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## A COMPARISON BETWEEN THE CRIMES OF TRANSFER OF ANOTHER'S PROPERTY AND BREACH OF TRUST WITHIN THE FRENCH LEGAL SYSTEM

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### **ABSTRACT**

This research paper conducts a comparative analysis of the two crimes of 'transfer of another's property' and 'breach of trust' within the French legal system. The objective of this research is to accurately identify the constituent elements of these two crimes, compare their similarities and differences, and analyze the approach of French lawmakers and judiciary in dealing with these crimes. Employing a descriptive-analytical method and through a study of French legal sources, this research demonstrates that despite their apparent differences, these two crimes share significant commonalities. The main difference is in the way of acquiring property: In the crime of transferring another's property, the perpetrator obtains the property with fraudulent intent from the beginning, whereas in breach of trust, the abuse occurs after the lawful receipt of the property. Taking these differences into account, the French legal system has established proportionate punishments for each of these crimes. This study, by examining French judicial decisions and legal opinions, provides a comprehensive overview of how the French legal system deals with these crimes.

**Keywords:** Transfer of another's of property, Breach of trust, French criminal law, and financial crimes

### **INTRODUCTION**

In the realm of criminal law, financial crimes hold significant importance as they not only infringe upon individual rights but can also undermine the foundation of trust and economic security within a society. Among various financial crimes, the offenses of 'transfer of another's property' and 'breach of trust' have consistently attracted the attention of legal scholars and lawmakers due to their complex and sometimes ambiguous nature. Despite their apparent differences, these two crimes share notable commonalities, and a comparative analysis can lead to a deeper understanding of the nature of financial crimes and how legal systems address them. The French

legal system, as one of the world's most advanced and influential legal systems, has adopted a unique approach to dealing with these crimes. The crime of transferring another's property in French law, as defined in Article 313-1 of the French Penal Code, is recognized as an act whereby an individual, using fraudulent means, seizes property or money belonging to another.

On the other hand, breach of trust, as defined in Article 314-1 of the same law, is considered the abuse of the owner's trust and the illegal appropriation of entrusted property. The main difference between these two crimes lies in how the property is obtained: in the transfer of another's property, the perpetrator initially obtains the property through deception with fraudulent intent, whereas in breach of trust, the property is lawfully placed in the perpetrator's possession with the owner's consent, and the abuse occurs later. However, both crimes ultimately result in harm to the original owner and the unlawful deprivation of ownership. The French legal system, considering these similarities and differences, has provided appropriate penalties for each of these crimes.

A comparative study of these two crimes within the French legal system not only contributes to a better understanding of the nature and differences between these offenses but can also inspire legal reforms and improve judicial procedures in other countries. In this article, while carefully examining the constituent elements of each of these crimes in French law, we will conduct a comparative analysis. Also, by examining French judicial decisions and legal opinions, we will try to provide a comprehensive picture of how the French legal system deals with these crimes. Finally, given the increasing importance of financial crimes in the modern era and the increasing sophistication of the methods of committing them, this study can be an effective step toward enhancing legal knowledge and improving judicial systems in the face of such crimes.

## **Concepts and Definitions**

### **Definition of the term 'Transferring another's Property'**

Transfer of another's property is considered one of the major crimes against property and ownership in the French legal system. This crime occurs when a person transfers property belonging to another person to a third party without the owner's consent or legal permission. In other words, the transfer of another's property is the sale, gift, or mortgaging of another's property without the owner's permission (Mir Mohammad Sadeghi, 1392: 189). In French criminal law, this crime is known as "abus de confiance" (abuse of trust) and is defined in Article 314-1 of this law. According to this article, anyone who, with malicious intent and to the detriment of another, uses for their own benefit or that of another, funds, securities, property, or any other objects entrusted to them or given to them for a specific use or with the condition of returning the same or similar object or price, has committed the crime of transferring another's property (Desport and Le Gonidec, 2008: 723). Garaud, a French jurist, defines the transfer of another's property as follows: "*An act by which a person who is not the owner transfers immovable property to another as their own*" (as cited in Goldoozian, 1391: 215). This definition emphasizes the material element of the crime, which is the transfer of property without rights.

