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The Legal Position of a Foreign Plaintiff Seeking Recovery of Virtual Currency Against an Iranian Defendant in Relation to Security for Foreign Nationals and Security for Vexatious Claims

Mohammad. Azizzadeh[1], Mahmood. Kohani Khoshkbajari[1*], Vahid. Zarei Sharif[1]

[1] Department of Law, Ra.C., Islamic Azad University, Rasht, Iran

*** Corresponding author email address**: Mahmood.kohani@iau.ac.ir

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The two legal institutions of security for vexatious claims and security for foreign nationals are provided for, respectively, under Articles 109 and 144 of the Iranian Code of Civil Procedure, enacted in 2000. On the other hand, national borders constitute a political factor that affects individuals' legal relationships. Accordingly, states impose certain obligations on foreign nationals in order to protect their own citizens. Virtual currency is likewise a widespread phenomenon that currently accounts for a significant volume of transactions. The issue, however, arises when a dispute occurs and, consequently, a claim—including a claim for the recovery of virtual currency—is brought by a foreign person against an Iranian national before domestic courts. In such circumstances, how should the two aforementioned legal institutions apply to a foreign plaintiff, whether the plaintiff possesses a nationality or is stateless? Should the traditional approach continue to govern, or does the significance and distinctive nature of the subject matter require a change in legal approach? The findings of this study demonstrate that, in accordance with the principle of proportionality, fundamental changes should be introduced into the adjudication of claims for the recovery of virtual currency where the plaintiff is a foreign person. In particular, security for foreign nationals should take precedence over security for vexatious claims where the foreign plaintiff possesses a definite and legally recognized nationality; conversely, security for vexatious claims should take precedence over security for foreign nationals where the foreign plaintiff is stateless and does not enjoy the diplomatic or legal protection of any particular state.

Keywords: *security for foreign nationals, principle of proportionality, security for vexatious claims, virtual currency, stateless persons.*

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1. Introduction

Following the severe financial crises and widespread distrust of centralized institutions in 2009, global financial markets encountered a new phenomenon known as virtual currencies, or cryptocurrencies. Within a relatively short period, these forms of money established a significant position in individuals' transactions (Forghan Doust Haghighi & Naddaf, 2018). Although governments have resisted accepting this phenomenon and have adopted inconsistent approaches toward it, efforts have nevertheless been made to address the challenges arising in this field. In recent years, the use of this means of payment has also expanded in Iran. Despite the considerable volume of

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financial transactions involving virtual currencies, Iran remains among the countries that have yet to adopt a precise and coherent approach toward this phenomenon, particularly with regard to legal disputes and, more specifically, procedural law. The present study concerns the civil procedure governing claims for the recovery of virtual currencies and examines two legal institutions—security for vexatious claims and security for foreign nationals—as provided for, respectively, under Articles 109 and 144 of the Iranian Code of Civil Procedure enacted in 2000, in circumstances where an Iranian defendant raises an objection seeking security, the case is being adjudicated before Iranian courts, and the plaintiff is a foreign national.

One of the significant issues arising in this context concerns the situation in which a foreign national, or a stateless person, brings an action against an Iranian individual or legal entity and, pursuant to the rules governing the determination of the competent court, Iranian courts have jurisdiction and the proceedings are conducted under Iranian law. What legal issues and difficulties may arise in such circumstances?

Nevertheless, today, where foreigners are admitted into a country, they necessarily enjoy at least the minimum rights required for the enjoyment of private life (Safaei, 1991). One of these rights is the right of access to judicial proceedings. The right of access to courts has even been recognized for refugees (Hashemi, 2003).

The issue becomes particularly significant where, for whatever reason or under whatever legal status, the plaintiff is not a national of any state or, because of refugee status, has been deprived of the political and diplomatic protection of the state of origin. The question then arises whether such persons, like foreign nationals, are required to provide security, or whether, because the legislature has not expressly referred to stateless persons in any provision of this chapter, requiring security from them would constitute a clear manifestation of injustice. This uncertainty has resulted in two opposing views: one group considers such persons to be subject to the obligation to provide security (Ghamami & Mohseni, 2007), whereas another considers their exemption from providing security to be more consistent with justice (Khaleghian, 2006).

