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# Study of the Exception Rei Judicata of the Criminal Law Principle in International Criminal Law

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**Abstract:** *In criminal matters, when a court or a court has passed the various stages of proceedings - whether primitive, prosecution, or termination - they have passed the credibility of a criminal offense and, as a result, a reopening of the dispute and a request for review No legal license. The prohibition of re-pursuit of the rules governing public order. The principle of the validity of the custodial sentence is one of the most important rules of the criminal procedure, which is foreseen in the laws of the civilized nations of the world as well as in a number of international documents. The concept of the aforementioned principle in international documents was introduced from the early 20th century and gradually developed and developed in the 21st Century in the Statute of the International Court of Justice. This thesis examines the differences and similarities of the validity of the closed case in the Iranian law and the International Criminal Code, and the extent and quality of the application of this rule in Iran's Criminal Code and the Statute of the International Court of Justice.*

**Keywords:** *The validity of the case, the International Criminal Court, Iran's Criminal Code.*

## INTRODUCTION

Usually in domestic law three conditions, the unity of matter, unity of cause and unity of persons, are considered for the purpose of obtaining the validity of the custodial sentence, which with their community is not possible to prosecute for the second time, is known as the case of the collapse of the public prosecution. These three conditions relate to the uniqueness of the validity of the judgment. But in reviewing this rule in international law, there are other components to be considered, which will be referred to in any of these cases. The conditions for obtaining the validity of the custodial sentence are in international law, such as national legal systems. For the rule to be fulfilled, there must be two lawsuits of unity between the new case and the old lawsuit that resulted in a definite decree in three cases: a.

### **The unity of the companions of the two lawsuits**

A lawsuit filed by a judge is in the event of a dispute that has been filed in the past and has resulted in a definitive ruling, including those of its followers who are the claimants of the past. Therefore, even if there are two other conditions, the unity of the subject and the cause, there is a current lawsuit between one of the parties to the previous lawsuit and another. The objection of the judgment is due to the lack of unity of the two parties. Will not be accepted.

There is no doubt about the existence of such a condition in international law, since international claims are mainly related to intergovernmental disputes or relate to the diplomatic protection of the state from its own nationals and the imposition of the relevant lawsuit and lodgement in the international tribunal. Judicial

proceedings of international arbitration tribunals suggest that individuals who are essentially unitary, although legally distinct, have been barred from litigation on a single issue.

### **Unity of the subject of the two lawsuits**

The unity of the companions of two lawsuits is not enough to accept the objection of the judgment given. In addition, it should include the subject of two lawsuits, the one that was filed in the past, and the definitive ruling, and the dispute that was filed and raised in that objection. The purpose of unity is that it is asked In both cases, one is the same.

In international law, judgments are also made when, in addition to the unity of the subject, "the two objects" cause "and" ground "are two lawsuits. The distinction is explicitly referred to in international jurisprudence. Anzellotti's petitioner states in his opposition to the Khrzovov case: Three conditions for the realization of the judgment, judged, include the unity of the companions, the subject and the cause of the two lawsuits .

International courts have been aware of this risk that the rigorous doctrine of the judiciary would be rarely used if the strict and strict criteria for achieving the unity of the matter were to be considered. In the photo mode, the situation in question means that with the consideration of a broad and easy-to-use code based on which the unity of the subject and the cause of two lawsuits can easily be verified and thus judged, there is a danger that the demands of "those with a slight change in desires Or the second reason is to prevent the use of the previous vote from the validity of the judgment given.

In fact, it can be said that it is the division of the lawsuit that is the next suit with a different or different claim than the previous one and in order to prevent the judgment being enforced, for example, if, in a difference of investment, the state seized the investor's property And the investor in the first lawsuit seeks restitutio in integrum), and in the next suit, he will ask for compensation. The proceedings of the international arbitration tribunals have also sought to prevent the division of the lawsuits and to prevent the lawsuit from being closely associated with the former lawsuit by the complainant.

### **Examples of the unity of the subject of the two lawsuits in international law**

For example, the United States-Spain Litigation Commission rejected Delgado's claim for compensation against Spain for the expropriation of property in Cuba in 1876. As a result, another suit was filed by the complainant and this time with the issue of paying the value of the confiscated property. The Spanish government called for a rejection of the plaintiff's claim because of the case.

