Validity, Nullity, and Dissolution of Government Asset Monetization Contracts under the Resolution of the Supreme Council of the Heads of the Branches of Government: A Comparative Perspective

1. Hossein Bagheran: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran
2. Mojtaba Zahedian*: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran
3. Mohammadreza Ghazizadeh: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran

*Correspondence: 0933147856@iau.ac.ir

Abstract

The resolution adopted on January 11, 2023, by the Supreme Council for Economic Coordination of the Heads of the Branches of Government concerning the monetization of government assets has established a distinctive model of state intervention in the utilization and transfer of public property, situated at the intersection of public and private law. Although contracts concluded pursuant to this resolution are, in terms of their form, subject to the general rules of contract law, they possess distinctive characteristics regarding consent, subject matter, and purpose due to the sovereign nature of government assets. Accordingly, exceeding the limits of legal authority or concluding a contract in contravention of the applicable regulations renders the contract unenforceable, whereas the absence of the essential requirements for the validity of a transaction, incompatibility with mandatory legal rules, or failure to establish that the asset is surplus to governmental needs results in the nullity of the contract. Furthermore, the transferability of government property is exceptional and contingent upon specific statutory authorization; within the government asset monetization framework, the determination of the High Board serves this function. With respect to dissolution, termination based on statutory options or resolutory contractual conditions is generally recognized; however, the exercise of such rights must comply with public order, the stability of economic relations, and the protection of bona fide third parties. A comparative examination of French, German, and English law further demonstrates that the principles of legal competence, public purpose, and the prohibition against acting ultra vires constitute common foundations for determining the validity of such contracts across different legal systems.

Keywords: asset monetization, government contracts, contractual validity, nullity, dissolution, Civil Code, Resolution of the Heads of the Branches of Government.

Received: 19 July 2026
Revised: 17 October 2026
Accepted: 24 October 2026
Initial Publication: 01 November 2026
Final Publication: 01 July 2027

Copyright: © 2027 by the authors. Published under the terms and conditions of Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) License.

Citation: Bagheran, H., Zahedian, M., & Ghazizadeh, M. (2027). Validity, Nullity, and Dissolution of Government Asset Monetization Contracts under the Resolution of the Supreme Council of the Heads of the Branches of Government: A Comparative Perspective. *Legal Studies in Digital Age,* 6(7), 1-13.

1. Introduction

The validity of every contract in the Iranian legal system depends on the fulfillment of the four essential elements stipulated in Article 190 of the Civil Code: intention, consent, the legal capacity of the contracting parties, and the legitimacy of the purpose of the transaction (the subject matter of the transaction is also analyzed within the framework of one of these requirements). In asset monetization contracts, each of these elements must be examined in light of the specific considerations of public law.

Contracts and agreements concluded by the government and public organizations are subject to a special legal regime because of the significance and large-scale nature of their subject matter. Accordingly, such contracts are referred to as public or administrative contracts. The administrative character of these contracts means that, both with respect to the formalities governing their conclusion and their substantive content, they are subject to particular rules and conditions designed to safeguard the public interest and protect the interests of the government. These conditions confer extensive powers upon the government and place it in a privileged position vis-à-vis the private party. By contrast, if comparable provisions were incorporated into private contracts, given the governing principle of equality of the contracting parties' wills, such contracts could be regarded as atypical and contrary to public order and, as imposed and unilateral agreements, could result in the non-enforceability or nullity of the contract. (Tabatabaei Motameni, 2020)

Pursuant to Article 190 of the Civil Code, the intention to create a legal transaction and the consent of the parties constitute essential requirements for validity. In government transactions, the intention must be directed toward the conclusion of a contract serving the objectives specified in the asset monetization resolution. The consent of the governmental entity must be expressed by the competent authority and obtained in accordance with the procedures stipulated in the implementing regulations. Any duress or material mistake affecting the government's will, within the meaning of Articles 202 to 209 of the Civil Code, may result in termination or invalidation of the contract. In asset monetization contracts, because of the potentially contentious nature of certain assets, allegations of mistake regarding valuation or the circumstances surrounding the transaction may arise, requiring careful examination of the parties' actual intentions.

Given the Implementing Regulations on the Monetization of Government Assets and the distinctive nature of the contracts arising therefrom, intention and consent, as the first essential elements of contractual validity, possess characteristics different from those found in ordinary private contracts. Pursuant to Article 190 of the Civil Code, the intention and consent of the parties are essential to the validity of every contract. (Ghazi Mirsaeid, 2022) In asset monetization contracts, however, such intention must exist not only on the part of the private contracting party, but the will of the government must also be formed and expressed through the legal and institutional mechanism prescribed by the regulations. The government's will in such contracts is not a personal or individual will; rather, it is an organized institutional will realized through the High Board for Asset Monetization and within the framework of its resolutions under Articles 2, 4, and 12 of the Regulations. Accordingly, governmental consent is deemed valid only after an economic assessment has been conducted, the surplus status of the asset has been established, the method of transfer and valuation has been determined, and the transaction has received approval from the competent authority. Conversely, the private party's internal willingness and inclination to conclude the contract, referred to in Iranian law as "consent," produces legal effects only when it reaches the stage of legal creation and external manifestation. In asset monetization contracts, the declaration of intent is predominantly made in writing through official documents, auction notices, price bids, execution of the contract, or acceptance of the conditions announced by the government. Such forms of declaration replace the traditional verbal formulas of contract formation in civil transactions. Even where the transfer occurs through a public offering or capital-market instruments, the placement of the asset under specified conditions on official platforms or in formal documents customarily constitutes an offer by the government capable of acceptance by the other party. Accordingly, although intention and consent are inherently internal, under the government asset monetization regime the validity of the contract depends on the expression of such will in the forms prescribed by the implementing regulations and without coercion, material mistake, or excess of legal authority. Otherwise, because of the absence of the essential elements of valid intention and consent, the contract may be exposed to nullity or non-enforceability.