Pursuant to Article 144 of the Iranian Code of Civil Procedure enacted in 2000, security for foreign nationals is a form of security that, where the plaintiff is a foreign national and the defendant is Iranian, may be required from the plaintiff at the defendant's request in order to secure compensation for potential losses incurred by the defendant in the proceedings. Under Article 109 of the Iranian Code of Civil Procedure enacted in 2000, security for vexatious claims may be required where, considering the nature of the action and the surrounding circumstances, the claim appears vexatious or unfounded. In this form of security, it makes no difference whether the plaintiff or the defendant is a national or a foreigner; rather, the principal criterion for requiring security is the vexatious nature of the action. The present article seeks to answer the important question of whether, in an action for the recovery of virtual currency in which the plaintiff is a foreign national and the claim is vexatious, the Iranian defendant may request both security for foreign nationals and security for a vexatious claim.

In the discussion that follows, the principle of proportionality is applied to divide foreign plaintiffs into two categories, and a separate legal regime is proposed for each category according to the characteristic of nationality. Under this approach, both forms of security would not be imposed simultaneously on the plaintiff concerned, which is also more consistent with the requirements of justice.

2. Conditions for Ordering Security for a Vexatious Claim Compared with Security for Foreign Nationals

Article 109 of the Iranian Code of Civil Procedure provides, with regard to security for a vexatious claim:

"...the defendant may request the court to require security for payment of losses arising from litigation costs and attorney's fees for which the plaintiff may ultimately be held liable. Where the court considers such request justified in light of the nature of the action and other relevant circumstances, it shall issue an order for security...." Considering the final part of this provision, the principal condition for requiring security for a vexatious claim, as its designation itself suggests, is the vexatious nature of the action brought. On the other hand, Article 144 of the same law, concerning security for foreign nationals, adopts as its criterion the foreign nationality of the plaintiff or, as the case may be, a third party intervening in the proceedings, together with the Iranian nationality of the defendant. According to this

provision, "nationals of foreign states, whether appearing as principal plaintiffs or intervening in the proceedings as third parties, shall, at the request of the opposing party, ... provide appropriate security. A request for security shall be admissible only from an Iranian-national defendant...."

The issue under discussion is whether these two legal institutions may be applied concurrently.

It appears that although the broad scope of security for vexatious claims and its applicability to cases involving security for foreign nationals cannot be denied where foreign nationals bring vexatious claims against Iranian nationals, there are nevertheless cases falling within the scope of security for foreign nationals that do not constitute instances of security for vexatious claims. This is because one of the purposes underlying security for foreign nationals, irrespective of whether the action is vexatious, is to protect Iranian nationals against foreign litigants. Accordingly, the legislature has not made the vexatious nature of the action a prerequisite in provisions concerning security for foreign nationals. Therefore, where the conditions for both security for a vexatious claim and security for foreign nationals are satisfied, security for foreign nationals should be preferred, because by ordering such security the interests underlying both mechanisms are simultaneously protected: the Iranian national is protected, and security is also obtained against a potentially vexatious claim. Nevertheless, the objective in actions for the recovery of virtual currencies before Iranian civil courts, where the plaintiff is foreign, is that, depending on whether the plaintiff possesses a definite nationality or is stateless, only one of the aforementioned objections should be accepted from the Iranian defendant. The selection between these two forms of security should be governed by the "principle of proportionality," and each category of plaintiff should be subject to a distinct legal regime regarding security.

3. The Function of the Principle of Proportionality Between Security for a Vexatious Claim and Security for Foreign Nationals

This section first explains the principle of proportionality and then examines the function of applying this principle to security for vexatious claims and security for foreign nationals.