### **Definition of 'Breach of Trust'**

Breach of trust is another significant crime against property in French criminal law. This crime occurs when a person entrusted with another's property abuses the owner's trust and, contrary to the agreement or contract, takes possession of the property or uses it for their own benefit or that of another. In French criminal law, breach of trust is defined as 'abus de confiance' in Article 314-1. This article states: "Breach of trust is the appropriation or dissipation, to the detriment of another, of funds, securities, property, or any other object entrusted to him for the purpose of return, delivery, or specific use" (Pradal and Dante-Giovan, 2010: 587). Mir Mohammad Sadeghi, in defining breach of trust, says: "Breach of trust is the abuse of the trust of the owner or lawful possessor of property about property that has been entrusted to another on the basis of one of the

trust contracts or by law" (Mir Mohammad Sadeghi, 1392: 256).

The primary distinction between the transfer of another's property and a breach of trust lies in the fact that, in the transfer of another's property, the perpetrator transfers the property to a third party, whereas in breach of trust, the perpetrator typically keeps the property for themselves or uses it. However, in the French legal system, both crimes fall under the single category of 'abus de confiance', which highlights the significant similarities between these two crimes (Veron, 2019: 301).

### **Examination of the Crime of Transfer of Another's Property in French Law**

In the French legal system, the crime of transfer of another's property is known as abus de confiance or abuse of trust. This crime is defined and penalized in Article 314-1 of the French Penal Code. To better understand this crime in French law, it is necessary to examine its constituent elements, the conditions for its occurrence, and the associated penalties.

#### **A. Elements of the Crime:**

1. **Legal Element:** Article 314-1 of the French Penal Code states: "*Abuse of trust is the appropriation or loss, to the detriment of another, of funds, securities, property or any other type of object which has been entrusted to him for the purpose of return, delivery or specific use*" (Pradel & Dante-Giovan, 2010: 587).
2. **Material Element (actus reus):** The material element of this crime consists of two main parts:
  - a) **Delivery of property to the perpetrator:** The property must have been legally delivered to the perpetrator with the owner's consent.
  - b) **Appropriation or loss of property:** The perpetrator must have appropriated the property or caused its loss.
3. **Mental Element (mens rea):** For this crime to be established, both general and specific malicious intentions are required. The perpetrator must act with the knowledge of the nature of their act and with the intention of appropriating or causing the loss of another's property (Desport & Le Gonidec, 2008: 725).

#### **B. Conditions for the Crime:**

1. **Existence of a Fiduciary Relationship:** For the crime of transfer of another's property to be established in French law, there must be a fiduciary relationship between the owner and the perpetrator. This relationship can arise from a contract, law, or court order (Veron, 2019: 303).
2. **Delivery of Property:** The property must have been voluntarily delivered to the perpetrator with the consent of the owner. If the property was obtained through theft or fraud, the crime of transfer of another's property is not established, and other criminal offenses may be considered.
3. **Intent to Return or Specific Use:** At the time of delivery, there must be an intent to return the property or use it for a specific purpose. This condition distinguishes the crime of transferring another's property from other financial crimes (Mayo, 2021: 456).

4. Seizure or Destruction of Property: The perpetrator must seize or destroy the property. Seizure can include selling, gifting, mortgaging, or any other form of transfer.