Pursuant to Article 211 of the Civil Code—"In order for the contracting parties to be regarded as legally capable, they must be mature, of sound mind, and legally competent"—legal capacity refers to the capacity to hold rights and perform obligations. Representation of executive agencies in concluding such contracts must comply with the administrative hierarchy and rules

governing delegation of authority. The High Board for Asset Monetization, as the principal decision-making authority in this process, manifests the general will of the government in these transactions through the exercise of the powers conferred upon it by the resolution. Failure by representatives of governmental entities to observe the limits of delegated authority, although it may not directly result in nullity, may render the transaction unenforceable against the government under Article 663 of the Civil Code. ["Any person who knowingly interferes with or takes possession of property seized by competent authorities, without authorization and in a manner inconsistent with the seizure, shall, even if the person interfering or taking possession is the owner, be sentenced to imprisonment for three months to one year."]

2. Subject Matter of the Transaction and Transferability

The subject of a contract is the legal operation that the parties mutually agree to accomplish. For example, where two persons conclude a contract for the purpose of exchanging two assets, the subject of the contract is the exchange itself. It should be noted that because the contracting parties are aware of and intend their future obligations before the contract is formed, and conclude the contract precisely for the purpose of creating those obligations, the transfer of property, delivery of the counter-performances, or performance of a specified act is referred to as the "subject matter of the transaction." (Katouzian, 2021)

Accordingly, one of the essential requirements for contractual validity under Iranian civil law is that the subject matter of the transaction be determinate and legally transferable. (Safaei, 2020) Pursuant to paragraph 3 of Article 190 of the Civil Code—"The following conditions are essential for the validity of every transaction: (1) the intention and consent of the parties; (2) the capacity of the parties; (3) a determinate subject matter constituting the object of the transaction; and (4) the legitimacy of the purpose of the transaction"—the determinacy of the subject matter is an essential condition of validity. Article 214 further provides that "the subject matter of the transaction must consist of property or an act that each party undertakes to deliver or perform." In addition, Article 215 of the Civil Code states that "the subject matter of the transaction must have economic value and involve a legitimate and rational benefit." It must also be legally transferable; otherwise, the contract will be void. (Ghobouli Derafshan & Ghobouli Derafshan, 2012) These general principles specifically apply to contracts concluded under the Implementing Regulations on the Monetization of Government Assets, although the public character of the assets subjects them to additional restrictions and requirements.

Within the asset monetization regime, the subject matter of transactions primarily consists of surplus government immovable assets that, after being identified and determined to be surplus pursuant to Article 1 of the Implementing Regulations, may be transferred, exploited, or made subject to arrangements for joint exploitation. The requirement that the subject matter be determinate entails that the precise characteristics of the property—including its location, boundaries, designated use, registration status, and ancillary rights—must be established prior to contract formation and expressly specified in the contract. This requirement assumes particular importance because many government properties are devoted to public use, subject to registration restrictions, or encumbered by third-party rights. Any ambiguity in defining the subject matter may, under Articles 214 and 216 of the Civil Code—Article 216 providing that "the subject matter of the transaction must not be ambiguous, except in specific cases where general knowledge thereof is sufficient"—result in nullity or non-enforceability of the contract.

With respect to transferability, although the general principle favors the transferability of property, government property is subject to limitations arising from public-law rules and special regulations. Under Article 216 of the Civil Code, the subject matter must not be ambiguous and must be capable of delivery; however, certain government properties, because of their sovereign nature, dedication to public endowment, or allocation to public services, are inherently excluded from private transactions. The asset monetization regulations seek to overcome this restriction by distinguishing "surplus" assets from property required for sovereign functions. Thus, only after an asset has been removed from the sphere of public need and approved by the High Board for Asset Monetization pursuant to Article 2 of the Regulations does its legal transferability arise. Article 2 provides that the Secretariat of the Board shall be established within the Ministry of Economic Affairs and Finance and shall perform functions including arranging invitations and agendas for Board meetings; preparing records and correspondence; obtaining inquiries to ensure the adequacy of documentation; conducting meetings and preparing minutes; communicating and following up on Board resolutions; referring persons who refuse or obstruct implementation of Board resolutions to the Board and, upon Board approval, to the judicial authority; preparing reports for submission to the Supreme Council for Economic Coordination of the Heads of the Branches of Government; referring disputes under Article 14 to the

dispute resolution committee or the Board; preparing periodic financial, technical, and other performance reports; drafting required guidelines jointly with the Plan and Budget Organization and relevant agencies; establishing specialized working groups; supervising implementation of Board resolutions; and determining the number of valuation experts. In substance, the decision of the High Board functions as a form of "specific statutory authorization" that completes the requirement of contractual validity from the standpoint of transferability.

Overall, the subject matter of a government asset monetization transaction must possess three essential characteristics: first, the property or right to be transferred must be determinate and clearly identified; second, the transaction must be lawful and involve a rational benefit; and third, the asset must be legally transferable. Such transferability is not inherent but arises through the determination that the asset is surplus and through approval by the competent governmental authority. Any departure from these requirements, notwithstanding the Regulations' emphasis on facilitating transfers, may expose the contract to a fundamental civil-law defect and even a ruling of nullity.

Pursuant to Article 45 of the Constitution, "public wealth and properties, such as uncultivated or abandoned lands, mines, seas, lakes, rivers and other public waters, mountains, valleys, forests, marshlands, natural woodlands, pastures not privately enclosed, estates without heirs, property of unknown ownership, and public property recovered from usurpers, shall be at the disposal of the Islamic government so that it may act with respect thereto in accordance with the public interest. The details and manner of utilization of each shall be determined by law." Although the Implementing Regulations on Asset Monetization establish mechanisms for removing certain assets from the scope of these restrictions and converting them into transferable assets, such transfers must be supported by express statutory authorization. Article 5 of the Regulations enumerates the types of assets eligible for monetization. Any transfer of assets expressly classified as public property and legally incapable of transfer under Article 215 of the Civil Code will result in the nullity of the contract. In this context, a distinction must be drawn between the "transfer of the right of exploitation" or "right of use" and the "transfer of ownership." Only assets that are legally transferable, or with respect to which the law authorizes the transfer of rights, may validly constitute the subject matter of a contract.

