In French law, French courts began to question key concepts and discover ambiguities in the definition of public order regulations by using judicial practice. When will individual rights and arbitration become available through legal contracts? When does public order create a prohibition on arbitration involving a fundamental violation of a legal right? So it is quite clear that if French law is currently leading the way in the field of arbitration, it was because French judges questioned key concepts of public order. This issue can also be implemented by Iranian law. The purpose of this development was to create a judicial doctrine so that lawyers could compensate for the weakness of French arbitration law. (Tissot 1950 p. 7)

In English law, the situation is the same, and considering that the roots of English law are in common law, and judicial courts have an important role in the laws of this country, judicial courts rule in various lawsuits, including lawsuits of competition rights, labor and employer rights, and government property. They have given the arbitrability of these claims.

In German law, due to the inspiration of the UNCITRAL law and the principle of arbitrability of claims in the laws of this country, and the clarification of exceptions and compliance with the laws of the European Union and the unity of domestic and international arbitration, the examples of public order are very limited, even in the field of Arbitration related to inventions which are prohibited by the law of this country, judicial votes have issued a ruling on the arbitrability of this category of lawsuits.

2-1- Counting the source of international public order in arbitrability

In Iranian law, international public order cannot be considered as a definitive source of public order. Because the international public order is more subordinate to the sovereign policies. For example, the non-proliferation of nuclear weapons may be considered international public order, but currently the great powers of the world and many regional powers do not respect this public order due to political and governance reasons, and therefore the subjective theory in defining order Public is also not very effective in Iranian law.

Although in the laws of three European countries, Germany, England and France, it can be definitely said that international public order is one of the sources of public order. Because the rights of these three countries are subject to the laws of the European Union in addition to the domestic laws, and they are obliged to observe the international public order. In addition, the domestic and international arbitration laws of these three countries are the same.

2-2- The difference between Iranian and British laws in the field of arbitrability of public order

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One of the important differences between Iranian and British laws is in the arbitrability of claims in the domain of public order. English jurists believe that today, English law allows arbitration in the realm of public order, and there is no restriction on the subject of the dispute that is referred to arbitration, and the English judicial procedure is generally based on the principle that any private claim can be referred to arbitration. (Lehmann, op.cit, p.74) Therefore, among other European countries, in English law, due to the lack of mention of non-arbitrable issues, more claims can be arbitrable, and the problem of public order is also in the shadow of the procedure. Judiciary has been lifted in this country

In Iranian law, public order is one of the obstacles to the arbitrability of claims, which has been discussed many times, and in this respect, it is different from English law.

2-3-Examples of public order in arbitrability

There is no definition of public order in the laws of Iran and the three European countries of Germany, England and France. Rather, its examples are left to judicial procedure. The jurisprudence of the three countries are different in determining the examples of public order. One of the examples of public order, for example, is Ghoban's cucumber. In German and English law, a bad cucumber causes the transaction to be invalid and public order is against. On the contrary, in French and Iranian laws, a missing cucumber causes the termination of the transaction.

Another example of public order is the insanity of the wife. So that in German law, the insanity of the wife is one of the legitimate reasons for divorce, but in French law, it is not possible to refer to the insanity of the wife and it is against public order.

In France, divorce by mutual consent is not legally possible

it is legal in Iran and other Islamic countries. Therefore, it can be seen that the examples of public order in each country are different from other countries.

2-4-The domain of public order in arbitrability

In the laws of three European countries, Germany, England, and France, the judicial procedure predicts that any danger is not harmful to public order, but the danger must be real and potential. In fact, in the laws of these three European countries, the issue is considered to be in conflict with public order if the real danger causes public feelings to be hurt. This theoretical argument is very correct and has strengthened arbitrability in the laws of three European countries. Because every danger does not affect the public order and this danger must contain real and serious danger.

This issue is at the forefront of the judicial procedure and judges of this country, and most of the lawsuits are considered arbitrable from this point of view.

