

COMMERCIAL PAPER-GUARANTEES OF FULFILLMENT AND ITS EXPIRATION WITHOUT FULFILLMENT

Linda Hamed Malkawi, Al- Balqa' Applied University

ABSTRACT

Moral law is based on a set of legal principles that are considered one of the most important characteristics of the exchange obligation, and aims to achieve circulation of the commercial paper and transfer the right fixed in it at the speed that serves commercial activity, and to ensure the greatest amount of confidence in the holder of the commercial paper that he will obtain its value on the maturity date. The exchange law means a set of rules mentioned in the commerce code related to the creation, circulation, and guarantee of commercial papers, and the fulfillment of their value, and the procedures to be followed upon refraining from such payment, and the statute of limitations resulting from it. It was called the exchange law because the bill, in particular, was originally created to implement the exchange contract. The characteristics of the exchange obligation can be attributed to a comprehensive idea that commercial paper cannot perform their various economic functions unless their circulation is easy and affordable, and the successive campaigners are assured that their value will be met on the due date, and this is why the law made the moratoria obligation an obligation of extreme cruelty to the debtor. Formally, independent of the fixed exchange obligations in the same paper, and abstract from the original relationship that led to its creation.

Keywords: Commercial Paper, Commercial Law, Promissory, Bank Operations

INTRODUCTION

Commercial papers are governed by a set of legal rules called the exchange law. It means the legal system for commercial papers or it is the set of legal rules stipulated in the commercial law related to the regulation of the provisions of commercial papers, or it is the set of rules included in the commercial legalization that includes the provisions for establishing and circulating the commercial paper, guarantees of their fulfillment, and what follows upon failure to fulfill and then the prescription of the fixed right. The obligation arising from the signature of the commercial paper is called the exchange commitment, which can be defined as a formal obligation independent from other fixed obligations in the commercial paper and merely from the relationships that were the reason for its establishment. These rules are based on principles aimed at facilitating the circulation of the commercial paper and its performance as a fulfillment tool, the most important of these. The principles are formalism, abstraction, fulfillment, and commercial paper. The morphological obligation is basic features which are that it is a commitment that is doubtful, obligatory, independent in itself, and abstract, and the last of these features and characteristics is characterized by cruelty to the debtor. One of them is from the other, and they all aim to protect the bona fide holder woman from defenses derived from circumstances outside the text of the paper which could affect his right.

FIRST TOPIC

The Jordanian legislator in Trade Law No. 12 of 1966 (law, 1966) regulated the issue of commercial papers, as it is considered one of the most important issues it dealt with, and the reason for this is due to the large number of use in commercial transactions, and these papers are the withdrawal voucher, promissory note, and the check. This topic introduces commercial

papers in the first requirement, and the characteristics and functions of commercial papers in the second requirement.

First Requirement

In reference to the Jordanian Trade Law, we find that the Jordanian legislator did not set an accurate definition of commercial papers, but rather referred to them in Article (123) of the Jordanian Trade Law, where it states: "Commercial papers are commercial papers under the provisions of this law" (law, 1966) dealt in this article, with the types of commercial papers, and a definition of each of them. In its definition of commercial papers, this article relied on the manner in which fixed rights are traded (Oqaili, 2002). As for jurisprudence, several definitions of commercial papers have been mentioned, the most important of which are: Mustafa Kamal Taha defined it as: "They are commercial papers representing financial entitlement and are payable upon sight or after a short term, and custom is to accept them as a tool of fulfillment"(Taha, 1988). Al-Baroudi defined it as: "Written edited according to formal conditions determined by law, negotiable by commercial means, and a right whose subject matter is an amount of money worthy of mere fulfillment at a certain date or assignable, and the custom settles on accepting it as a tool for debt settlement just like paper money" (Al-Baroudi, 1977)

Al-Qayloubi defined it as: "bonds representing a cash right that must be paid on a specific date and are negotiable by commercial means, provided that custom settles for their acceptance as a fulfillment instrument instead of cash" (Qayloubi, 1992). Zuhair Abbas defined the commercial paper as: "a written instrument that can be traded by commercial means, and a right which subject represents an amount of money worthy of payment as soon as it is seen, or at a certain or assignable date, and considered a mean of fulfillment that replace cash" (Zuhair, 1979).

The researcher defines commercial papers as: "Written instruments that include a commitment to pay a specified amount of money at a specific or subject to assignment time, and the right fixed in them can be transferred by endorsement and handling". The second requirement: characteristics and functions of commercial papers.

First: Characteristics of Commercial Papers

Commercial papers have several characteristics as follows:

1. The commercial paper notarized, written according to a formality organized by law. If neglected, its characteristic as a commercial paper is lost from the document, and thus writing is not only a condition for the validity of the commercial paper, but rather is the cornerstone of consideration for the bond as a commercial paper. Also, writing the paper in the form specified by the law is not only a condition of consistency, but also a condition for the existence of customary commitment, as the paper is considered a formality, and there is no obligation unless this formality is present. Likewise, formalism is necessary in order to facilitate the process of circulation of commercial papers and to be assured that they are fulfilled on the due date (Al-Qudah, 2012).
2. The ability of commercial papers to be traded by commercial means. The commercial paper is traded either by endorsement if specified for the permission of the beneficiary, or by delivery if specified for its holder, but if it is identified for a specific person name, then it loses capacity as a commercial paper. Given that it can only be traded as transaction (Al-Baroudi, 2017).
3. That the commercial paper includes a right with a specified amount. Article (123) of the Jordanian Trade Law states that the commercial paper must include the payment of a certain amount of money, so that the commercial paper must represent a (monetary entitlement) with a specified amount and time of release (Al-Qudah, 2012). "The commercial paper always represents a specific right with an amount of cash, and this is the basis for considering it a debt fulfillment that replaces cash money, and thus the shipping document, the land or air transport ticket, and the vouchers for depositing goods in warehouses are not considered a substitute for commercial papers, because the subject of the fixed right in them is considered delivering a commodity and not paying an amount of money "(Oqaili, 2002), which makes it impossible for the creditor to accept payment in lieu of cash even if the value of the goods is estimated

in cash, since it is not possible for the bearer to obtain its value at all times due to the changes in the price of the goods (Taha, 1988). The same applies to stocks and bonds, as they are not considered commercial papers, but rather as securities. Given that their prices are subject to many fluctuations according to the financial position of the issuer, economic conditions, supply and demand. Therefore, it does not replace cash as a hedge, (Oqaili, 2002) that the commercial paper is payable upon sight, or at a specific date. Commercial papers bear due dates for their fulfillment, as the beneficiary can claim fulfillment on the specified date, and the drawer is not obligated to pay before this date, except for the check, which is due to be paid upon sight, or within a specific or assignable date, and according to Article (164) of The Jordanian Trade Law states:

4. upon perusal.
5. After a certain period of sight has passed.
6. after the lapse of a certain period from the date of the bond.
7. on a specific day.
8. The bond shall be void if it includes another maturity date, or consecutive dates. Therefore, the date of fulfillment must be one and not more, because the successive dates mean dividing the value of the commercial paper, which is contrary to its nature. Also, the fulfillment must not be conditional or linked to an indefinite term since this impedes the circulation of the commercial paper (Al-Baroudi, 2017). The maturities of commercial papers are usually short so that the commercial paper performs its function as a credit instrument for a certain term; therefore, the deadlines for extinguishing the customary obligation in commercial papers are short, not exceeding the maximum five years (Al-Qudah, 2012).

Second: Commercial Papers Functions

The commercial papers functions are listed as the following below:

1. Commercial papers are a tool for executing the exchange contract. The jurisprudence almost agrees that the origin of the bill was that it was a means of implementing the exchange contract, as a method invented by the necessities of trade in the middle ages through exhibitions and fairs that were held on a seasonal and periodic basis. The exchange contract is the contract by which money is exchanged for another, and the implementation of this contract, in its primitive form, required exchanging money for other money, and the implementation of this contract was in its primitive form. It requires handling money with cash in the same place, and this meant for merchants enormous risks through the roads and paths that they had to cross to reach the market, including theft, assault and loss. The bill, in its early stages, was drawn in favor of a specific person without being transferable. Which meant that it was only suitable for settling one transaction? With the development, (Mohsen, 1954) acceptance and endorsement were invented, meaning the transfer of paper from one hand to another, and thus became suitable for settling many transactions. Thus, the bill, which is rightly considered as "the general law of commercial papers, played a major role in the past as a means to implement the exchange contract, although its role in this regard has begun to decline as it no longer monopolizes this role, especially after the expansion of the banks' activity, which has become the exchange among Its most important activities, but it still has a prominent role, as a means of payment, especially in international trade, and the guarantee of this payment through the so-called documentary bills.
2. Commercial paper is a debt fulfillment tool. The essence of this function of commercial paper functions is due to the reality of the instrument, which in fact embodies a certain value of money that is self-sufficient to be a substitute for government notes. Perhaps behind this job lies the interest of the various paper or metal legislations, even if all commercial papers are offered in this position, but it seems clear that the check is essential in this regard because the essence of its function is mainly that it is a fulfillment tool. While the bill of exchange and the bond have another function besides being the instruments of fulfillment (Mohsen, 1954), which is the function of credit, and the jurisprudence assesses that just as this function has its advantages in comparison to money, it also has its disadvantages as well compared to the role of money in fulfillment (Mohsen, 1954).
3. Commercial paper is a credit tool. With the exception of checks, bills of exchange and bonds payable upon sight, the bill and bond are often fulfilled with its value added to a specific time, because commercial papers, except for those that must be paid upon viewing them, perform a vital function in the credit function, that is, the beneficiary of them He trusts "its drawer or its editor, at least theoretically on a specific date, which is the due date of the paper." Without the drawer or the drafter undertaking to allocate money or goods for him as a guarantee, as many lenders, especially banks do sometimes (Oqaili, 2002).
4. Avoid transferring money from one place to another where the bill at the beginning of its inception was just a means of implementing the drawn exchange contract, which is why it was called the exchange letter (Zaid, 1998).

SECOND TOPIC

The guarantees of fulfillment of the value of the banknote are divided into legal and agreement, which we will address in the following two requirements:

First Requirement: Legal Guarantees

The first requirements (*i.e.*, legal guarantees) are summarized as the following below.