3. Legitimacy of the Purpose of the Transaction

Paragraph 4 of Article 190 of the Civil Code establishes the legitimacy of the purpose of a transaction as one of the essential requirements for contractual validity. The Civil Code, however, does not define the "purpose of the contract." In legal doctrine, some jurists define purpose as the immediate objective without which the contract would not have been concluded. (Katouzian, 2021) In substance, the purpose of a transaction is the principal objective pursued by the contracting party through conclusion of the agreement. The purpose must be legitimate pursuant to Article 217 of the Civil Code, which provides: "It is not necessary for the purpose of a transaction to be expressly stated; however, if it is stated, it must be legitimate, otherwise the transaction is void." In private contracts, purpose refers to the principal motive of the parties in entering into the agreement. In government contracts, the principal purpose is the realization of the objectives established by the asset monetization resolution, namely, the generation of budgetary resources and optimization of the use of government capital.

If the principal purpose of a transaction is to evade legal obligations, circumvent mandatory rules, or obtain an unlawful benefit, the contract is void. For example, if the actual purpose of an asset monetization agreement is to transfer assets on a preferential or rent-seeking basis because of a special relationship with the purchaser while disregarding the public interest, the purpose of the transaction will be unlawful and the agreement void. An analysis of the budgetary objectives of the resolution demonstrates that the legitimate purpose is to release government capital locked in underutilized assets for infrastructure development, rather than to create new opportunities for rent-seeking.

This logic applies with even greater force to government asset monetization contracts because one party to the agreement is the government acting as trustee of public property, while the asset constituting the subject matter of the transaction possesses the character of "public ownership" or at least a prior "public use." Accordingly, where the purpose of entering into an asset monetization contract is not to achieve economic efficiency in furtherance of the public interest, but instead to circumvent financial regulations, secure particular benefits for specific persons, or remove assets from public ownership through nontransparent means, and that purpose is expressly reflected in the contract or its terms, the agreement will be void pursuant to Article 217 of the Civil Code and the mandatory rules associated with public order. By emphasizing the determination that

an asset is "surplus" and requiring the transfer process to be approved by the High Board for Asset Monetization under Articles 1 and 2, the Implementing Regulations effectively seek to give concrete form to the legitimate purpose of the contract and embed it within binding legal formalities.

With respect to a contractual condition having an unlawful purpose, although some jurists, relying on the legislature's failure to expressly address the issue in Articles 232 and 233 of the Civil Code, have maintained that the condition itself is not void but merely unenforceable, (Shahidi, 2018) and have even regarded Article 10 of the Civil Code—"Private contracts are binding upon those who conclude them, provided they are not expressly contrary to law"—as supporting this interpretation, (Emami, 2000) this analysis encounters serious difficulties in the context of asset monetization contracts. The foundations underlying the requirement of legitimacy of purpose are general in nature and are not confined to the principal contract; they also extend to conditions incorporated into the contract. As legal doctrine has emphasized, once Article 232 of the Civil Code requires contractual conditions to be lawful, there is no meaningful distinction, in terms of legal effect, between the unlawfulness of the subject matter of a condition and the unlawfulness of its purpose. (Katouzian, 2022)

Accordingly, in asset monetization contracts, a condition whose purpose is the realization of an unlawful objective—including a purpose contrary to financial legislation, mandatory rules governing public property, or public morality—and whose purpose is reflected in the contractual provisions is not merely void in itself; in some circumstances, it may also invalidate the principal contract, particularly where the condition constituted the principal motive of the government or private party in concluding the agreement. Reliance on Article 10 of the Civil Code does not alter this conclusion because the enforceability of private contracts under that provision is itself contingent upon consistency with public order and public morality. Consequently, within the legal regime governing the monetization of government assets, legitimate purpose is not a peripheral matter but a fundamental element for ensuring contractual validity and safeguarding the public interest.

4. Comparative Analysis of the Requirements for Validity

In contracts for the monetization of government assets, the requirements for validity, although ostensibly governed by general contract law, are subject to additional restrictions in different legal systems because of governmental involvement, the public nature of the property concerned, and considerations of public order. A comparative examination of Iran, France, Germany, and England demonstrates that, despite differences in theoretical foundations, all of these systems impose limitations on freedom of contract in relation to public property.

Under Iranian law, the requirements for contractual validity pursuant to Article 190 of the Civil Code consist of intention and consent, legal capacity, a determinate subject matter, and a legitimate purpose. (Mirkamali, 2016) In asset monetization contracts, these requirements are supplemented by special public-law rules. This is particularly evident with respect to intention and consent, which represent not the personal will of an administrative official but the institutional will of the government and must be formed through the legally prescribed mechanism, namely, the High Board for Asset Monetization. The legitimacy of purpose is likewise directly linked to the protection of public funds and public order, and any deviation from public objectives may result in nullity.

In French law, the analysis of government contracts is founded on the distinction between the *contrat administratif* and the *contrat privé*. In contracts concerning the exploitation or transfer of public property, contractual validity depends not only on compliance with the general requirements of Article 1128 of the French Civil Code—consent, capacity, and definite and lawful contractual content—but also on observance of the public-interest requirement. French administrative jurisprudence treats the legitimacy of the contractual objective as a fundamental requirement of validity, and where an agreement lacks a public-interest purpose or results in the unlawful transfer of public property, it may be invalidated. (Auby, 2014)

Under German law, contracts concerning government assets are analyzed within the concept of the "public-law contract" under §54 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*—VwVfG). In addition to agreement between the parties, a fundamental requirement for validity is conformity with mandatory law and the public interest. Under German constitutional and administrative jurisprudence, a transaction that results in the dissipation of public assets or departs from the principle of legality of administration may be void because of an unlawful subject matter or inconsistency with public order.