#### C. Penalties:

According to Article 314-1 of the French Penal Code, the primary penalty for the crime of transferring another's property is imprisonment of up to three years and a fine of up to €375,000. In addition, the court may impose supplementary penalties, including:

1. Deprivation of civil, family, and professional rights.
2. Prohibition from engaging in professional or social activities related to the crime.
3. Confiscation of property used in the commission of the crime or the proceeds thereof.
4. Publication of the judgment (Kent, 2019: 620)

#### D. Differences and Similarities with Iranian Law:

When compared to Iranian law, the crime of transferring another's property in France has both similarities and differences:

1. In Iranian law, the transfer of another's property and breach of trust are two distinct crimes. However, in France, both fall under the category of "abuse de confiance" (abuse of confidence).
2. Unlike Iranian law, French law does not make a clear distinction between movable and immovable property. Both can be the subject of this crime (Mir Mohammad Sadeghi, 1392: 192).
3. The punishment for this crime is generally more severe in France than in Iran. In Iran, according to Article 1 of the Law on the Transfer of Another's Property, enacted in 1308, the punishment is imprisonment from six months to three years. In contrast, France imposes both imprisonment and substantial fines.
4. In French law, unlike Iranian law, the intent to deceive the other party is not a necessary condition for the crime to be established. Simply transferring the property with knowledge of not being the owner is sufficient (Zarra'at, 1394: 245).

#### E. Judicial Precedent:

The French Supreme Court has, in numerous rulings, interpreted and explained the crime of transfer of another's property. For instance, in ruling number 98-80840 dated June 14, 1999, the Court held that for the crime to be established, it is not necessary for the perpetrator to know the actual owner of the property; rather, it is sufficient to merely be aware of his own lack of ownership (Rassa, 2020: 210). Moreover, in another ruling, number 03\_81045 dated October 20, 2004, the French Supreme Court emphasized that the crime of transfer of another's property can also be committed about intangible assets, such as the illegal transfer of intellectual property rights or copyrights (Veron, 2019: 305).

#### F. Challenges and Criticisms:

Despite the French legislator's efforts to provide a comprehensive definition and punishment for the crime of transferring another's property, this crime faces challenges and criticisms.

1. The lack of clear distinction between the transfer of another's property and breach of trust can, in some cases, lead to ambiguity in the diagnosis and imposition of punishment.
2. Some jurists argue that the penalties prescribed for this crime are excessively severe and are not in line with the principle of proportionality between the crime and the punishment (Pradal and Dante-Giovan, 2010: 590).
3. The broad definition of the crime can, in some cases, lead to abuse and false accusations, especially in complex financial and commercial disputes.

Overall, the crime of transferring another's property is defined and punished with considerable precision and comprehensiveness in French law. While this approach protects the rights of owners of property and public confidence in transactions, it has also created challenges that require the ongoing attention and review of the legislature and courts.

#### **Elements of the Crime**

Like other crimes in the French legal system, the crime of transferring another's property consists of three main elements: the legal element, the material element, and the mental element. Each of these elements plays a significant role in the realization of the crime and the determination of the perpetrator's punishment.

##### A. Legal Element:

The legal element of the crime of transferring another's of property is defined in Article 314-1 of the French Penal Code. This article characterizes the aforementioned crime as "abuse of confidence" and defines it as follows: "*Abuse of confidence is the appropriation or dissipation of funds, securities, or any other property entrusted to the perpetrator for a specific purpose of return or use*" (Pradel, 1395: 256).

##### B. Material Element:

The material element of this crime consists of two main components:

1. **Surrender of Property to the Perpetrator:** This surrender must be carried out legally and with the explicit consent of the property's owner. (Habibzadeh, 1397) highlights that "*the surrender of the property must stem from a fiduciary relationship, which can originate from a contract, a statute, or a court order.*"
2. **Seizure or Destruction of Property:** The perpetrator must seize the property for their own benefit or that of another, or destroy it. "*seizure can manifest in various ways, such as sale, donation, mortgage, or any other form of transfer.*" (Mir Mohammad Sadeghi, 1396).

### C. Mental Element:

The mental element of this crime requires the existence of both general and specific malice:

1. General Intent: The perpetrator must act with knowledge of the nature of his act. "*The perpetrator must be aware that the property belongs to someone else and that he/she is merely a trustee*" (Salehi, 1398: 142).
2. Specific malice: The perpetrator must intend to appropriate or destroy the property. "*The intent to possess or destroy property is the essential element of the mental element of this crime, and without it, the crime is not complete*" (Goldoozian, 1399: 278).