3.1. Historical Development and Concept of the Principle of Proportionality

"The principle of proportionality is one of the most important general principles of European law and has been recognized and accepted since 1950" (Chalmers & Tomkins, 2007). The concept of proportionality in procedural rules was first embraced in German procedural law and subsequently in English and Canadian civil procedure (Pour Ostad & Saadat, 2017). Despite this background, from the Iranian Law on the Principles of Civil Procedure enacted in 1911 to the present, the Iranian legislature has not addressed the principle of proportionality in a precise and specific manner within the procedural system; instead, the principle has been referred to indirectly in connection with various subjects (Pour Ostad & Saadat, 2017). Regarding the concept and nature of this principle, some legal scholars consider the establishment of equilibrium, or proportionality, between lawful measures and lawful objectives to constitute the essence of the principle of proportionality (Kavanagh, 2009).

From a lexical perspective, proportionality means "the existence of correspondence and a relationship between two persons or two things." In legal terminology, however, it refers to establishing balance and coordination between two or more matters arising in civil procedure, whether legal, economic, or otherwise, with the objective of achieving a fair trial (Pour Ostad & Saadat, 2017).

3.2. General Application of the Principle of Proportionality Between Security for a Vexatious Claim and Security for Foreign Nationals

The issue examined in this section concerning the principle of proportionality is its application to the two legal institutions of security for vexatious claims and security for foreign nationals. In other words, the question is whether these two legal institutions may be reconciled or combined through application of the principle of proportionality.

With respect to security for vexatious claims, Article 109 of the Iranian Code of Civil Procedure provides that "...the defendant may request security for the payment of losses arising from litigation costs and attorney's fees for which the plaintiff may...." By comparison, Article 144 of the same Code, concerning security for foreign nationals, provides that security may be required "...for the

payment of losses for which they may become liable in respect of litigation costs and attorney's fees...." Ultimately, it must be stated that, according to the express provisions adopted by the legislature, these two forms of security share the same subject matter, namely litigation losses arising from court costs and attorney's fees. In other words, by employing either mechanism, the court may achieve the legislative objective of compensating potential losses arising from litigation. Accordingly, the initial proportionality and commonality required between security for a vexatious claim and security for foreign nationals for the application of the principle of proportionality are present (Nezam al-Molki & Jahanshahloo, 2021). In any event, what is evident from the perspective of proportionality is that, because the subject matter of both legal institutions is generally identical and proportional, they are, from this perspective, capable of concurrent consideration. Having established that security for vexatious claims and security for foreign nationals are compatible in terms of their subject matter, it is then necessary, with respect to claims for the recovery of virtual currencies brought by foreign nationals against Iranian defendants before Iranian courts, to determine which of these two forms of security is more appropriate for both the Iranian defendant and the foreign plaintiff, depending on whether the plaintiff possesses a nationality or is stateless. This issue will be examined in the following two sections.

4. The Theory of Exempting Foreign Nationals Who Possess a Nationality from Providing Security for Vexatious Claims in Favor of Requiring Security for Foreign Nationals in Claims for the Recovery of Virtual Currencies

4.1. The Rationale Underlying Security for Vexatious Claims and Security for Foreign Nationals and Their Comparison

The principal rationale underlying security for vexatious claims and security for foreign nationals will first be explained and compared, after which their subsidiary rationales will be discussed.

4.1.1. The Principal Rationale Underlying Security for Vexatious Claims and Security for Foreign Nationals and Their Comparison

The most important objective pursued by the legislature in establishing the two institutions of security for vexatious claims and security for foreign nationals under Articles 109 and 144 of the Iranian Code of Civil Procedure is to prevent unjust potential losses resulting from the institution of unfounded actions, whether such actions are brought by a foreign plaintiff against an Iranian defendant or whether vexatious claims are brought by an Iranian or foreign plaintiff against an Iranian or foreign defendant (Eftekhari Jahromi & Alsan, 2020; Karimi, 2010; Malekzadeh, 2011). It should be noted that although requiring such security may create incidental procedural complications before courts, the interests of the Iranian defendant in such circumstances require that the plaintiff provide a guarantee for compensation of potential losses that may be imposed upon the defendant. The legislature has therefore established these institutions to protect the defendant's rights. Accordingly, the principal legislative objective underlying both forms of security is the protection of the defendant's rights and the prevention of unjust litigation losses resulting from the institution of an unfounded claim by the plaintiff, and this objective is common to both mechanisms.