First: Moral Solidarity

The provisions of the Jordanian Commercial Law mentioned in the matter of the guarantee contract are understood from Article (967/1) (Decision, 1994) which states: "The creditor has a claim to the debtor or the guarantor or both of them," and what is stated in its article (971) stipulates that "If the debt is documented by a material security before the guarantee, and the guarantor is not joint, then it is not permissible to execute on the money of the guarantor before execution on the funds documented by the debt." The Jordanian Trade Law stipulates in its Article (53/1) that debtors together in a commercial obligation are considered jointly committed in this obligation. "This was applied in its Article (185/1) by saying "The drawer, acceptor, appearance, and backup guarantor are all responsible towards its bearer in the form of solidarity. "And it stipulated in the second paragraph of it that "the bearer of it may claim their individual or collective claim without being obligated to take into account the order of commitment of each of them." It is evident from the above that the drawee is not in debt before his acceptance.

The drawer, the endorser, and their guarantors are considered original and solidarity debtors towards the bearer, but it is not permissible for the bearer to recourse against any of them before he returns to the drawee. Solidarity with him. Also, the pregnant woman may not refer to them except after this necessary protest, unless he is exempt from it by text, and each of these debtors are considered original debtors and joint guarantors, and each of them is not affected by the commitment of the other in terms of validity and nullity based on the rule of independence of signatures known in the Moral Law and contrary to the rule General in Civil Law (Talib, 2011).

Second: Allowance for Debt Repayment

Article (134) of the Jordanian Commercial Law states: "The consideration for fulfillment shall be if the drawee owes the drawer or to the one who ordered the withdrawal on the date of maturity of (the bond) a certain amount of money payable and at least equal to the amount of the bond.". It is clear from the previous text that the conditions for payment for fulfillment are:

- It is a cash amount.
- It is available on the maturity date of the bond.
- It is equal to the amount of the bond.
- It is payable when the bond is due.

The statement of these conditions is as follows:

1. The consideration for fulfillment is a cash sum: It can be illustrated by this example:
1. A retail trader buys goods from a wholesaler on the condition that he pays after three months. This is a relationship that arose out of a commercial sale contract according to which the buyer owed the price (a specified cash amount) (Talib, 2011). So what does a wholesaler do? It is agreed with the customer that the bond shall be drawn upon him in the amount (price), and the date of its payment shall be after 3 months. How do we then explain the text of Article (2/138) of the Jordanian Commercial Law, which states? "If what the drawee has to pay the consideration for fulfillment is an asset that may be recovered according to the provisions of bankruptcy as goods, commercial

papers, securities, or cash, then the bearer of the bond has priority in recovering his right from the value of the advance consideration." What is meant is the proceeds of the sale of the aforementioned, and if it is still present and has not been sold, the right of recovery shall be returned to it in return for its sale, and by this it is understood that what was mentioned in the text is from the sources for the payment of payment, which can be in the beginning cash or other than cash as stated in the text, for example.

2. The consideration for fulfillment must be present at the maturity of the bond:
3. What is the ruling if it was not present when the bond was withdrawn? The law did not stipulate its presence when withdrawing the bill, while it stipulated it when withdrawing the check why? The date of creating the bill may be different and independent from the due date, as if it was after 3 months from the date of creation. As for the check, the two dates are united, which requires the presence of the consideration at the date of drawing the check, otherwise there is a crime of withdrawing a check without balance, so the bill can be withdrawn the consideration for the fulfillment does not exist when it is withdrawn or it is present but has lapsed on maturity.
4. That he is due to be paid at the maturity of the bond. If it exists but has not yet matured, then it is considered as non-existence.
5. That it be at least equal to the amount of the bond Article (2/157):
6. The drawee may limit the acceptance to a part of the amount Article (2/170) of the Jordanian Commercial Law. The bearer has no right to refuse partial fulfillment of Article (251/2) of the Jordanian Commercial Law. It is also not permissible for the bearer of the check to refrain from accepting partial payment. The difference is clear here between the bounty and the check. The Penal Code considered the crime of issuing a check without balance, while this is not in the case of the bash. Can the drawer avoid this crime? The check creation date can be written late, such as writing a statement stating that it is not due until after a certain period has passed, or setting a date for its maturity.

This statement can be interpreted as evidence of the drawer's lack of criminal intent because it means that there is no balance before this date, but the Jordanian courts differed in the application (Talib, 2011). Article (135) of the Jordanian Trade Law states that "ownership in exchange for fulfillment of the rule of law shall be transferred to successive bearers of the bond of withdrawal." This text shall understand the following:

A. Ownership of the consideration is transferred to any legitimate holder of the bond by law and without the need to stipulate this.

B. The text does not specify the date on which this property will be transferred to the legitimate holder.

C. The drawer remains the owner of it until the ownership is transferred from him; otherwise the amount will be frozen during this period prior to the transfer of his ownership. Therefore, if the drawee becomes a creditor to the drawer, he may pay the set-off if the drawer demands it. It is not permissible for the drawee to refrain from implementing the drawer's orders, because he is still in debt to him. And that the new creditor (the legal holder of the note) is not yet known.

D. The bearer's right to the consideration is considered a contingent right as long as the drawee did not know about it yet, in addition to the fact that he cannot oblige him to accept and fulfill it except on the due date, so the bearer cannot do that before this and he might not get anything. But his right becomes certain if the drawee accepts the bond or notifies him of that same.