Spain, by raising objections to the judgment, claimed that the difference in the value sought in two lawsuits did not imply that one was not the subject of two lawsuits; rather, the damage suffered, namely the expropriation of a certain property, was the basis of a lawsuit, which is the same in both cases. The judge ruled against the judgment of the court, even if he had not requested compensation in the former suit for the value of the confiscated property, but he has the right to do so like other plaintiffs in similar cases, this request can not be made In another case, consider another judge.

### **Unity has two lawsuits**

Of the aforementioned article, it appears that the subject of a claim is the right to be claimed, but the cause of the claim is the fundamental basis of that right, the legal event that it creates.

In the cases before the international tribunals and the mixed commissions of arbitration, despite the unity of the subject of the two lawsuits, it can be different. Such a situation could exist when, for example, a claimant would be required to claim compensation under customary international law and, in a subsequent lawsuit, demanded the payment of confiscation compensation based on the bilateral investment treaties. In such a situation, technically, two lawsuits are not the same and the rule of the judged judgment does not apply. Although it is evident that such a distinction is of a formal nature, since in the above example, the right to claim compensation, the legal basis is the obligation to pay compensation for confiscation, whether it be of a customary or contractual nature(Mehdi Qahlelu, 2011, p. 45-1393).

Therefore, the unity or difference between the two lawsuits should be reviewed substantially. Agrigo is based on various legal documents. It should not be doubted about unity in two lawsuits. There is an international practice in dealing with one of two causes based on two treaties.

#### **General Conditions and Principles for the Realization of the Principle of Criminalization in International Law**

To determine the causes and conditions of the rule of law, it is necessary to identify the meaning of important terms such as "the same" ordinary crime, final verdict, and complementary jurisdiction. As explained, in domestic law, the three conditions for "unity of the subject", "unity of cause" and "unity of the parties to the dispute" are mentioned for realization of the validity of the sentence. If the terms of the agreement are not met, the prosecution is not possible again and the general lawsuit is canceled. The purpose of "unity of the subject" is the unit's behavior, which is the subject of the former and new controversy. Causes a criminal procedure, restoration of discipline and punishment or measures of provision and training. Therefore, the legal court proceedings regarding the claim for damages and the administrative court for occupational and legal violations do not prevent the prosecution of criminal cases against the same act. The condition of the "unity of the parties to the dispute" prevents the handling of a complaint previously filed by the plaintiff or prosecutor against the accused. (Kouzaei, 2009, pp. 1-28).

These terms are set out in the International Criminal Procedure Statutes in the concept of "same" (*idem*) in the expression *non (ne) bis in idem*. The unity of the constituency of the parties to the dispute and the unity of the parties to obtain the credibility of the International Criminal Court and the principle of non-trial and reprisal, apparently do not contradict domestic law. In this sense, when the defendant's case has already been prosecuted in the national criminal court, the International Criminal Court has no right to prosecute, and therefore the prosecution of the accused in the administrative court does not prevent him from prosecution in the International Court of Justice (Ebrahimi, 1998, p. 182).

If a person has already been prosecuted and sentenced in the national criminal court, the same person is not sued for the same charge at the International Criminal Court, and vice versa, whether the prosecution has been prosecuted or the private prosecutor has filed a complaint.

#### **Special Conditions of the Criminal Code in International Law**

Entering an issue within the scope of international criminal law provides specific features that distinguish it from issues at the internal level. These characteristics also indicate that the application of the prohibition of retrial, in addition to the general conditions that have traditionally been adhered to in domestic proceedings, are also subject to certain special conditions (Asghari Aqm Mashhadi, Mehdi Isari, 2013, pp. 11-32).

#### **The condition for the issuing court**

The issuing authority of origin should be a foreign court and traditionally the notion of the foreignness of a court is deemed to be foreign to the sovereignty of the State, rather than being outside the sovereignty of the country (Lavaspur and Deck, p. 7). In other words, what is decisive is the sovereignty of the party, and in the name of it, the previous tribunal has dealt with, and not the geographical location of its meetings. Thus, the occupying forces tribunal formed to deal with certain crimes on the territory of the occupied country is considered to be a recent foreign country, but a branch of the national tribunals who are exceptionally formed to deal with some offenses abroad. They are still considered domestic courts. (Janni Pour, 2011, pp. 179-197).