The relevant question here is whether, in light of the principal rationale underlying the aforementioned forms of security, the court may issue only one of them. This question should be answered as follows. First, by issuing an order for one of the two forms of security, the principal legislative objective underlying their establishment—namely, preventing unjust potential losses and safeguarding the rights of the Iranian defendant—is achieved. Second, ordering both forms of security would be inconsistent with justice, because a foreign plaintiff may lack the financial capacity to provide both forms of security, which could result in the loss of the plaintiff's rights due to an inability to commence the action in a timely manner.

Another question arising in relation to claims for the recovery of virtual currencies brought by a foreign plaintiff possessing a legally recognized nationality is which of these forms of security the court should ultimately order, assuming that, based on the foregoing discussion of their principal rationale, the court may

issue only one of them. Because the principal rationale underlying these two legal institutions is identical, the court cannot, from this perspective alone, prefer one form of security over the other. Consequently, their subsidiary rationales must also be considered, and the decision should be made on that basis.

4.1.2. The Subsidiary Rationale Underlying Security for Vexatious Claims and Security for Foreign Nationals and Their Comparison

With regard to the subsidiary rationale underlying security for foreign nationals, it should be noted that the institution of proceedings by a foreign national against an Iranian national entails certain risks for the Iranian defendant that may conflict with the principle of equality of litigants before judicial authorities and place the foreign national in a privileged position. Where the action is decided in favor of the foreign national, that person will be able to employ all enforcement mechanisms made available by law to successful litigants and to enforce the judgment against the Iranian national in a timely manner. By contrast, where the foreign national is the defendant and is found liable, the foreigner may leave Iran and evade the consequences of the adverse judgment. In such circumstances, there is a substantial possibility that the Iranian judgment creditor will no longer be able to obtain compensation and will therefore have no alternative but to bear the loss (Beheshti & Mardani, 2006; Karimi, 2010; Matin Daftari, 2009). Accordingly, many countries, including Iran, have adopted rules enabling their nationals to secure potential losses arising from litigation with foreign nationals. Such circumstances may likewise arise in claims for the recovery of virtual currencies brought by a foreign national against an Iranian defendant.

With regard to the subsidiary rationale underlying security for vexatious claims, some legal scholars maintain that although most plaintiffs institute proceedings solely for the purpose of enforcing their rights, experience in litigation demonstrates that numerous persons acting as plaintiffs misuse procedural rules and, by filing vexatious and unsupported claims, compel others to participate in litigation and thereby impose litigation expenses upon them. It is on the basis of such adverse experiences that the legislature enacted Articles 109 and 110 of the Iranian Code of Civil Procedure concerning security for vexatious claims (Yalfani, 2001). Other scholars maintain that the purpose of establishing such security may also be to prevent an increase in the workload of courts (Karimi, 2010), because plaintiffs may, through the institution of such actions, increase the number of cases pending before judicial authorities. A desirable judicial structure and procedural system should prevent judges' time and public funds from being wasted on vexatious cases and should ensure that judicial time and public resources are not expended on proceedings that will ultimately yield no legitimate benefit for the plaintiff.

Overall, based on the examination and analysis of the subsidiary rationales underlying the aforementioned forms of security, it appears that where both forms of security could potentially be ordered, particularly in an action for the recovery of virtual currencies brought by a foreign plaintiff possessing a nationality, the court may prefer security for foreign nationals over security for a vexatious claim in order to safeguard the rights of the Iranian defendant. This is because, on the one hand, where security for a vexatious claim is ordered, a foreign plaintiff may, after losing the case, leave Iran, thereby preventing the Iranian defendant from obtaining compensation for potential losses, particularly where the actual loss suffered by the Iranian defendant exceeds the amount of security initially obtained under the mechanism of security for vexatious claims. In the absence of an express statutory provision, the court cannot increase the amount of such security once it becomes apparent that the original amount is insufficient. By contrast, where security for foreign nationals is required, if the court subsequently determines that the security amount is insufficient, it may, pursuant to Article 148 of the Iranian Code of Civil Procedure, determine an adequate amount and require the plaintiff to provide it; otherwise, pursuant to Article 147 of the same Code, the court will issue an order dismissing the petition. On the other hand, by requiring security for foreign nationals, the court also indirectly achieves the subsidiary objectives pursued by the legislature through security for vexatious claims, namely preventing the institution of unfounded claims that cause losses to defendants, preventing an increase in the workload of courts, and avoiding the waste of judges' time and public expenditure (Karimi, 2010).