E. The legitimate holder, even before accepting the drawee and before the due date of the note, can excuse him for the existence of the banknote that is only for the fulfillment of this paper and he has to abide by this and he will be safe from any lawsuit that the drawer may bring against him, provided that the paper is valid and issued by him. The drawee is not considered here as the acceptor, so according to the general rules, he can demand the parties either by agreement or use his legal right to clear his liability when the debt comes to term by depositing the amount with the notary (Al-Qudah, 2012).

The absence of the corresponding does not affect the validity of the bill because its presence is not a cornerstone of its creation. But its absence when creating the check leads to the realization of the crime of withdrawing a check without a balance, while a bill can be withdrawn without the presence of the counterpart and this is called a courtesy bill when it is intended to

perform the function of credit while the check does not perform such a function legally (Zainab, 1998).

This bill is considered valid or invalid according to the reason for which it was issued, and if its purpose was to create a fake credit for the drawer who may experience financial hardship, then this bill is void due to the invalidity of its cause because it deludes others in dealing with him and it may be a reason for declaring its drawer bankrupt according to Article (316) Of the Trade Law, and if it has been endorsed, it is valid when the endorser is in good faith, *i.e.*, he was not aware at the time of endorsement that the drawer's signature on the bill or the drawee on the bill was only to create a fake credit for the drawer, in order to protect the endorser to him. Otherwise, the crime of fraud can be investigated (Al-Qudah, 2012). It is noteworthy that the Jordanian judiciary considers these bonds invalid, but it must be understood that nullity affects the drawer, the drawee, the acceptor and the bad-intentioned bearer because the sincere holder was not a party to this process.

Third: Acceptance

The drawer's commitment to the beneficiary of the paper means that the drawee accepts it if it is presented to him before its due date, and also accepts its fulfillment if presented to him on this date. Acceptance intended to be addressed here is required before the expiration date of the paper. This means that this guarantee includes the bill only because there is no acceptance in both the bill and the check, and the drawer of the bill can get rid of this acceptance if it is stipulated in it, (Article 132/1) of the Trade Law. As well as, the drawee has no relation to the bill because he has not signed it yet, *i.e.*, it has not been presented to him to accept it yet, so there is no relationship between him and the beneficiary, but rather because the drawee has not yet signed the bill to create a second relationship based on the previous original relationship between them. The drawee is the drawer unless he stipulated in it differently, as his statement has previously provided, and the law specified the bill with this guarantee to strengthen the bill, and therefore it was said that "acceptance is legalized for the bond, not for a person who has shown it". Just a possession of it, and the drawee has no right to ask him to justify this possession, because he is not paying it now, it can also be mailed to him for acceptance, he must notify the sender of his acceptance or rejection, and otherwise he shall be held responsible for the damages that befall the sender as a result. It is also not permissible to ask the applicant for acceptance to present a power of attorney on behalf of its owner when requesting acceptance. It is customary practice when the bank requests acceptance of a draft from the drawee for the account of his client, he does not need to take a special agency for that (Talib, 2011).

Article (156) of the Trade Law does not require any phrase to be written in the content of acceptance and that it is considered acceptable by any word indicating acceptance and considers it obtained as soon as the drawee puts his signature on the face of the bill and if a phrase is attached to it indicating acceptance, it can be written anywhere on the bill. But if the acceptance is signed by signing only on the back of the bill, it is not considered acceptance at that time, and it is considered an endorsement (Fawzi, 2008). More precisely, it is that the wisdom behind requiring the appearance of the abstract signature as acceptance on the face of the bond is to avoid confusion between it and the endorsement that carries the ownership in blank (Yamlaki, 2008). However, when the law permitted the arrival of the abstract signature as acceptance, it excluded from this the case of the bill due after a period of sight or it was due for acceptance within a known period based on an optional statement in which Article (3/156) of the Commercial Law is written. The wisdom is clear in these cases, the first case according to which the maturity date can be determined, and in the second case the drawer has obligated the bearer to submit it to take the acceptance on a specific date, before submitting it to fulfill when the maturity date comes. What is the ruling if the drawee refused to put the date in order to accept reality?

Article (4/156) of the Trade Law replied that the bearer may, in order to preserve his rights to recourse to exchange debtors, such as drawers, endorsers and others, make a protest called a protest not setting the date.

Does the drawee request to leave the bill with him before he placed acceptance? This usually happens when the drawee wants to study the bill and think about it before deciding on it. However, the bearer of the bond is not obligated to hand it over to him according to Article (3/155) of the Trade Law. However, he may request to submit it for admission to a second time on the day following the first submission, Article (155/1) of the Trade Law. This is not considered a refusal, because the drawee is using a right authorized by law, and it can be left with the drawee if he is trusted as if it were a bank, or at least he could be given a copy of it (Talib, 2011).

Second Requirement: The Collateral Guarantees

The collateral agreement, which is ensured by agreement and in the financial form, and in-kind guarantees, which are required to be stipulated in the paper, such as the insurance and possession mortgage. The agreement guarantees are divided into two parts:

Reserve Guarantee

The Jordanian Trade Law deals with the reserve guarantee in its articles (161-163). In civil law, it is matched by a bail contract. The precautionary guarantor is the guarantor and is subject to the rules of the morphological law and not to the provisions of the bail in the civil law in the subjects mentioned in a text in the trade law of course. The collateral agreement entailed by agreement and in morphological form. It must be written on the bond with the signature of the guarantor. The law distinguishes between the signatures on the front of the bond and on the back. Each signature on the back is considered apparent unless it is accompanied by a phrase referring to others as a guarantee or certificate. As for the abstract signature on the chest except for the drawer the drawee is considered a guarantee and the repetition of the drawer's signature does not mean anything additional, because he is originally the guarantor of Article (4/162) of the Jordanian Trade Law.