In this system, the legal authority and competence of the administrative official play a central role, and lack of competence may lead to absolute nullity of the contract. (Maurer, 2009)

Under English law, the validity of government transactions is analyzed within the common-law framework of contract formation, including offer, acceptance, consideration, and intention. In contracts involving public assets, however, the doctrine of *ultra vires* assumes a decisive role. If a public authority enters into a contract beyond the scope of its statutory powers, the agreement may be void or unenforceable even where the traditional elements of contract formation are otherwise present. The courts also emphasize the public-purpose doctrine, under which the use of government property must serve a public objective; otherwise, the legal basis for creating an enforceable legal relationship may be impaired. (McLean & McMillan, 2018)

From a comparative perspective, it may therefore be concluded that in France, Germany, and England the requirements governing the validity of government transactions are more extensive than those applicable to private contracts. In addition to the classical elements of contractual validity, factors such as the competence of the administrative authority, the existence of a public interest, and conformity with public order play an essential role. This approach is consistent with the Iranian government asset monetization regime, under which asset monetization may be characterized not merely as a civil-law contract but as an institution situated between public and private law, whose validity cannot be conceived without satisfaction of these additional requirements.

5. Grounds for Nullity or Non-Enforceability

Nullity of a contract means that it is devoid of legal effect from the outset, whereas non-enforceability means that the contract's legal effects remain suspended until it is ratified or rejected by the person whose authorization is required. In government contracts, certain violations may give rise not only to nullity but also to administrative and criminal liability.

5.1. Violation of Mandatory Rules

In contemporary societies, the legal system as a whole functions as a guardian of societal interests and values and, by regulating individual conduct and behavior, prevents the erosion of the foundations of social order. These interests and values are not only diverse but may also differ in their relative importance, with each requiring a particular degree and form of legal protection depending on its nature and position. (Morshedzadeh & Ghorbani Gharablagh, 2020) The most important ground of nullity in government transactions is violation of mandatory rules. Such rules include the financial and administrative laws governing the government's disposition of public property. (Criddle & Decent, 2012)

From this perspective, the resolution and Implementing Regulations on the Monetization of Government Assets may be regarded as an example of the penetration of mandatory-rule logic into the sphere of civil and administrative law. The resolution concerns the conclusion of contracts that, although formally governed by private-law rules, are substantively and directly connected with public property and the interests of society. The requirement to comply with special procedures for determining whether government assets are "surplus" and for transferring such assets, as prescribed by Articles 1 and 2 of the Regulations, is mandatory in nature. Any agreement contrary to these requirements, even where both parties consent, lacks legal validity. Likewise, the role of the High Board for Asset Monetization in approving and supervising the contract formation process demonstrates that governmental intent can be legally manifested only within a specific institutional framework and in accordance with binding rules.

From the perspective of civil law, just as the conflict of a treaty with a peremptory norm results in its nullity, within the asset monetization regime any contract concluded without observance of the mandatory requirements of the resolution, or for a purpose contrary to the public interest, will be void because it conflicts with public order and binding legal rules. This conclusion is compatible not only with Article 217 of the Civil Code but also with the underlying philosophy of the resolution, because the principal objective of asset monetization is economic efficiency in the public interest rather than the mere transfer of ownership of government assets.

Ultimately, the mandatory rules governing the asset monetization resolution themselves constitute a manifestation of the public interest at the national level. Accordingly, the interaction between this conception and the mandatory rules of civil law

demonstrates that asset monetization contracts lie at the intersection of private and public law, and their validity cannot be conceived without full compliance with these binding requirements.

Articles 30, 34, and 90 of the Public Finance Act establish the framework for supervision and the authorizations required for expenditure and transfer of assets. Article 30 defines deposits for purposes of the Act; Article 34, as amended on May 19, 2020, regulates the appointment and responsibilities of property custodians; and Article 90 assigns financial supervision over the expenditures of ministries, governmental institutions, and state-owned companies, including the conformity of payments with applicable laws and regulations, to the Ministry of Economic Affairs and Finance. (Falsafi, 2019) The transfer of government property without compliance with the required legal formalities and authorizations—particularly approval by the Council of Ministers or other competent authorities designated under budgetary legislation—constitutes an excess of authority and a violation of mandatory rules and may render the contract void. As stated in the source text with reference to Article 90 of the Civil Code, "any act contrary to law is void."

Rules concerning the protection of public funds and prevention of corruption form part of public order. If an asset monetization contract is concluded in a manner that manifestly violates the public interest or results in the evident dissipation of national resources, it may be subject to invalidation on public-order grounds even where the formal procedural requirements have been observed.

5.2. Excess of Authority

Exceeding the limits of statutory authority constitutes one of the grounds for invalidating administrative contracts. The High Board for Asset Monetization possesses specifically defined powers under the resolution. Any action beyond those powers, even if undertaken with benevolent intentions, may render the contract invalid.

The governing principle applicable to legal persons is that their legal acts must remain within the scope of the purposes and objectives stipulated in their constitutive instruments. In the case of public-law legal persons, however, this principle assumes a substantively different form: such entities are created by law rather than through registration, and their legal capacity is defined not in the private-law sense but in terms of statutory and administrative competence. (Mir Behbahani, 2022) Consequently, in government contracts, the mere existence of legal personality is insufficient for the valid conclusion of a contract. The statutory competence of the executive entity, as well as the authority and competence of the official executing the agreement, constitutes an essential requirement for the validity and enforceability of the contract. (Habibzadeh, 2016)

This principle is clearly reflected in the resolution and Implementing Regulations on the Monetization of Government Assets. Pursuant to Article 1 of the Regulations, the determination that an asset is "surplus" and the decision regarding the method of monetization fall exclusively within the competence of the High Board for the Monetization of Government Assets, and executive agencies may not act independently without authorization and approval from the Board. Likewise, under Article 2, the Ministry of Economic Affairs and Finance acts solely as the implementing authority for Board resolutions and possesses no inherent or independent power to conclude asset monetization contracts. This structure demonstrates that the regulatory framework, through a mandatory approach, accords institutional and administrative competence priority over contractual autonomy.