4.2. Criteria for Applying the Principle of Proportionality Between Security for Vexatious Claims and Security for Foreign Nationals in Claims for the Recovery of Virtual Currencies

Additional criteria that may influence the assessment of the application of the principle of proportionality between these two legal institutions and their possible concurrent operation in claims seeking the recovery of virtual currencies are examined below.

4.2.1. Method of Requesting Security for a Vexatious Claim and Security for Foreign Nationals

The legislature has expressly provided in Articles 109 and 144 of the Iranian Code of Civil Procedure that, for the court to issue an order for security for a vexatious claim or security for foreign nationals, the defendant must request such security.

Even where the court is certain that the claim is unfounded or that the plaintiff is a foreign national, it cannot issue an order for security on its own initiative. On the one hand, such orders do not relate to public order and are not mandatory rules authorizing the court to act ex officio; rather, they concern private rights (Imanian et al., 2003). On the other hand, the legislature has expressly required a request from the defendant as a prerequisite for issuing either type of security order.

With respect to the aforementioned forms of security, the legislature has not specified whether the request must be made in writing or orally and has instead used general language. Another point is that there is no statutory provision requiring such requests to be either written or oral. Furthermore, because there is no statutory prohibition against making the request orally, it must ultimately be concluded that the request may be submitted in either written or oral form. If the request is submitted to the court in the form of a written pleading, it is registered and appended to the case file. By contrast, if the request for security is made orally during a hearing, it is recorded in the minutes of the hearing and signed by the requesting party (Shams, 2012). Accordingly, although there is no requirement that the request itself initially be made in writing, it will ultimately be reflected and recorded in written form in the case file. Based on the foregoing, the method for requesting security is governed by the same rules for both security for a vexatious claim and security for foreign nationals.

4.2.2. Time Limit for Requesting Security

Article 144 of the Iranian Code of Civil Procedure expressly provides, with regard to the time for requesting security for foreign nationals, that an Iranian-national defendant may submit such a request until the end of the first court hearing. By contrast, with regard to security for vexatious claims, the legislature has prescribed no specific time limit, thereby creating ambiguity and potential practical difficulties. Some legal scholars maintain that, having regard to the wording of Article 109 and by analogy with Article 144 of the same Code, the time limit for requesting security for a vexatious claim should likewise extend until the end of the first hearing (Nobakht, 2014).

4.2.3. Examination of the Potential Conflict Between Judicial Duty and Judicial Discretion in Issuing Orders for Security for Vexatious Claims and Security for Foreign Nationals in Claims for the Recovery of Virtual Currencies

The question of whether a judge is obliged to issue either of the two forms of security is not governed by an identical rule. Article 109 of the Iranian Code of Civil Procedure, concerning security for vexatious claims, provides that "...where the court considers the request justified in light of the nature of the action and other relevant circumstances, it shall issue an order for security...." Accordingly, in response to a defendant's request, the judge enjoys discretion in issuing such an order and must exercise judicial judgment in determining whether the claim is vexatious. By contrast, Article 147 of the Iranian Code of Civil Procedure provides in relation to security for foreign nationals that "...the court is required to examine the request for security and determine the amount and the time limit for providing it...." Thus, where an Iranian defendant requests such security, the court is under a legal obligation to act, and the judge is subject to a mandatory duty in this regard (Yousefzadeh, 2015). Consequently, there is an apparent conflict between the court's discretion in ordering security for a vexatious claim and its duty to order security for foreign nationals.