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In Iranian law, the situation is different. Although the principle is that all claims are arbitrable, it can be seen in practice that the judicial practice considers even the claims related to nullity and annulment of the contract or termination of the contract to be non-arbitrable. Therefore, Iranian judges do not consider any matter that is against public order to be non-arbitrable. are considered

2-4- Interference of foreign elements in public order

In Iran's laws and in the recognition of public order, only domestic laws are considered and international public order is not considered. In fact, Iranian law only pays attention to public order in its own country and is subordinate to it in three European countries, Germany, England and In France, a few general rules should be taken into account:

1- General domestic order of countries

2- General order of the European Union

3-International public order

For this reason, in the law of three European countries (Germany, England and France) currently, arbitrability does not conflict with public order, and only significant issues of arbitrability should not be against their most basic values.

The conclusion that can be drawn is that the member states of the European Union cannot simply look at the laws of their country as public order and must look at the country of origin from different angles in order to be able to consider the issue as an obstacle to arbitrability due to public order.

Therefore, according to the above interpretations, it seems that European law is facing confusion regarding the application of public order in arbitrability. On the one hand, the European Court of Justice issues opinions that the member countries have the same procedure in public order. On the other hand, the hands of the judges in each of the European countries, including the countries we are discussing, are free to accept and refer arbitration in controversial matters. Public order is lost.

2-5- The extent of examples of good manners

First of all, it should be said that one of the most important bases for arbitrability of lawsuits is good morals, which is a subset of public order. In fact, like the general order of good manners, it also has examples. In the laws of Iran and three European countries, there is no definition of good manners, and determining its examples is left to judicial procedure. Good manners generally have religious roots, and their examples are more widespread in countries that have religious roots. (last page 42)

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Iran's law is one of these countries where examples of good morals are widespread and rooted in religion, but in the laws of three European countries, Germany, England and France, there are fewer examples of good morals than domestic law. For example, in English criminal law, morality is recognized and the influence of morality is evident in it. A significant number of actions are known as crimes not only because of the contradiction with morals, and if someone claims that guilt and crime are considered related actions, not because of its contradiction with moral ideals, but because of the violation it brings to the public order. Background It can be said that many rules in English law, which are in criminal law, are recognized as crimes due to opposition to good morals. Therefore, in English law, issues against good morals are arbitrable. The situation is similar in French and German law (delboland 2009 240-245). Most of the moral issues are specified in the provisions of the criminal law, but naturally, it is much less than the laws of Iran.

6-2-Laws establishing the right to arbitrability

In Iranian law, Article 489 of the Civil Procedure Law stipulates that if the arbitrator's decision is contrary to the law, such decision is considered invalid. In fact, without defining the laws establishing the right to issue votes against such a legal institution, the Iranian legislator considers it invalid. (Shams 1395 p. 552)

Therefore, unlike Iran's laws, we do not have the right to violate the laws of France, and there is no problem if the arbitrator's opinion is contrary to it, because there is no term under the title of violation of the laws of France.

In English law, it is discussed that the arbitrator's decision must be in accordance with moral and behavioral laws, therefore, in English law, we do not have the right to use the term contrary to the law. But the term contrary to moral and behavioral laws is equivalent to what English law has considered in the context of the creation of rights. The term contrary to moral and behavioral laws has a wide scope and refers to all laws that have a moral nature (fiudjo 2004 p73).

In German law, there is no discussion of the laws creating the right regarding the annulment of the arbitrator's decision and similar terms

3- The difference between Iranian and German laws in terms of arbitrability criteria

The criteria for arbitrability of lawsuits in German law, unlike Iranian law, is economic benefit, and all issues that have economic benefits are arbitrable. Whether the issue is related to the government or individuals. Therefore, the arbitrability of government lawsuits or lawsuits related to insurance and the stock exchange, all issues with economic benefit can be arbitrable. The important point is that even the issues that do not have economic benefit, such as family lawsuits and the issuing of rulings, such as gold In German law, disputes are also arbitrable,