A fundamental principle governing the conduct of public officials is that they must not exceed the limits of their statutory competence. Excess of competence—whether subject-matter, territorial, or personal—produces two legal consequences: first, invalidity of the administrative decision or act; and second, administrative and disciplinary liability of the offending official, which may, depending on the circumstances, also give rise to civil or even criminal liability. (Ansari, 2010) This principle is particularly important in the field of asset monetization because the subject matter of the contracts consists of public property and public funds, and any decision made outside the limits of lawful authority directly threatens the public interest.

From a civil-law perspective, an administrative decision or act is valid and enforceable only if issued by a competent authority. If an asset monetization contract is concluded by a person or authority lacking the statutory power conferred by the resolution or Regulations, the contract will suffer from a fundamental defect because the government's valid intention and consent are absent. A distinction must therefore be drawn between two situations: first, a government official who possesses an official position but exceeds the limits of his or her authority; and second, a person who is not a government official at all. In both situations, the resulting legal act is unlawful. In the first situation, however, the government's will may ostensibly

appear attributable to the official, with the consequence that the contract is non-enforceable rather than absolutely void. (Tabatabaei Motameni, 2020)

This analysis applies with even greater clarity to asset monetization contracts. If an official of an executive agency concludes a contract without the approval of the High Board or beyond the limits of the authorization granted, the government may invoke the excess of authority as evidence of the absence of its consent. In such circumstances, the contract is non-enforceable and remains dependent upon ratification by the competent authority, namely, the High Board for Asset Monetization. This position corresponds closely with the civil-law analysis of the absence of valid consent by a representative. (Azimi Shoushtari, 2008)

Ultimately, the lack of authority of a government official in concluding asset monetization contracts does not necessarily lead immediately to nullity; in most cases, it results in non-enforceability. However, if ratification is withheld, or if the contract cannot lawfully be approved because it conflicts with mandatory provisions of the resolution, including Articles 1 and 2 and the procedural requirements of the Regulations, its legal effects will cease. At the same time, if the private contracting party suffers loss because of legitimate reliance on the government representative, it may seek compensation on the basis of civil liability resulting from organizational or administrative malfunction. (Habibzadeh, 2016) In this way, the government asset monetization resolution, like the mandatory rules of civil law, restricts the autonomy of individuals and public officials in order to safeguard the public interest and ensure the legal validity of government contracts.

Where a representative of an executive agency disregards the limits of his or her authority and acts beyond the powers delegated, the resulting contract will generally be "non-enforceable." Pursuant to Article 663 of the Civil Code—"A transaction involving another person's property, except by virtue of guardianship, executorship, or agency, is not enforceable, even if the owner is internally satisfied; however, if the owner or the owner's legal successor subsequently authorizes the transaction, it becomes valid and enforceable"—an unauthorized transaction, including a transaction in which a representative acts without authority or in excess of authority, remains subject to authorization by the owner, in this case the government. If the government, acting through the High Board or another competent authority, does not ratify the transaction, the contract will not acquire legal effect. Where the excess of authority is manifest and contrary to mandatory law, for example where property is transferred despite being legally non-transferable, absolute nullity is more likely.

5.3. Effect of the Suspension of Conflicting Laws

Article 17 of the Implementing Regulations on the Monetization of Government Assets provides that, in implementation of paragraph 6 of the resolution, all laws and regulations inconsistent with the resolution shall be suspended for a period of two years and that the determination of inconsistency shall fall within the competence of the Board. The provision has, expressly or implicitly, resulted in the suspension of certain conflicting laws during implementation of the resolution. It states that executive agencies must act within the framework of the Regulations and that, where a conflict arises with other laws and regulations, the resolution and its implementing regulations shall take precedence.

This provision constitutes a direct intervention in the hierarchy of legal norms and raises questions concerning the principle of the rule of law. Within the Iranian legal system, certain binding resolutions, such as decisions of the Supreme National Security Council or the Expediency Discernment Council adopted within their specific spheres of competence, may enjoy a special normative status in relation to ordinary regulations and, in some circumstances, ordinary legislation. Nevertheless, the suspension of ordinary legislation by an implementing regulation that itself derives authority from a resolution remains a matter of serious legal debate.

Pursuant to Article 12 of the Law on the Organization and Procedure of the Administrative Court of Justice, the General Assembly of the Court has jurisdiction to hear complaints and objections brought by natural or legal persons against governmental regulations and other administrative rules where such provisions are contrary to Islamic law or statute, have been issued by an incompetent authority, involve excess or abuse of power, violate laws or regulations in their implementation, or entail an unlawful failure to perform duties resulting in infringement of rights. Article 12 further provides for the issuance of unifying and precedent-setting decisions. Under Note 1, as amended on April 30, 2023, judicial decisions of the Judiciary and specified regulations, circulars, and decisions of the Head of the Judiciary, as well as decisions of the Guardian Council, Expediency Discernment Council, Assembly of Experts, and Supreme National Security Council, fall outside the scope of this provision. If an asset monetization contract has been concluded on the basis of Article 17 of the Regulations and that provision

conflicts with fundamental constitutional principles or ordinary legislation, particularly financial rules and provisions designed to protect public funds, the contract may be exposed to invalidation through proceedings before the Administrative Court of Justice. If the underlying provision or resolution is annulled, the resulting invalidity of the contract may arise by operation of law.

5.4. Comparative Analysis of the Nullity of Government Transactions

Under French administrative law, government contracts may be subject to invalidation where mandatory procedures, such as public tendering requirements, are disregarded or where the competent authority exceeds its powers. The French Conseil d'État exercises particularly close scrutiny over compliance with public procurement principles. In common-law systems, distinguishing among voidable, void, and unenforceable contracts has consistently presented theoretical and practical difficulties for jurists and judges. Some commentators, although recognizing the functional necessity of this distinction, regard it as analytically and conceptually difficult to sustain. Examination of definitions offered by legal scholars indicates that the fundamental criterion for distinguishing these categories lies in the manner in which consent is formed and manifested. In Philippine law, for example, a voidable contract has been described as one that outwardly possesses all the elements of a valid contract—including consent, a determinate subject matter, and consideration—but in which a party's consent is defective because of factors such as mistake, moral coercion, undue influence, abuse of a dominant position, fraud, or minority. (Mendoza, 2020) By contrast, in a void contract, legally effective consent has never come into existence, and even its outward expression cannot confer validity upon the transaction; physical compulsion constitutes a prominent example of the complete absence of consent.