Although the existence of this conflict cannot be denied, it should not be regarded as sufficiently fundamental to prevent these two forms of security from being reconciled. As previously explained, in the context of security for vexatious claims, the terms "plaintiff" and "defendant" are unrestricted and encompass both

Iranian and foreign plaintiffs and defendants. By contrast, in the context of security for foreign nationals, the plaintiff must be a national of a foreign state and the defendant must be an Iranian national. From this perspective, security for vexatious claims does not differ intrinsically or substantively from security for foreign nationals; rather, its scope is broader. In order to emphasize the importance of security for foreign nationals and to protect the rights of Iranian defendants under this mechanism, the legislature has required courts to issue such security, whereas no equivalent privilege has been established for security for vexatious claims. Accordingly, the conflict appears to be apparent and capable of resolution rather than real and irreconcilable. The conflict may be resolved on the basis that security for foreign nationals, as the specific rule, qualifies the general rule governing security for vexatious claims in cases where the two overlap (Ghaffari, 2005).

Accordingly, having regard to Articles 109 and 147 of the Iranian Code of Civil Procedure, it may be stated that where the court finds the conditions for issuing both types of security to be satisfied, it should issue an order for security for foreign nationals, particularly because, unlike an order for security for a vexatious claim, the judge is required to issue security for foreign nationals upon the defendant's request. This constitutes an additional justification for preferring an order for security for foreign nationals when reconciling these two legal institutions. From this perspective, it may be concluded that in claims seeking the recovery of virtual currencies brought by foreign plaintiffs possessing a legally recognized nationality, an order for security for foreign nationals is preferable in every respect to an order for security for a vexatious claim.

5. The Theory of Exempting Stateless Persons from Providing Security for Foreign Nationals in Favor of Security for Vexatious Claims in Claims for the Recovery of Virtual Currencies

Some legal scholars maintain that stateless persons cannot be required to provide the security applicable to foreign nationals. The arguments advanced in support of this position, which may also serve as grounds for exempting a foreign plaintiff lacking a legally recognized nationality from providing security for foreign nationals in proceedings seeking the recovery of virtual currencies, are as follows:

5.1. Necessity of Strict Interpretation of Exceptional Provisions

The general principle is that judicial proceedings should continue without obstruction or suspension until a judgment is rendered, except where the legislature has expressly authorized suspension of the proceedings. Accordingly, requiring security, which may potentially result in the suspension of proceedings, is exceptional in nature and must be interpreted strictly within the limits of the statutory text (Karimi, 2010; Shams, 2007).

5.2. Observance of Fair Trial Requirements

One of the requirements of a fair and equitable trial is that judgment be rendered within a reasonable period, meaning that the duration of proceedings from commencement to conclusion must be conventional and reasonable. Article 6(1) of the European Convention on Human Rights likewise provides that judicial proceedings must be conducted within a reasonable time (Ghamami & Mohseni, 2007). Accordingly, because provisional security measures constitute exceptions to the general rule, their scope should be limited exclusively to the circumstances and conditions expressly authorized by the legislature. In other words, courts in such matters are confronted with a tension between procedural speed and accuracy, and only a fair procedural framework can reconcile these competing interests (Ghamami & Mohseni, 2007).

5.3. Availability of Similar Security

Acceptance of the theory exempting stateless persons from providing security for foreign nationals does not constitute unfairness toward the Iranian defendant or deprive that defendant of established rights, because in such circumstances the possibility of obtaining comparable security remains available. Article 109 of the Law on Civil Procedure of Public and Revolutionary Courts provides for a form of security described by legal scholars as security for vexatious claims, under which security may be required for any defendant, whether Iranian or foreign, and from any plaintiff, whether Iranian or foreign (Gholizadeh, 2003).

5.4. International Perspective

Paragraph 3 of Principle 3 of the Principles of Transnational Civil Procedure, which concerns the procedural equality of litigants, addresses this issue and provides that a person should not be required to provide a bond or security for litigation costs merely because that person is not a national of the forum state or is not domiciled in the forum state (Ghamami & Mohseni, 2007).

On the other hand, a fair hearing requires equality of arms. Accordingly, in civil proceedings, each party must be afforded a reasonable opportunity to present its case under conditions that do not place that party at a substantial disadvantage vis-à-vis the opposing party (Shams, 2007).