### Conditions for the Crime:

In addition to the aforementioned elements, the following conditions must also be met for the crime of transferring another's property to be realized under French law:

1. Existence of a fiduciary relationship between the owner and the perpetrator.
2. Voluntary delivery of the property by the owner.
3. The perpetrator's intent is to return the property or use it for a specific purpose at the time of delivery.
4. The perpetrator's act of appropriating or destroying the property.

The primary distinction between Iranian and French law lies in the fact that French law does not differentiate between transferring another's property and breach of trust. Both are punished under the abuse of confidence (Farajollahi, 1397). The penalty for this crime in French law is imprisonment of up to three years and a fine of up to 375,000 euros. Additionally, the court may impose additional penalties such as deprivation of civil and professional rights and confiscation of property used in the commission of the crime (Lotfi, 1394: 310). In summary, the constituent elements of the crime of transferring another's property in French law provide a comprehensive legal framework to confront abuse of confidence and protect the rights of property owners. This approach, while strengthening public trust in transactions, enables courts to examine suspicious cases with greater precision.

### Legal Penalties

In the French legal system, the legal penalties for the crime of transferring another's property (abuse of trust) are precisely defined in the French Penal Code. According to Article 314-1 of the French Penal Code, the primary penalty for this crime is imprisonment for up to three years and a fine of up to 375,000 euros (Pradal, 2016). This penalty reflects the importance that the French legislator attaches to the protection of property and trust in financial relationships. In addition to the primary penalties, the French Penal Code also provides for additional penalties for this crime. These penalties include deprivation of civil, family, and professional rights, prohibition from engaging in certain occupations or social activities, and confiscation of property related to the crime (Leturmy, 2015). The purpose of these additional penalties is to prevent the recurrence of the crime and to provide greater protection for society against criminals. In special cases, such as when a crime is committed by a lawyer, government employee, or judicial officer, the penalties are increased. In such cases, the maximum penalty of imprisonment is increased to seven years and the fine to 750,000 euros (Salehi, 2019).

This increased penalty demonstrates the legislator's heightened sensitivity towards the abuse of

professional and social positions. A noteworthy aspect of the French criminal system is the possibility of imposing criminal liability on legal entities for this crime. According to Article 314\_2 of the French Penal Code, legal entities can also be punished for the crime of the transfer of another's property. The primary penalty for legal entities is a fine that can be up to five times the amount set for natural persons (Mir Mohammad Sadeghi, 1396). One of the significant features of the French criminal system about this crime is its attention to compensating the victim. French courts can, in addition to criminal penalties, order the payment of financial compensation to the victim. This approach demonstrates the French criminal justice system's attention to the rights of victims (Golduzian, 1399).

In recent years, the judicial practice in France has shown a tendency to use alternative punishments to imprisonment for less serious cases of this crime. These punishments include free public service, daily fines, and restrictions on freedom. This approach aims to reduce the prison population and increase the possibility of the offender's rehabilitation and reintegration. (Farajollahi, 1397). Overall, the punishment system for the crime of transferring another's property in France shows a combination of severity in serious cases and flexibility in milder cases. This system, by considering various punishments that can be adapted to different circumstances, tries to balance the various goals of punishment, including deterrence, offender rehabilitation, and protection of society.

### **Examination of the Crime of Breach of Trust in French Law**

In the French legal system, the crime of breach of trust is considered one of the most important crimes against property. This crime is defined in Article 314-1 of the French Penal Code and is recognized as one of the forms of abuse of trust (Pradel, 1395). A careful examination of this crime in French law can provide a comprehensive view of this country's approach to protecting ownership and trust in financial relations. The elements constituting the crime of breach of trust in French law include legal, material, and mental elements. The legal element of this crime is Article 314-1 of the French Penal Code, which states: "*Breach of trust is the appropriation or loss, to the detriment of another, of funds, securities, property or any other property entrusted to him and which he is obligated to return, present or use in a specific manner*" (Leturmy, 1394).