As for the guarantee stated on other than the bond, it is considered valid only towards the holder of the guarantee paper (the guaranteed) and is considered to be in agreement with the availability of satisfaction, the place, the reason, and the place here is represented in the guaranteed paper. The content the law also stipulates the mention of the place where the guarantee was made. Article (5/162) to determine the law that is applicable when there is a dispute regarding its formality. Evidence cannot be resorted to without writing because the guarantee relates to a behavior that the law stipulates in writing. Whereas, if he is returned orally, it is not considered collateral guarantee and he may be considered an undertaking of bail towards another subject to the general rules (Al-Qudah, 2012).

The guarantor and the guarantor parties may wish not to show the collateral in the paper, not to be written in the bond or on a separate paper. Then the bond is endorsed from the secured debtor to the reserve guarantor, a transfer of ownership, and this will fully endorse it to the holder who requested the guarantee. The implications of collateral insurance are according to Article (163) of the Jordanian Trade Law, which are:

- The guarantor is bound by what is committed.
- His commitment is valid, even if the commitment of the guaranteed person is void, unless the nullity is due to a formal cause. If the bond is void due to the lack of a statement

of his mandatory data, this is an apparent defect that the new beneficiary cannot claim that he was not aware of it.

- Upon its fulfillment, it shall have the same rights as its content.

Real Guarantees

Real guarantees vary to mortgage and mortgage, which are required to be stipulated in the paper, because they are considered among the collateral guarantees. It can be presented as a guarantee for the banknote, but its required elements in civil and commercial law must be taken into consideration. If the guarantee is real estate, it must be registered in the relevant department and the same provision for the vehicle or ship or plane or shipping document or shares, and here it is necessary to include the pledge a statement identifying its location, *i.e.*, determining the secured paper, but this type of security is rarely resorted to and when the beneficiary of this pledge makes the endorsement of the paper in endorsement that transfers its ownership must be indicated in Mortgage contract, and the relevant departments, and this explains why this type is not used as a guarantee for the banknote. Even if the pledge is on a shipping document or a document of creativity, the carrier or public distress must be notified in his records (Talib, 2011).

THIRD TOPIC

According to the rules of civil law, contractual obligations expire either by fulfillment and this is the natural way for their lapse, or by what corresponds to fulfillment, or by union of the two liabilities, or by discharge, by set-off, by renewal, or without fulfillment according to the passage of the period. This is what applies to the banknote of all kinds. The passage of the period includes the statute of limitations and forfeiture, and they are termed as cashiers because their subject matter is a banknote and to distinguish them from their provisions under the civil law from what is stated in the trade law.

First Requirement: The Expiry of the Banknote with the Morphological Statute of Limitations

Duration: The longest cash limitation is five years, and its calculation differs whether the paper is a check or something else, and if it is a bill or a bill, then the five years start from the maturity date and there is no difficulty in calculating if the maturity is on a specific date or after a specific period from the date of its creation. However, the difficulty appears in the due bill or bill upon viewing or after a period of viewing, and if the document is not submitted for perusal, there is no problem with that if we know that the law specifies a year for the presentation of the perusal document, then the exchange limitation takes effect from the day following the end of the year. As for submitting the due bill after a certain period of viewing, it does not mean submitting for review is to take acceptance of it, but rather to set the date of viewing it in order to calculate its due date. This is one of the methods stipulated by the law in determining its maturity date, and in this way it differs from the due bill after a period of sight, as examining it is embodied by the drawee's acceptance of it and at the same time the possibility of calculating its maturity date (Talib, 2011).

If it is a check, then the five-year period begins for the drawee of the bank from the date of the expiration of the period required for presenting it, which was noted earlier in this study. As for the claims of the endorsers against each other and against the drawer of the check, they differ. As for the bill and the bill, the lapse of one year from the day on which the debtor died or from the day of the judicial claim (Article 214/3) Trade Law. And the lapse of six months with regard to the check (Article 271/3) Trade Law, and does the drawer of the check who did not have the balance benefit from the cash prescription?

It was ordered not to benefit from this short statute of limitations so as not to get rich at the expense of others without a legitimate reason.

Does the drawee benefit from the person who refuses to accept the bill of adherence to the statute of limitations against the plaintiff?

Trade Law resolved Article (214) by indicating that the statute of limitations applies to the drawee of the acceptor, consequently, it does not apply to the drawee that rejects it, because he is not considered here a cash debt and has nothing to do with the exchange note. As for the reasons for the interruption of the statute of limitations, they are the same reasons stipulated in the Civil Code Article (459), and each of the following is summarized:

The debtor's acknowledgment, the judicial claim, and any other judicial action performed by the creditor.