5.5. Express Legislative Exemption of Refugees

A refugee may be either a stateless person or a person possessing nationality who has nevertheless been deprived of the protection of the state of nationality. With respect to the status of refugees, a convention and protocol exist to which Iran acceded pursuant to the Law Implementing the Convention Relating to the Status of Refugees and its Protocol, enacted in 1976. Article 16 of the Convention, entitled "Access to Courts," consists of three paragraphs. Paragraph 1 emphasizes the refugee's right of free access to the courts. Paragraph 2 requires the contracting state in which the refugee has habitual residence to accord the refugee the same treatment as its own nationals with respect to legal assistance and exemption from security and litigation costs. Accordingly, refugees accepted in Iran as their state of habitual residence are exempt from providing such security. It is noteworthy that other contracting states must likewise accord refugees habitually residing in other states treatment comparable to that accorded to the nationals of those foreign states.

5.6. Absence of an Express Legal Provision Requiring Stateless Persons to Provide Security

Those who support requiring stateless persons to provide security have generally relied on statutory provisions governing security from nationals of foreign states (Khaleghian, 2006; Shams, 2007). However, none of the relevant provisions expressly requires security from stateless persons.

Furthermore, although the term "foreigner" may encompass both foreign nationals and stateless persons, the legislature has consistently used the expression "foreign nationals" in all provisions governing this form of security. The term "nationals" refers to persons who possess the nationality of a specific state. In other words, the expression inherently refers to persons possessing nationality and does not ordinarily extend to stateless persons.

5.7. Requirement that the Plaintiff Possess a Foreign Nationality

The chapter governing this form of security repeatedly refers to "foreign nationals," and the legislature has specifically directed its attention to such persons. This demonstrates the legislature's precision and sensitivity to fundamental procedural principles. Some legal scholars have even classified political refugees, despite their possession of a specific nationality, among stateless persons for these purposes (Almasi, 2008). Put simply, the legislature intended to restrict the obligation to provide security to persons who possess the nationality of a specific foreign state and benefit from the protection of that state.

5.8. Principle of National Treatment

Under the doctrine of national treatment, the legislature should apply to foreigners the same treatment that it applies to its own nationals (Brownlie, 2003), and any deprivation or additional obligation imposed on foreigners lacks legal justification except in expressly prescribed and exceptional circumstances. Moreover, compliance with minimum standards concerning the rights of foreigners has today become established as a rule of customary international law (Seyed Fatemi, 1995).

5.9. Principle of Non-Obligation to Provide Security

Apart from the arguments discussed above, where uncertainty exists as to whether stateless persons are under an obligation to provide security, the governing principle is the absence of such an obligation and the presumption that they bear no liability in this respect. The party asserting the existence of an obligation or commitment must prove it; the burden does not fall on persons whose position is consistent with the principle

that no obligation exists. This principle is also consistent with the presumption of innocence and non-liability embodied in Article 37 of the Constitution.

In light of the arguments set out above, it should be concluded that in claims seeking the recovery of virtual currencies brought before Iranian national courts by a foreign plaintiff who lacks a legally recognized nationality, has been deprived of nationality, or does not enjoy the protection of any state against an Iranian national, security for a vexatious claim should be preferred over security for foreign nationals. Such an approach effectively treats the foreign plaintiff in the same manner as an Iranian litigant. Even where the Iranian defendant requests security for a vexatious claim, the court, pursuant to Article 109 of the Iranian Code of Civil Procedure, retains discretion to determine, according to its judicial assessment, whether the claim for recovery of virtual currency is vexatious.

6. Conclusion

Every state imposes certain obligations upon foreigners in order to protect its own nationals. The obligation to provide security is one manifestation of such obligations. In light of the ever-increasing expansion of transactions involving virtual currencies, and given that commerce is characterized by the rapid circulation of money while physical assets are increasingly being replaced by virtual assets, where disputes arise between Iranian nationals and foreign nationals, the two institutions of security for vexatious claims under Article 109 and security for foreign nationals under Article 144 of the Iranian Code of Civil Procedure enacted in 2000 may constitute serious procedural obstacles for foreign litigants after the filing of a petition and during proceedings before Iranian civil courts.