The material element of the crime of breach of trust in French law consists of two essential components: First, delivery of property to a trustee based on a contract or legal obligation. Second, the trustee's unlawful appropriation of the property. It is important to note that in French law, unlike some other legal systems, the mere failure to return the property is not sufficient to constitute a crime, and there must be a positive act indicating unlawful appropriation (Salehi, 1398). The mental element of this crime in French law is both general and specific malice. General malice means the perpetrator's awareness of the nature of their act and its voluntariness. Specific malice refers to the intent to possess or destroy the property. French courts pay particular attention to the circumstances of each case when determining malice (Mir Mohammad Sadeghi, 1396).

One of the significant characteristics of the crime of breach of trust in French law is the wide range of its instances. This crime can encompass numerous cases, including misuse of credit cards, failure to return the proceeds of a sale to the owner, and even the unauthorized use of confidential company information by employees (Habibzadeh, 2018). In French judicial practice, a broad interpretation of the concept of "property" in the crime of breach of trust has been adopted. This broad interpretation has led to the inclusion of not only tangible property but also intangible property such as information and electronic data under the legal protection against breach of trust (Golduzian, 2020). Another noteworthy point in French law is the possibility of the crime of breach of trust occurring concerning public property. In such cases, the penalties are usually more severe and may include deprivation of civil and political rights (Farajollahi, 2018). Compared to the Iranian legal system, the crime of breach of trust has a broader definition in

France and covers more cases. Moreover, the approach of French courts in proving the elements of this crime shows more flexibility compared to Iranian judicial practice (Zar'at, 2019).

### Elements of a Crime

In French criminal law, the crime of breach of trust consists of three main elements: the legal element, the material element, and the mental element. Each of these elements plays a significant role in the realization of the crime, and the presence of all three is necessary for the conviction of the accused.

- A. Legal Element: This element is defined in Article 314-1 of the French Penal Code. According to this article: *'Breach of trust consists of appropriating or destroying, to the detriment of another person, funds, securities, property, or any other property that has been entrusted to him and which he has undertaken to return, deliver, or use in a specific manner'* (Leturmy, 1394). This legal definition sets the main framework of the crime and provides the legal basis for the prosecution and punishment of perpetrators.
- B. Material Element: The material element of the crime of breach of trust in French law consists of two essential components:
  - Delivery of property to the trustee: This delivery must be based on a contract or legal obligation. The property can include cash, securities, goods, or any other type of property (Salehi, 2019).
  - Unlawful appropriation of the property: This appropriation can take the form of seizing the property or destroying it. Importantly, mere failure to return the property is insufficient; there must be a positive act demonstrating unlawful appropriation (Mir Mohammad Sadeghi, 2017).
- C. Mental Element: The mental element of the crime of breach of trust in French law consists of two components:

General malice: This means the perpetrator's awareness of the nature of their act and the voluntariness of it.

Specific malice: This refers to the intent to possess or destroy the property (Habibzadeh, 1397).

In French judicial practice, proving the mental element is of particular importance. Courts pay special attention to the circumstances and conditions of each case when examining this element (Goldoozian, 1399).

One of the important features of the crime of breach of trust in French law is the wide range of its examples. This crime can include numerous cases such as misuse of a credit card, failure to return the proceeds of a sale to its owner, and even unauthorized use of confidential company information by employees (Farajollahi, 1397). In interpreting the elements of this crime, French courts have adopted a flexible and dynamic approach. For example, in interpreting the concept of "property," French judicial practice has accepted a broad interpretation that includes intangible property such as information and electronic data (Zarrat, 1398).

### Legal Penalties

In the French legal system, the legal penalties for the crime of breach of trust are precisely defined in the country's Penal Code. These penalties include both principal and supplementary penalties,



the purpose of which is not only to punish the offender but also to prevent crime and protect society.

Principal Penalties: According to Article 314-1 of the French Penal Code, the principal penalty for the crime of breach of trust is:

- Imprisonment: The maximum term of imprisonment for this crime is set at three years.
- Fine: A fine of up to 375,000 euros may be imposed (Pradal, 1395).