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provided that they can be reconciled by the parties to the lawsuit. Therefore, what is important in German law regarding the ability to refer non-financial claims to arbitration is the ability to compromise and agree on the issue. Arbitrable, referable to arbitration or custody claims. Here, contrary to Iranian law, which only refers to public order, the criteria for conciliation to refer a claim to arbitration is not public order. Therefore, in Iranian law, there is no economic criterion for claims to be arbitrable. Because non-economic issues are also not arbitrable (Norton Rase 2007 p 15)

Therefore, as it was said, the criterion for referencing the arbitration agreement is the ability to compromise on issues, which of course have their roots in public order, but it is possible that some issues can be compromised and have their roots in public order. Therefore, in Iranian law, for example, regarding contractual disputes, there is no doubt that any kind of compromise can be made. It is better that the judicial procedure in Iranian law uses the criteria of conciliation in German law, and the claims that cannot be reconciled cannot be referred to arbitration. Because if people can compromise on an issue, they can also refer claims related to it to anyone they want. Therefore, the works can also refer such claims to arbitration.

4- The difference between the laws of Iran and England in the basis of arbitrability

In English law, unlike Iranian law, arbitrability is more centered around the person who determines what issues can be referred to arbitration, because English law is customary law. In other words, it means that the parties agreed in the arbitration agreement that a certain type of dispute should be resolved through arbitration. Therefore, when analyzing the arbitrable issues of the first issue, the courts examine the validity of the arbitration agreement before deciding whether the issue itself can be resolved by arbitration or not. So the difference between English law and Iranian law. It is because arbitrability is basically determined based on the arbitration agreement, in any case, even without a dispute, the court should comment on the validity of the arbitration agreement. While in Iranian law, if there is a dispute about the arbitration agreement, the court will deal with it.

4-1- The difference between the laws of Iran and England in the effect of judicial opinions on the arbitrability of claims

In English law, according to Article 81 of the Arbitration Law of 1996, judicial decisions are considered to be one of the main sources regarding the principles of arbitrability. (Mastil 2001 p371) Article 81 of the Arbitration Law refers to the cases established by the common laws of England and is not part of the Arbitration Law of 1996. Since the 1996 English Arbitration Law is a compilation of the previous judicial procedures of the English law regarding arbitration, the three assumptions in Article 81, Part 1, refer to the rules that are current and valid in the common law in this regard, therefore, it is one of the important sources. Arbitrability in English law is judicial opinion because English law is based on judicial opinion.

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Iranian law and British law are different. Iranian law is based on written law, while English law is based on judicial decisions. (Remerkin 2004 p619).

Article 81 strengthens the theory that arbitrability in English law is defined under the common law of England and there is no need to formulate laws regarding non-arbitrable issues. Therefore, Iran's law can be legally followed by English law, and non-arbitrable issues can be examined through judicial decisions, so that there is no need to formulate laws in this regard. (Mitsubishi motors 1985 p 614.)

5- The difference between the laws of Iran and three European countries regarding the arbitrability of government claims

As discussed in Iranian law, the arbitration of claims related to state property according to Article 139 of the Constitution is subject to the restrictions of obtaining permission from the government and parliament. This restriction is not seen in the laws of three European countries. In French law, the judicial procedure has removed the limitation of arbitration of state-owned companies and decrees the arbitrability of such claims. In German law, claims related to public law and state companies are fully arbitrable. In the laws of England and Wales, they did not create any legal obstacles to refer the kingdom's claims to arbitration as a method of dispute resolution, and in addition, there are not many state-owned companies in England, and important state-owned companies can refer their disputes to arbitration, as a result of arbitration. The admissibility of disputes related to public companies in English law is not seen as an obstacle to refer the dispute to arbitration.