On the basis of the necessity of observing good practice toward nationals of other states at the international level and in view of developments in international relations, claims for the recovery of virtual currencies against Iranian nationals before civil courts should, through a specific statutory exception, be excluded from the simultaneous operation of the two aforementioned security mechanisms. Alternatively, if the legislature is unwilling to adopt such an exception, then, irrespective of bilateral or multilateral arrangements providing exemptions on the basis of reciprocity, the proceedings should be regulated in accordance with the approach described below.

Two situations should be distinguished in such proceedings. Legislation should provide that where the foreign plaintiff in a claim for the recovery of virtual currency possesses a legally recognized nationality, the objection seeking security for foreign nationals should take precedence over an objection seeking security for a vexatious claim. By contrast, where the plaintiff lacks a definite and legally recognized nationality, security for a vexatious claim should constitute the governing mechanism and security for foreign nationals should be disregarded. Under these two approaches, the interests of both categories of plaintiffs would be adequately taken into account while appropriate protection would simultaneously be afforded to the Iranian defendant.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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References

Almasi, N. A. (2008). *Conflict of Laws*. University Publishing Center.

Beheshti, M. J., & Mardani, N. (2006). *Civil Procedure* (Vol. 2). Mizan.

Brownlie, I. (2003). *Principles of Public International Law*. Oxford University Press.

Chalmers, D., & Tomkins, A. (2007). *European Union Public Law*. Cambridge University Press.

Eftekhari Jahromi, G., & Alsan, M. (2020). *Civil Procedure* (Vol. 3). Majd.

Forghan Doust Haghighi, K., & Naddaf, R. (2018). A Review of Cryptocurrencies: Opportunities and Threats. *New Research Approaches in Management and Accounting*, *3*(9), 61-74.

Ghaffari, J. (2005). *Civil Procedure*. Payame Noor University Press.

Ghamami, M., & Mohseni, H. (2007). *Principles of Transnational Civil Procedure*. Mizan.

Gholizadeh, A. (2003). *Civil Procedure* (Vol. 3). University of Isfahan.

Hashemi, S. M. (2003). Human Rights Protections and Guarantees in Domestic Law and the International System. *Journal of Legal Research*(38).

Imanian, F., Shams, A., & Tafreshi, M. I. (2003). Interpretation of Civil Rights in the Civil Code. *Modares Humanities: Comparative Law Research*, *7*(28), 1-32.

Karimi, A. (2010). *Civil Procedure*. Majd.

Kavanagh, A. (2009). *Constitutional Review under the UK Human Rights Act*. Under Press.

Khaleghian, J. (2006). *Security for Potential Damages*. Mohajer.

Malekzadeh, F. (2011). *Explanatory Amendments to Criminal and Civil Procedure*. Majd.

Matin Daftari, A. (2009). *Civil and Commercial Procedure* (Vol. 2). Majd.

Nezam al-Molki, J., & Jahanshahloo, M. (2021). Simultaneous Security for Vexatious Litigation and Security for Foreign Nationals in Iranian Law: A Look at Judicial Practice. *Legal Studies*, *13*(1), 259-285.

Nobakht, Y. (2014). *A Look at Civil Procedure (Civil Law)*. Rahnama (Andisheha) Cultural and Artistic Institute.

Pour Ostad, M., & Saadat, M. (2017). The Principle of Proportionality in Civil Procedure. *Iranian and International Comparative Law Research*, *10*(35), 59-87.

Safaei, S. H. (1991). Human Rights in Islam and the Universal Declaration of Human Rights. *Journal of the Faculty of Law and Political Science, University of Tehran*(27).

Seyed Fatemi, S. M. G. (1995). A Comparative Study of Asylum Rights in Islamic Jurisprudence and International Instruments. *Nameh Mofid*(1).

Shams, A. (2007). *Advanced Civil Procedure* (Vol. 3). Derak.

Shams, A. (2012). *Civil Procedure: Advanced Course* (Vol. 3). Derak.

Yalfani, A. A. (2001). *Commentary and Interpretation of Civil Procedure Laws* (Vol. 1). Amirkabir.

Yousefzadeh, M. (2015). *Civil Procedure*. Sherkat Sahami Enteshar.