These penalties demonstrate the importance that the French legislator attaches to the protection of property and trust in financial relations.

Additional penalties: In addition to the primary penalties, the French Penal Code also provides for additional penalties for this crime. These penalties include:

- Deprivation of civil, family, and professional rights
- Prohibition from engaging in certain occupations or social activities
- Confiscation of property related to the crime (Leturmy, 1394)"

The goal of these supplementary punishments is to prevent the recurrence of the crime and to better protect society from criminals.

Aggravated Punishment in Specific Cases: In certain specific cases, the penalties prescribed for the crime of breach of trust are aggravated. For example:

- If the crime is committed by a person in the position of a lawyer, government employee, or judicial officer, the maximum prison sentence is increased to seven years and the fine to 750,000 euros (Salehi, 1398).
- If the crime is committed within the framework of an organized group, the penalties can be increased to up to ten years' imprisonment and a fine of one million euros (Mir Mohammad Sadeghi, 1396).

Criminal Liability of Legal Persons: One of the significant features of the French criminal system is the possibility of imposing criminal liability on legal persons for the crime of breach of trust. According to Article 314-2 of the French Penal Code, legal entities can also be punished for committing this crime. The primary penalty for legal persons is a fine, which can be up to five times the amount set for natural persons (Habibzadeh, 1397).

Compensation for the Victim: In the French criminal justice system, particular attention is paid to compensating the victim. French courts, in addition to criminal penalties, can also order the payment of financial compensation to the victim. This approach demonstrates the French criminal justice system's attention to the rights of victims (Goldoozian, 2020).

Alternative Punishments: In recent years, the French judicial system has shown an increasing tendency to use alternative punishments to imprisonment for less serious cases of breach of trust. These punishments include:

1. Community service
2. Daily fines

### 3. Restrictions on freedom

The goal of this approach is to reduce prison populations and increase the possibility of the offender's rehabilitation (Farajollahi, 1397). Overall, the punishment system for the crime of breach of trust in France demonstrates a combination of severity in serious cases and flexibility in milder ones. By considering various punishments that can be adapted to different circumstances, this system attempts to balance the various goals of punishment, including deterrence, offender rehabilitation, and the protection of society.

#### **Comparison of Two Crimes**

A comparison between the crime of breach of trust in Iranian and French legal systems allows for a better understanding of the characteristics of this crime in both countries and the identification of the strengths and weaknesses of each. This comparison not only helps in gaining a deeper understanding of the nature of this crime but can also pave the way for improving laws and judicial procedures in both countries. In this section, we will first examine the similarities in the definition and punishment of this crime in the two countries and then discuss the significant differences. This comparison can provide a comprehensive view of the different approaches of the two legal systems in dealing with this crime

#### Similarities

The crime of breach of trust in Iranian and French laws has significant similarities, indicating the equal importance of this crime in both legal systems:

- Nature of the Crime: In both countries, breach of trust is recognized as a crime against property and ownership. This demonstrates the importance of protecting property rights in both legal systems (Mir Mohammad Sadeghi, 1400).
- Elements of the Crime: Both laws consider three main elements necessary for the crime to occur: the legal element, the physical element, and the mental element. This structural similarity indicates a similar approach to defining and recognizing the crime (Golduzian, 1399).
- Necessity of a Fiduciary Relationship: In both legal systems, the existence of a fiduciary relationship between the perpetrator and the owner of the property is essential. This relationship can arise from a contract, law, or court order (Shambati, 1398).
- Specific malice: Both laws emphasize the need for specific malice on the part of the perpetrator. This intent includes the intention to unlawfully possess or acquire the entrusted property (Ardabili, 1401).
- Primary Punishments: Both countries have considered imprisonment and fines as punishments for this crime, although the exact amounts differ (Zaraat, 1400).
- Possibility of aggravated punishment: Both legal systems have provisions for aggravated punishment, such as when the crime is committed by government employees or lawyers (Sadeghi, 1399).
- Emphasis on compensation: Both laws allow for the issuance of a judgment for compensation to the victim, which indicates a focus on the rights of crime victims (Bahari, 1398).