ACKNOWLEDGMENT

This is issued by the debtor, and a distinction must be made as to whether or not it forms part of the paper. In the first case, it will be the same if the debtor requests a period to pay the interest resulting from the paper, then the statute of limitations is interrupted and a new statute of limitations begins. As for the second case, in which the acknowledgment does not form part of the paper, as if a written bond was issued, whether customary or formal, including an acknowledgment of the debt, he is bound by this new document and not according to the banknote and the statute of limitations is not here as an exchange because this acknowledgment does not form part of the banknote. The approval of this new bond is an independent and non-exchange bond, and it represents a renewal of the bank debt or the payment of a part of it, and this is when the cashing debtor recovers the banknote from the cashing creditor and gives him this bond as a substitute for it. This statute of limitations does not apply if a judgment is issued for the debt or if it is acknowledged according to an independent document or if the obligee has paid part of it. Another example is when the banknote enters the current account opened between the two parties, the exchange limitation is interrupted according to the rules of this account, and the paper becomes an item in it and merges with all other payments to form the balance that is produced upon closing the account and which is subject to its own limitation (Roblot, 1979).

Judicial Claim

It means filing a lawsuit before the courts to demand the payment of the value of the banknote, and therefore warnings or grievances with an administrative body or attempts at friendly settlement are not included in the meaning of the judicial claim, the statute of limitations may also be interrupted by any other judicial procedure, such as the seizure of the execution department and the presentation of the bankruptcy paper to the bankruptcy agent. The moratorium on statute of limitations is subject to the provisions mentioned in the civil law, and it is every legitimate excuse that makes it difficult for the creditor to claim his right, Article (457/1) civil law, It is noticed that he did not specify these excuses, and therefore the excuse could be material or moral, as if the morphological creditor was one of the spouses or from the assets or branches and the servant and servant as for the material excuse such as interruption of the road or disruption of official working hours (Talib, 2011). Moral statute of limitations shall apply to the following exchange cases:

1. The bearer's lawsuit against the drawee of the acceptor on the draft.
2. The bearer's lawsuit against the drawee of the bank in the check.
3. The bearer's claim against the drawer without discrimination as to whether or not he provided the consideration.

4. The lawsuit filed against any signer on the banknote as an endorser or a collateral guarantor, and it appears from the foregoing that the lawsuits whose subject matter is not the banknote do not expire with this statute of limitation.

A distinction must be made between the original non-morphological relationship and the relationship whose subject matter the morphological paper. If the statute of limitations expires against the cash debtor, the plaintiff can recourse against the same debtor, but according to the original relationship that is subject to the ordinary general statute of limitations under Article (217) of the Trade Law, and since the plaintiff based her lawsuit on claiming the original right and submits the bills to prove her claim, and since the lawsuit was instituted, the lapse of time is shorter. (15) Years from the date on which the attribution is due. Therefore, the lawsuit will be filed during the legal period (Cassation, 2000). It can be said that the prescription for the original relationship if it is commercial, the general limitation that applies is 10 years.

The statute of limitations must be paid according to Article (2/464) civil law stipulating that the statute of limitations may be paid in any case in which the lawsuit is formed, even before the Court of Appeal, unless it is found that the debtor has waived the payment explicitly or implicitly. "The Jordanian Court of Cassation permits the statute of limitations before the same The court before which the dispute is examined, even after entering into the merits of the case, and the text of (Article 109/2) does not prevent a civilian from that (with its legal capacity No. 1086/1989 (five years), dated 10/4/1990(Association, 1991). I see the interpretation of the text of (M 264/2) civil as follows:.

We feel the interpretation of the text of (M 264/2) as follows:

If the debtor enters a third person, he may pay the statute of limitations, even if it is before the Court of Appeal. As for the defendant debtor, he is considered to have waived the payment if he does not hold on to it in the first session, and (M110) of the principles states that: Payment of nullity not related to the system Public and all defenses related to procedures not related to public order and the plea of lack of local jurisdiction must be made together before any other procedural defense, request or defense in the case is made, otherwise, the right to them lapses, just as the appellant's right to these defenses loses, if he does not express them in the appeal list. Since the payment of the statute of limitations is not considered public order, not to adhere to it in the first session is considered to be waived.

In support of this concept, the amendment to the Principles Law No. (16) for the year 2006 came in support of this concept by saying: "The litigant may, before discussing the subject matter of the lawsuit, request the court to issue a judgment with the following pleadings on the condition that they be submitted in one payment, and upon an independent request within the periods stipulated in Article (59), including the statute of limitations. It must be made before entering into the lawsuit.

Second Requirement: The Expiry of the Banknote by the Fall

The fall is achieved in the event that the banknote is not presented at the time specified for its maturity in relation to the draft and the draft. The expiration of the presentation period for the check, even if the bank does not pay the lapse in this case, as it pays its value if the balance is found, but his absence after the expiry of the presentation period renders him negligent towards other debtors such as the drawer, endorsers and their guarantors. Negligence is also achieved when the protest is not initiated, if it is required by agreement or by law. The forfeiture payment is represented by a claim by the negligent creditor to compensate the debtor in exchange for the damage resulting from his negligence, provided that the compensation does not exceed the value of the banknote, according to the text of Article (183/10) of the Trade Law. The recourse of the negligent creditor against the cash debtor is in this case a cash transfer (Fawzi, 2008).