But developments over the last few years and the formation of the former Yugoslavia and Rwandan courts and then the International Criminal Tribunal imply that it is now, with a partial revision of the former concept, the notion of the foreignness of the court as belonging to the sovereignty. And therefore, consider any court that does not form part of the sovereignty of the Iranian government and does not act as a foreign court, whether that court belongs to a foreign government or an independent international authority. Thus, the International Criminal Tribunal for the former Yugoslavia and Rwanda, as well as the International Criminal Court, are considered foreigners. (Habibzad, Ardebili and Janipour, 2011, pp. 179-197).

Finally, it should be added that the court issuing the first sentence should have jurisdiction and the issuance of a verdict. In other words, the verdict can be valid and invoked by the competent court, and, in the case of

jurisdiction, the jurisdiction of the court in terms of international criminal law to prosecute a crime containing an external element, usually based on several principles recognized in This branch of the law is based. But contrary to the opinion of some lawyers who believe that the prosecutor must assess the jurisdiction of the foreign court on the basis of the criteria in his national law, it seems that The correct way to review the jurisdiction of a foreign court is in the light of the standards of the court in question, since each court is required to have jurisdiction in accordance with its own national law, and no foreign court can not be expected to limit its jurisdiction on the basis of accepted standards in law Ca, which may be basically unknown to him. Once the international jurisdiction of the foreign court has been recognized, it does not appear to be internal in nature and jurisdiction (Bigzadeh, 1996, p. 50).

### **The condition for the first ballot**

A vote that was issued at the end of the former hearing and cited against a new criminal prosecution should be a definitive vote. For the purpose of determining whether a vote is void, the blocking of the ordinary means of protesting sentences is in a way that is no longer valid, whether the vote is due to expiration of the deadline for review and to act in a timely manner, without objection, or after an appeal A definitive vote has been issued by the appeals court. The reason for this is that it is impossible to reconsider, because it is carried out in another country, and so far as there is a possibility of a protest in the country, there has not been a complete and complete investigation. On the other hand, the possibility of using extraordinary means of protesting sentences, such as a request for a court order, does not exclude the former ruling from being enforced, will not prevent the prosecution of refusal. The description of the certainty or uncertainty of the verdict is also examined in accordance with the rules of the foreign country, and the Iranian judge must refer to the law of the issuing court, not the Iranian law, since his purpose is to know whether the sentence is in place of issuance It is still open to appeal. In the first condition, the question arises as to whether the decisions of the investigative authorities, as they are issued, can be cited as an obstacle to the re-trial of the accused, or that only the decisions of the investigative authorities and the judgment of credit are valid, And impedes the trial of the accused. There is a controversy in the answer to this question among jurists. Most of them have emphasized that only court rulings, not those issued at the preliminary stage of the preliminary investigation, are eligible, can be cited against national courts. On the other hand, while others point out that the decisive verdict is a decisive decision not to be objected, they have stated that the ability or inability to challenge a ruling is determined in foreign law, but in order to determine what decisive action is being taken, the judge must apply its national law Refer to In France, only the decisions of the authorities and those decisions of the investigative bodies, which are not the subject of their reasoning (ruling), have this characteristic (Abdullah's Abuse, 2008, pp. 5-32).

### **Conclusion**

In the final review, it can be said that the first theory is justified in the light of valid legal texts in the country, and its arguments cannot be substantiated. The second theory is the distinction has been made in the field of the law of our country can be seen, as in Iran appointments prosecution for the offense is not the action of the validity of the sealed well and prosecute this defendant can not but appointments prosecution in terms of The inadequacy of the reason does not have this feature, it is possible to start a reopening of the case upon request by the prosecutor and with the consent of the court. However, it seems that here the foreign law the criteria for the diagnosis and judge the decisive fights whether or not the decision of the court outside and that such appointments magistrate of the country have this feature or not the laws of the country come Because the purpose of this review is to determine which alien clauses and under what conditions are in the country where the dispute is being resolved and which cannot be reconsidered, which is more sensitive to the determination of that foreign law.

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