This analysis is also capable of application in Iranian law. Under Iranian jurisprudence and civil law, a contract whose essential elements exist but in which consent has been defectively formed is generally non-enforceable and may be ratified or rejected, whereas a contract lacking an essential element is void ab initio. Accordingly, some jurists distinguish a voidable contract from a terminable contract on the basis of the quality of consent: in a terminable contract, consent is complete and valid, but because continued binding force would cause legally cognizable harm, the party is granted a right of termination. (Katouzian, 2022) This analysis corresponds to the principle of *la darar*—the rule prohibiting harm—as a doctrinal basis for statutory options of termination.

When these principles are applied to government asset monetization contracts, the quality and source of consent become even more significant. In such contracts, governmental consent is not the personal will of an administrative official but an institutional will constrained by mandatory rules. Pursuant to Article 1 of the Implementing Regulations on the Monetization of Government Assets, the terms "Resolution," "Board," and "Secretariat" refer respectively to the resolution adopted at the sixty-seventh meeting of the Supreme Council for Economic Coordination as endorsed by the Supreme Leader, the High Board for Asset Monetization referred to in paragraph 1 of that resolution, and the Secretariat referred to in the note to paragraph 1. The determination that an asset is surplus and the decision concerning the method of transfer fall exclusively within the competence of the High Board, and the consent of an executive agency without compliance with these procedures has no legal validity. Moreover, under Article 2 of the Regulations, the Ministry of Economic Affairs and Finance functions solely as the implementing authority for Board resolutions, and the creation of independent contractual obligations outside this framework constitutes an excess of authority. Consequently, where an asset monetization contract is concluded without observance of the prescribed mechanisms, even if it outwardly contains all the elements of a valid contract, the defect in the formation of valid governmental consent renders it at least non-enforceable and potentially subject to invalidation.

In common-law systems, a voidable contract is generally effective until it is avoided by the person entitled to do so. (Beatson et al., 2010) However, substantial disagreement exists concerning the temporal effect of avoidance. Many commentators regard avoidance as operating retrospectively and consider the contract to have been deprived of legal effect from the outset, although exceptions, including protection of bona fide third parties, are also recognized. (Ghobouli Derafshan & Mohseni, 2011) This position gives rise to important philosophical and logical problems, including the problem of transformation of legal nature and the apparent coexistence of existence and nonexistence at the same point in time. (Larijani, 2005)

These objections are also significant from the perspective of Iranian law and have contributed to the cautious and limited acceptance of the concept of "relative nullity." A comparable rationale may be observed in the asset monetization framework, where, rather than recognizing a subsequent transformation of a contract from valid to void, the regulatory system establishes an institutional structure intended to prevent valid governmental consent from arising outside the mandatory legal framework in the first place. Accordingly, where essential formalities have not been observed or an administrative official has exceeded the limits of authority, it is more appropriate in asset monetization contracts to speak of non-enforceability resulting from the absence of valid institutional consent than of subsequent nullity operating retroactively.

In conclusion, although common-law analyses of voidable contracts are significant in terms of their protective function in private-law relations, (Ghobouli Derafshan & Mohseni, 2011) they cannot be fully transplanted into the Iranian legal system, particularly in the field of government asset monetization contracts, because of the dominance of mandatory rules and the distinctive logical and jurisprudential foundations of Iranian law. By emphasizing institutional control over consent and restricting the government's contractual autonomy, the asset monetization resolution effectively seeks to prevent borderline situations between validity and nullity and to ensure legal certainty in transactions involving public property.

In Iran, the Supreme Audit Court also plays an important supervisory role in relation to government expenditure. Violation of financial and accounting regulations, as discussed above, may result in a finding of noncompliance and consequently in the operational invalidation or suspension of a contract by supervisory authorities. Although a ruling of the Supreme Audit Court does not necessarily result in the civil-law nullity of a contract, failure to comply with its determinations may provide a basis for invalidation or non-performance of the contract by the government. Nullity in this context is generally founded on violation of public order and the rule of law.

6. Termination and Automatic Dissolution of the Contract

In civil contracts, dissolution may generally occur in two forms: termination (*faskh*), meaning the exercise by one party of a right to bring the contract to an end in specified circumstances, and automatic dissolution (*enfesakh*), meaning the automatic termination of the contract upon occurrence of a condition or the emergence of a legal impediment. In asset monetization contracts, because of their administrative character, the concepts of administrative termination and resolutory conditions assume particular importance.

6.1. Statutory Options of Termination

Although the general framework governing government asset monetization contracts is established through administrative and mandatory regulations, the legal character of these agreements as onerous financial contracts necessarily incorporates many classical private-law institutions, including statutory options of termination, termination itself, and automatic dissolution. Analysis of these institutions within the framework of the asset monetization resolution requires reconciliation between the logic of civil law, which rests on contractual autonomy, and the logic of public law, which is concerned with the protection of public property.

From the perspective of civil law, the general principle under Article 219 of the Civil Code is the binding force of contracts, while termination is exceptional and requires a statutory or contractual basis. (Khobiyari & Razi, 2021) Although the Implementing Regulations on the Monetization of Government Assets do not independently refer to "options of termination" in the technical civil-law sense, their provisions are structured in a manner that allows certain statutory grounds for termination to be implicitly identified within these contracts. For example, the requirement to comply with the base price approved by the High Board for Asset Monetization under Article 11 of the Regulations and the requirement that the contract be concluded through the method specified under Article 12 may, if violated, constitute, from a civil-law perspective, a basis for an option arising from breach of condition or from failure of an essential contractual quality, particularly because valuation and the prescribed method of transfer constitute fundamental attributes of the government's consent.