Consequently, the debtor in exchange does not oblige the defendant to prove the damage caused, as soon as the creditor fails to fulfill the financial obligations entrusted to him, he is considered negligent and the damage is assumed, and the law has set an upper limit which is the limit of the amount of the paper, and if the debtor is obligated to prove the damage caused, the legislator's policy has been circumvented Who wanted to punish him (Al-Qudah, 2012). It is permissible for the defendant cashier to insist on the forfeiture, regardless of whether he was harmed by negligence or not, because it is a penalty decided by the legislator, (Oqaili, 2002) but it was the wording of the tenth paragraph of Article (183) that suggested to some that this penalty is compensation that prompted them to apply the general rules in compensation, including the element of the occurrence of harm and the causal relationship, and this was not explicitly mentioned in this text.

It includes forfeiture, such as the morphological statute of limitations, the exchange lawsuits only, and the exchange debtors may adhere to it against the pregnant creditor except for the drawee, and the drawer who did not provide the consideration for fulfillment (the balance), in order to avoid the state of enrichment without a legitimate reason and because both of them are the original debtor. The drawer is the one who created the paper and received something and did not provide any consideration for it, and the drawee becomes a principal creditor also after his acceptance, which means that the consideration for the fulfillment is with him. Non-exchange lawsuits are not subject to forfeiture even if the negligent holder is the plaintiff, because his lawsuit is based on the original debt for which the paper was drawn up or the endorsement took place because of it. Is it possible for the debtor who paid the fulfillment to the negligent bearer to ask him to return, because he was not aware of his negligence, or was he unaware that he had the right not to pay due to this negligence?

There are two opinions in jurisprudence. The first stipulates that it is permissible to respond, and the second stipulates that it is not permissible unless the deceased was subject to fraud or coercion.

Is it permissible for the cashing debtor, such as the endorser or his guarantor, who paid the value of the paper to the negligent creditor, to recourse to his guarantors from the signatories of the paper?

The answer is negation. Because he paid what is not required to be paid, it is not permissible for his guarantors to bear the result of this negligence or forfeiting his right to cling to the fall (Oqaili, 2002). The placement of the plea should be adhered to before entering into the merits of the case. The ruling is ruled by the statute of limitations, regardless of whether the plea is considered objective or formal. Prior to the amendment of the Principles Law, the dispute was ongoing as to whether it was permissible to submit the statute of limitations payment at any stage of the case, even before the Court of Appeal, but after the amendment, the discussion and the reason is one. It requires adherence to it before entering into the basis of the case, as it is not reasonable for the defendant to remain a defender, but after several sessions or before the Court of appeal, the defendant decides to plead by dropping, and thus the time of the court has been wasted and the judge's actions are formed according to the whim of the debtor (Talib, 1996).

REFERENCES

- Al-Baroudi, A. (1977). *Commercial Law*. Beirut: University House for Printing and Publishing.
- Al-Khouli, A. (1970). *Commercial papers, bill of exchange, Earning Deed*. Cairo: Mr. Abdullah Wahba Library.
- Al-Qudah, F. (2012). *Explanation of Jordanian Commercial Law and commercial papers*. Amman. Wael Publishing House.
- Al-Qiloubi, S. (1992). *Commercial papers*. Cairo: Al-Nahda University House.
- Berle Jr, A.A. (1949). Banking under the anti-trust laws. *Colum. L. Rev.*, 49, 589.
- Burhonov, J. (2006). *Islamic banking operations of commercial banks under Islamic banking scheme (IBS) of Malaysia: The performance analysis*. Faculty of Economics, Thammasat University.
- Chachi, A. (2005). Origin and development of commercial and Islamic banking operations. *Journal of King Abdulaziz University: Islamic Economics*, 18(2).