Conclusion

The civil procedure law does not mention the basics of arbitrability. Only in Article 489 of the Code of Civil Procedure, it is recognized that not paying attention to the laws establishing the right causes the arbitration to be annulled. This is despite the fact that the failure to pay attention to some grounds of arbitrability in the Civil Procedure Law is a guarantee of the invalidity of the arbitrator's decision, not annulment. In Iranian law, only Article 34 of the International Commercial Arbitration Law talks about the principles of arbitrability. According to paragraph three of Article 34 of the International Commercial Arbitration Law, public order, morals, and rules of conduct are the most important bases of arbitrability in Iranian law. That is, in every case where a lawsuit is found to be non-arbitrable for a reason, it is rooted in these three bases. Unlike the laws of Germany, England, and France, whose domestic and international arbitration are the same, in Iranian law, domestic and international arbitration are each a law. separate and have different rulings, which affects the basis of arbitrability. The same thing with

There have been shortcomings in domestic arbitration in Iranian law that are less visible in three European countries. Among these shortcomings in domestic law, which are less visible

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in the laws of three European countries, and the principle of jurisdiction is also effective in the basis of arbitrability. It is the jurisdiction by which the judge himself determines whether he has the jurisdiction to deal with the matter or not. In other words, the judge himself determines whether the matter is arbitrable or not. The fact that domestic and international arbitration are the same in the laws of the three European countries in question has made international regulations and public order superior to domestic public order in these countries. Another effect of the domestic and international arbitration law being the same is to reduce the cases of inadmissibility of arbitration. So that currently, in the laws of three European countries, by resorting to judicial procedure, judicial interpretations are constantly in favor and in the direction of arbitrability, and the cases against Arbitrability is excluded as an example. This is not seen in Iranian law. In Iranian law, considering that legal issues must be interpreted according to domestic law, including civil procedure, the issue of the independence of the arbitration clause cannot be raised, because in domestic law, the clause is subordinate to the contract. This is not seen in the laws of three European countries and the international commercial arbitration law, and they accept the independence of the arbitration clause. This is why, in the laws of three European countries, in addition to the domestic bases of arbitrability, international bases of arbitrability such as international public order are also mentioned. The three European countries of the parties can determine the law governing the arbitration agreement. That is, in the laws of these three countries, by choosing the law governing the arbitration agreement, the parties specify the arbitrability and the basis of the arbitrability in the same way. It is arbitration and a lot of value and credibility is given to the arbitration agreement so that the basis of arbitrability is determined on the basis of the arbitration agreement. In fact, the unification of domestic and international commercial arbitration causes the basic principles of arbitrability, which are good morals and public order and are common to the laws of three European countries and Iran, to be adjusted in the laws of those three countries. In the laws of these three countries, unlike the laws of Iran, lawsuits such as lawsuits related to competition and intellectual property rights or government lawsuits or lawsuits related to workers and employers can be arbitrable. These issues are not arbitrable in Iranian law. In fact, unlike the three European countries, the judicial procedure in Iranian law has not only not reduced the examples of public order, but has considered any issue that is rooted in public order as non-arbitrable. This is the origin of the non-arbitrability of intellectual property claims and competition rights. In Iran, it is only because public order and public interest are involved in it. Finally, three European countries, Germany, England, and France, have chosen a suitable standard to control the basis of public order. So that in the laws of these three countries, the violation of any public order does not prevent arbitrability, but a violation prevents the arbitrability that causes public feelings to be hurt. This means that the issue in the laws of this country must be very sensitive and this to hurt the sensitivity of public sentiments in order to prevent arbitrability. Of course, as it was said, the basis of arbitrability in the laws

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of three European countries is the same as that of Iran. But the examples and the way of facing the rights of these three countries are different. For example, examples of good manners in Islamic society like Iran are different from European countries. However, in the laws of all three countries, morality is considered one of the bases of arbitrability. Of course, in the laws of these three countries, as in the laws of Iran, the violation of principles such as public order in arbitration has a guarantee of joint implementation, and the principles governing arbitration, such as the principle of arbitrariness, are observed. And divisions such as subjective and personal arbitrability can be seen in the laws of all three countries, and in personal arbitrability, without a doubt, in the laws of all three European countries, such as Iran, the absence of competence causes the arbitration award to be invalidated.

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