The information and procedural framework established by the Regulations, particularly the requirement to register assets in the SADA system and determine their surplus status under Articles 1 and 7, also provides an important basis for analyzing options related to defects or fraudulent misrepresentation. If, during the transfer process, the legal, registration, or designated-use status of the asset differs from the information disclosed and this discrepancy materially affected the other party's decision,

exercise of the option for defect or fraud may be defensible from the standpoint of private law, notwithstanding that one of the parties is the government, because in these agreements the government enters the transaction in the capacity of an owner rather than exclusively as a sovereign authority.

Alongside termination, attention must also be paid to automatic dissolution, the effects of which arise by operation of law without any need for an expression of intent by either party. In asset monetization contracts, certain legal events may result in automatic dissolution, including the subsequent loss of the asset's legal transferability, discovery that the property belongs to a category of public assets that cannot lawfully be transferred, or issuance of a final judicial judgment prohibiting transfer of the specific asset. When analyzed within Articles 214 and 215 of the Civil Code, these circumstances demonstrate that once the legitimate subject matter of the transaction ceases to exist, the contract is automatically dissolved, even where it was validly concluded in formal terms.

A significant point is that the exercise of statutory options in asset monetization contracts, unlike in purely private agreements, is always constrained by considerations of financial public order. In other words, termination or automatic dissolution of these contracts produces not only private effects between the parties but also extensive financial and administrative consequences because public assets are involved. For this reason, by establishing the High Board for Asset Monetization as the competent authority for fundamental decisions and by restricting the powers of implementing agencies, the Regulations seek to control the discretionary exercise of termination rights and prevent widespread legal instability in transfers of government assets.

It may therefore be concluded that although the government asset monetization resolution is mandatory and sovereign in nature, classical civil-law institutions such as statutory options, termination, and automatic dissolution continue to apply at the level of contractual implementation. Their legitimacy and scope, however, are constrained by the resolution, decisions of the High Board, and considerations of economic public order. It is precisely this coexistence of private and public law that makes asset monetization contracts a prominent example of innominate contracts possessing a dual legal character within the Iranian legal system.

6.2. Resolutory Conditions

Although the formation and performance of government asset monetization contracts take place within a mandatory framework grounded in sovereign powers, the structure of the parties' obligations is such that classical institutions of civil law—particularly statutory options, termination, and automatic dissolution—play a decisive role in ensuring proper contractual performance. From this perspective, asset monetization contracts may be regarded as a prominent example of the intersection between private-law rules and the requirements of economic public order.

Pursuant to Article 219 of the Civil Code, the general principle is the binding force of contracts, and departure from this principle is permissible only in cases expressly authorized by statute or contract. (Karimpour Alhashem, 2018) Although the Implementing Regulations on the Monetization of Government Assets do not expressly employ the technical term "options of termination," their provisions are structured in a manner that facilitates the operation of certain statutory options. For example, where essential obligations of the contracting party—such as making the required investment, exploiting the asset in accordance with the approved plan, or complying with temporal and financial conditions approved by the High Board—are materially breached, such circumstances may, from the perspective of civil law, fall within the option arising from breach of condition or, in more serious cases, the option arising from failure of an essential quality of the subject matter. The significance of this analysis lies in the fact that, in asset monetization contracts, the characteristics of contractual obligations do not derive solely from party autonomy; rather, they are based on decisions of the competent authority, namely the High Board, and operate as fundamental conditions of the contract.

Alongside discretionary termination, a resolutory condition constitutes an important mechanism for automatic dissolution and occupies a significant position in asset monetization contracts. Pursuant to Article 235 of the Civil Code, a resolutory condition is one whose occurrence causes the contract to be dissolved automatically. (Shahidi, 2018) Given the sensitivity of public property and the need to prevent the continuation of contracts detrimental to the public interest, inclusion of resolutory conditions in favor of the government in asset monetization contracts is justified and may even be considered necessary. For example, refusal or inability of the private party to perform essential obligations, misuse of the transferred asset, or deviation

from the approved objective of asset monetization may trigger the resolutory condition and bring about automatic dissolution without requiring the government to undertake the formalities of unilateral termination or immediately seek judicial intervention.

Nevertheless, the analysis of resolutory conditions in this field must take into account the principle of "contractual stability" in public law. Although administrative law generally favors continuity of government contracts, the asset monetization regulations, by delegating authority to the High Board and implementing bodies, effectively permit resolutory conditions when they serve to protect the public interest. Within this framework, automatic dissolution may be analyzed not merely as an exception to the principle of binding force but as an ex ante mechanism for safeguarding public interests.

Moreover, statutory automatic dissolution may also arise in government asset monetization contracts, particularly where, by operation of law or a decision of the competent authority, the asset loses its legal capacity for transfer or exploitation, or where it is subsequently established that the property never possessed the required status of being "surplus." In such circumstances, because an essential element of the contract ceases to exist, the agreement is dissolved by operation of law. From the standpoint of civil-law doctrine, this result is based on the absence or subsequent disappearance of a lawful subject matter.

Accordingly, statutory options, termination, and automatic dissolution in government asset monetization contracts are not merely institutions borrowed from private law. Under the asset monetization regulatory framework, they acquire broader functions and operate as mechanisms for protecting public property and the public interest. Their analysis and application nevertheless remain rooted in fundamental civil-law concepts, demonstrating that even in the most mandatory forms of governmental intervention in the economy, contractual relations cannot be conceived independently of the classical principles of private law.