- Scope of the crime: In both countries, the concept of "property" in this crime is interpreted broadly and includes tangible and intangible assets (Habibzadeh, 1400).

These similarities show that, despite cultural and legal differences, both countries place great importance on protecting trust relationships and property rights.

#### Differences

Despite the aforementioned similarities, there are significant differences between the laws of Iran and France regarding the crime of a breach of trust:

- Legal Definition: French criminal law provides a more precise and comprehensive definition of the crime of a breach of trust, whereas the definition in Iranian law is more general (Mir Mohammad Sadeghi, 1400).
- Level of Punishment: The punishments stipulated in French law are generally more severe than those in Iran. The maximum prison sentence in France is 3 years (and up to 7 years in aggravated cases), while in Iran it is a maximum of 3 years (Goldoosian, 1399).
- Monetary Fine: The amount of the monetary fine in French law is significantly higher than in Iran and can reach up to 375,000 euros, while in Iran it is more limited (Shambiati, 1398).
- Criminal Liability of Legal Persons: French law explicitly recognizes the criminal liability of legal persons for this crime, but this issue is not clearly defined in Iranian law (Ardabili, 1401).
- Alternative Punishments: The French judicial system has a greater tendency to use alternative punishments to imprisonment, such as unpaid community service, while this approach is less common in Iran (Zeraat, 1400).
- Categorization of Breach of Trust: Iranian law distinguishes between simple and aggravated breach of trust, this distinction not found in French law (Sadeghi, 1399).
- Trial Procedure: In France, these cases can be heard in specialized economic courts, a specialization that doesn't exist in Iran (Bahari, 1398).
- Effect of Repentance: In Iranian law, the perpetrator's repentance can lead to a reduction in punishment, but there is no such provision in French law (Habibzadeh, 1400). These differences highlight the varying approaches of the two legal systems to this crime. French law generally seems more stringent and comprehensive, while Iranian law offers more flexibility in certain aspects.

**Table 1:** Comparison of the crimes of transferring another's property and breach of trust in the French legal system Source: Research findings

Criterion	Breach of Trust	Transfer of another's Property	Analysis
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**A COMPARISON BETWEEN THE CRIMES OF TRANSFER OF ANOTHER'S PROPERTY AND BREACH OF TRUST  
WITHIN THE FRENCH LEGAL SYSTEM**

Legal Definition	Article 314-1 of the French Penal Code	Article 313-6-1 of the French Penal Code	Both crimes are defined in the French Penal Code but in different sections.
Crime Subject	Trust Property	Property Belonging to Another	Both crimes relate to property, but the nature of the possession differs.
Perpetrator of the Crime	Natural and legal persons (Pradal, 2019)	Natural and legal persons (Pradal, 2019)	In both cases, the perpetrator can be a natural or legal person.
Physical Element	Embezzlement or illegal appropriation of entrusted property	Transfer or sale of property belonging to another	The criminal acts differ in both crimes.
Mental Element	Intent to appropriate or embezzle	Knowledge that the property belongs to another and intent to transfer	Both crimes require malice, but the type of intent differs.
Primary Punishment	Up to 3 years imprisonment and a fine of up to €375,000	Up to 3 years imprisonment and a fine of up to €375,000	The primary punishments for both crimes are identical.
Supplementary Punishments	Deprivation of civil rights, confiscation of property (Mayo, 2021)	Deprivation of civil rights, confiscation of property (Mayo, 2021)	The supplementary punishments for both crimes are identical.
Aggravated Punishment	Aggravation for Government Employees and Lawyers	Aggravation in Case of Repeat Offenses or Exploitation of a Victim's Vulnerability	Conditions for Aggravated Punishment Differ in the Two Crimes
Alternative punishments	Possibility of using alternative punishments (Herzoug-Avans, 2019)	Possibility of using alternative punishments (Herzoug-Avans, 2019)	Both crimes can benefit from alternative punishments.
Remedies	Usually through the restitution of property or the payment of damages (Karyo, 2020)	Usually through the annulment of the transaction and compensation for damages (Malabat, 2018)	Both involve compensation but through different methods.
Courts	Specialized economic courts	Specialized economic courts	Both crimes are heard in specialized courts.
Legal Process	Focuses on defining entrusted property and misuse	Focuses on proving perpetrator's knowledge and intent to transfer	Both have extensive procedures but with different focuses.