7. Discussion and Conclusion

Government asset monetization contracts in the Iranian legal system, particularly following the January 11, 2023 Resolution of the Supreme Council for Economic Coordination of the Heads of the Branches of Government and its Implementing Regulations, have become one of the most important legal and economic instruments for the exploitation, transfer, and efficient utilization of public property. These contracts lie at the boundary between public and private law. On the one hand, they are governed by the general rules of contract law under the Civil Code; on the other, because they concern government property, they are subject to mandatory rules, institutional requirements, and considerations of economic public order. With respect to validity, the present study demonstrates that the essential requirements for valid transactions under Article 190 of the Civil Code—including intention and consent, legal capacity, a determinate subject matter, and a legitimate purpose—also apply to these contracts, although their substantive meaning differs significantly from that applicable to private agreements. The government's will in this context is neither personal nor unrestricted; rather, it is institutional and constrained by legal competence. Accordingly, valid governmental intention and consent arise only where the decision-making process and conclusion of the contract have been approved or ratified by the High Board for the Monetization of Government Assets. Likewise, the government's capacity and authority to transfer or permit exploitation of assets depend on a determination that the asset is surplus and on authorization of the particular method of disposition by the competent authority. On this basis, the subject matter of the transaction is valid only where the property is legally capable of transfer or contractual exploitation, and the decision of the High Board operates as a specific statutory authorization permitting its entry into the asset monetization process. With respect to the purpose of the transaction, the study concludes that legitimacy does not merely mean the absence of an apparent violation of law; rather, the actual purpose must correspond with the objectives of public-sector efficiency, improved utilization of government assets, and protection of the public interest. Where a contract in practice facilitates circumvention of financial rules, preferential transfer of public property, or advancement of particular private interests, its legitimacy will be subject to serious legal objection.

With respect to nullity and non-enforceability, the study distinguishes between two situations. Where a contract is concluded without the required approval or outside the scope of the powers conferred upon executive authorities, it is non-enforceable because valid governmental consent is absent, and its enforceability remains contingent upon subsequent ratification by the competent authority. By contrast, where the essential requirements of contractual validity are absent, mandatory rules are violated, or the property is legally incapable of transfer, the contract is void and incapable of ratification. In the field of

dissolution, termination, automatic dissolution, and mutual rescission are in principle applicable; however, their exercise must respect public order, transactional stability, legitimate expectations, and the protection of bona fide third parties. Ultimately, the article concludes that the legal regime governing government asset monetization contracts is a hybrid regime in which traditional rules of civil law are reinterpreted in light of the special requirements applicable to public property, the institutional structure of decision-making, and overarching economic policies. By centralizing decision-making in the High Board for Asset Monetization and establishing specialized mechanisms, the Resolution of the Supreme Council of the Heads of the Branches of Government and its Implementing Regulations have supplemented the classical concepts of validity, nullity, and contractual dissolution with an additional layer of public-law and economic considerations.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

Acknowledgments

Authors thank all who helped us through this study.

Conflict of Interest

The authors report no conflict of interest.

Funding/Financial Support

According to the authors, this article has no financial support.

References

Ansari, V. (2010). *General Principles of Administrative Contract Law* (6th ed.). Hoghooghdan.

Auby, J.-B. (2014). *Administrative Contracts*. Oxford University Press.

Azimi Shoushtari, A. (2008). *International Contract Law in Islam* (9th ed.). Publication Center of the Islamic Propagation Office.

Beatson, J., Burrows, A., & Cartwright, J. (2010). *Anson's Law of Contract* (29th ed.). Oxford University Press.

Criddle, E. J., & Decent, E. F. (2012). The Peremptory Theory of Jus Cogens: Peremptory Norms of International Law with Emphasis on the Peremptory Theory of Jus Cogens. *International Law Review*.

Emami, S. H. (2000). *Civil Law* (3rd ed.). Eslamiyeh Publications.

Falsafi, H. (2019). *International Law of Treaties*. Farhang Nashr-e No.

Ghazi Mirsaeid, S. (2022). Examining the Principle of Validity in Contracts under the Civil Code and Its Impact on Legitimacy. *Iranian Scientific Monthly of Political Sociology*, *5*(9).

Ghobouli Derafshan, S. M. M., & Ghobouli Derafshan, S. H. (2012). Examining Whether the Essential Conditions for Contract Validity Are Required for Conditions within Contracts. *Scientific-Research Biannual Journal of Civil Law Knowledge*(1).

Ghobouli Derafshan, S. M. M., & Mohseni, S. (2011). The Scope of Relative Nullity. *Legal Research*(34).

Habibzadeh, M. K. (2016). *Principles Governing Government Contracts* (7th ed.). Javdaneh Jangal Publications.

Karimpour Alhashem, M. T. (2018). Grounds of Relative Nullity in French and Iranian Law and Its Feasibility in Imami Jurisprudence. *Islamic Jurisprudence and Law Research*(51).

Katouzian, N. (2021). *Civil Law* (36th ed.). Mizan Publications.

Katouzian, N. (2022). *Civil Law: General Rules of Contracts* (40th ed.). Mizan Publications.

Khobiyari, H., & Razi, P. (2021). A Critique of the Status of Contract Avoidability in Iranian Law and Its Comparison with Common Law. *Comparative Research in Islamic and Western Law*, *8*(2).

Larijani, S. (2005). Reasoning in Considerations (I'tibariyyat). *Philosophical-Theological Research*(24).

Maurer, H. (2009). *General Administrative Law*. Beck/Hart.

McLean, J., & McMillan, A. (2018). Administrative Contracts and Public Law Values. *Public law*.

Mendoza, Q. C. (2020). *Engineering Contracts, Specifications and Ethics* (2nd ed.). REX Bookstore.

Mir Behbahani, M. A. (2022). Examining the Status of Nullity and Non-Enforceability of Government Transactions. *Scientific Monthly of Iranian Political Sociologists*, *5*(10).

Mirkamali, S. A. (2016). *Analysis of Instances of Peremptory Norms in International Law* Proceedings of the Third International Conference on Research in Science and Technology,

Morshedzadeh, M., & Ghorbani Gharablagh, R. (2020). Examining Peremptory Norms in International Treaties. *Quarterly Journal of New Research in Humanities*, *4*(29).

Safaei, S. H. (2020). *Introductory Course in Civil Law: General Rules of Contracts* (29th ed.). Mizan.

Shahidi, M. (2018). *Civil Law: Conditions within Contracts*. Majd Publications.

Tabatabaei Motameni, M. (2020). *Administrative Law* (20th ed.). Organization for Studying and Compiling University Humanities Books (SAMT).