A comparison of the crime of breach of trust in Iranian and French laws shows that both legal systems attach great importance to protecting trust relationships and property rights. However, there are significant differences in approach and legal details, which can be attributed to the cultural, social, and legal differences between the two countries. One of the most important differences is the severity of the punishments. French law imposes heavier penalties, which may indicate the greater importance of this crime in the French legal system. This can serve as a

stronger deterrent (Mir Mohammad Sadeghi, 1400). On the other hand, Iranian law, considering the concept of repentance and its impact on reducing punishment, has adopted a more flexible approach. This approach can help in the rehabilitation of offenders and their return to society (Goldoozian, 1399).

Another difference lies in the way this crime is handled. The existence of specialized economic courts in France can contribute to a more accurate and specialized handling of this crime. This can be a model for improving Iran's judicial system in dealing with economic crimes (Shambati, 1398). Overall, both legal systems have their strengths and weaknesses. French law, with greater comprehensiveness and severity, and Iranian law, with greater flexibility, each attempt to combat this crime in their own way. It seems that a combination of the strengths of both systems could lead to the creation of a more effective legal framework for confronting breach of trust (Ardabili, 1401). Finally, given the increasing complexities of financial and economic relations in today's world, laws related to breach of trust must be continuously reviewed and updated to be able to address new challenges (Zeraat, 1400).

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## **CONCLUSION**

In this article, we have examined two important crimes against property and ownership in the French legal system: the transfer of another's property and breach of trust. Both of these crimes are known under the unified title of *abus de confiance* or abuse of confidence in the French Criminal Code, indicating the close relationship and significant similarities between them. The transfer of another's property in French law occurs when a person transfers property belonging to another to a third party without the owner's consent or legal authorization. This crime is a clear violation of the right to property and an infringement on the financial rights of individuals. By criminalizing this act, the French legislator seeks to protect the rights of owners and create security in transactions. On the other hand, breach of trust occurs when a person entrusted with another's property abuses the owner's trust and, contrary to the agreement or contract, takes possession of the property or uses it for their own benefit or that of another.

This crime also involves a breach of trust and the commitment that exists between the trustee and the owner of the property. It is noteworthy that in the French legal system, both crimes are classified under the single term '*abus de confiance*'. This approach indicates that French legislators focus more on the element of abuse of trust rather than making a precise distinction between different types of criminal behavior. This approach can have both advantages and disadvantages. On the one hand, it gives courts more flexibility to deal with various types of abuse of trust. On the other hand, it may lead to ambiguity in accurately identifying the type of crime and determining an appropriate punishment. The main difference between the transfer of another's property and breach of trust lies in how the property is possessed. In the transfer of another's property, the perpetrator transfers the property to a third party, whereas in breach of trust, the perpetrator usually keeps the property for him or uses it.

However, both actions can be considered a form of breach of trust. This approach in French law can offer significant lessons for other legal systems. Firstly, focusing on the element of breach of trust can be a way to cover a wide range of criminal acts against property. Secondly, this approach can lead to greater flexibility in dealing with financial crimes. However, it should be noted that this approach can also create challenges. For instance, it may make it difficult to accurately determine the type of crime and impose an appropriate punishment. Additionally, it may cause certain specific aspects of each of these crimes to be overlooked. Finally, an examination of the crimes of transfer of another's property and breach of trust in French law shows that protecting property rights and trust in transactions is a major priority of the French legal system. France's approach of combining these two crimes under the single heading of '*breach of trust*' can inspire

other legal systems to create more flexible frameworks for confronting financial crimes, but at the same time, it requires careful attention to the nuances of each of these crimes.

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