- Chiteli, N. (2013). Agent banking operations as a competitive strategy of commercial banks in Kisumu City. *International journal of business and social Science*, 4(13).
- Fawzi, M.S. (2008). *Explanation of Commercial Law-commercial papers*. Amman: House of Culture.
- Karim, R.A.A. (2001). International accounting harmonization, banking regulation, and Islamic banks. *The International Journal of Accounting*, 36(2), 169-193.
- Karim, Z.A. (1977). *The legal system for checks (1st edition)*. Amman: House of Culture.
- Kamal, T.M. (1988). *Commercial Law: University Culture Foundation*.
- Musa, T.H. (2011). *Commercial papers and banking operations*. Amman: House of Culture.
- Musa, T.H. (1996). The legal meaning of the first session in litigation. *Mu'ta Journal for Research and Studies*, 11(1).
- Melhem, B.T.B.M. (2010). *Commercial papers and banking operations*. Amman: Dar Al-Masirah for Publishing and Distribution.
- Radwan, A. (1998). *Commercial papers (1st edition)*. The Arab Thought House.
- Oqaili, A.A. (2002). *Mediator in Explaining Commercial Law, commercial papers and Bank Operations*. Amman: House of Culture.
- Official Gazette. (1910). *Jordanian Trade Law*. Published in the Official Gazette (1910). PP: 472. (3/30/1966).
- Salama, Z. (1998). *Commercial papers in the Saudi System*. Saudi Arabia: Imam Muhammad bin Saud Islamic University.
- Sarayrah, M.M. (2017). *Commercial papers in the Execution (Master)*. Mutah University, Karak-Jordan.
- Shafiq, M. (1954). *Egyptian commercial law - International Commercial Arbitration*. Cairo: Dar Al Nahda.
- Yamalki, A. (2008). *Commercial Law, Companies- Banking Operations*. Amman: House of Culture for Publishing and Distribution.
- Jordanian Trade Law No. (12) of 1966, published in the Official Newspaper, No. 1910, page 472, on 3/30/1966.
- Article (123) of the Jordanian Trade Law No. (12) Of 1966.
- Al-Oqaili, A. (2002). The Mediator in Explaining Commercial Law, commercial papers and Banking Operations, House of Culture, Amman, p.6.
- Taha, M.K. (1988). *Commercial Law, (1st edition)*. University Culture Foundation, Cairo, 8.
- Ali, A. (1977). *Commercial Law*. University House for Printing and Publishing, Beirut, 9.
- Al-Qayloubi, S. (1992). *Commercial papers, (2nd edition)*. Al-Nahda University House, Cairo, 7.
- Abbas, K. (1977). *The Legal System for Checks, (1st edition)*. House of Culture, Amman, 79.
- Al-Qudah, F. (2012). *Explanation of Jordanian Commercial Law and commercial papers, (2nd edition)*. Wael Publishing House, Amman, 13.
- Al-Baroudi, (2017). *Commercial Law*, 9. See: Al-Sarayrah, MamdouhMusleh, Offering commercial papers in the Execution Department in Jordanian Law, Master Thesis, Mutah University, Karak, Jordan, 4-5.
- Al-Baroudi, (n.d.). *Commercial Law*, 10. See: Al-Sarayrah, The commercial paper Submission in the Execution Department in Jordanian Law, 5.
- Al-Qudah, F. (n.d.). *Explanation of Jordanian Commercial Law and commercial papers*, 18.
- Aziz, A. (n.d.). *The Mediator in Explaining Commercial Law, commercial papers and Banking Operations*, 6.
- Taha (n.d.). *Commercial Law*, 9.
- Aziz, A. (n.d.). *The Mediator in Explanation of Commercial Law, commercial papers, and Banking Operations*, 8. And see: Al-Sarayrah, *Offering commercial papers in the Execution Department in Jordanian Law*, 6.
- Al-Baroudi. (n.d.). *Commercial Law*, 10.
- Al-Qudah, F. (n.d.). *Explanation of Jordanian Commercial Law and commercial papers*, 20. See: Al-Sarayreh, *Presenting commercial papers in the Execution Department in Jordanian Law*, 7.
- Shafiq, M. (1954). *Egyptian Commercial Law, commercial papers, Edition*, 19.
- Shafiq, M. (n.d.). *Egyptian Commercial Law, commercial papers*, 19.
- Shafiq, A. (1967). *In Commercial Law*. Dar Al-Nahda Al-Arabiya, Cairo, 1/157.
- Aziz, A., & Al-Waseet. (n.d.). *In Explanation of Commercial Law, commercial papers and Banking Operations*, 14.
- Abu Zaid, R. (1998). *Commercial papers (1st edition)*. Dar Al Fikr Al Arabi, 26.
- Al-Khouli, A. (1970). *Commercial papers*. Bill of Exchange, Promotional Bond, Library of Mr. Abdullah Wahba, Cairo, 19.
- Court of Cassation Decision/Law - Decision 1049/1993 of 1/10/1994, the Legal Encyclopedia.
- Hassan, M. (2011). *Commercial papers and Banking Operations, (1st edition)*. House of Culture, Amman, 102 and beyond.
- Hassan, M. (n.d.). *Commercial paper and Banking Operations*, 104.
- Hassan, M. (n.d.). *Commercial paper and Banking Operations*, 106.
- Al-Qudah, F. (n.d.). *Explanation of Commercial Law, commercial papers*, 158.
- Zainab, S. (1998). *Commercial papers in the Saudi System*, Imam Muhammad Ibn Saud Islamic University, 9.
- Al-Qudah, F. (n.d.). *Explanation of Commercial Law, commercial papers*, 58 and after.
- Hassan, M. (n.d.). *Commercial paper and Banking Operations*, 111.

- Fawzi, Md. (2008). *Explanation of Commercial Law, commercial papers, House of Culture, Amman, 2/154.*
- Akram, Y. (2008). *Commercial papers and Banking Operations, House of Culture, Amman, 165.*
- Hassan, M. (n.d.). *Commercial paper and Banking Operations, 116 and after.*
- Al-Qudah, F. *Explanation of Commercial Law, commercial papers, 197.*
- Hassan, M. (n.d.). *Commercial paper and Banking Operations, 127.*
- Hassan, M. (n.d.). *Commercial paper and Banking Operations, 155.*
- René, R. (1979). *Commercial paper, Paris, 370, item 440.*
- Hassan, M. (n.d.). *Commercial paper and Banking Operations, 158.*
- Decision of the Jordanian Court of Cassation in its Juridical Capacity No. 2254/1999 (Five-Year Panel) dated 2/27/2000, Judicial Review, 171(2), year 2000, Amman, Adalah Publications.
- The Journal of the Jordanian Bar Association, issued on 1/1/1991, published by Adalah, as it decided in another case to do so, but it was based on Article 16 of the Code of Principles for Human Rights Trials, provided that a declaration (No. 114/1973 of 04/22/1973) does not contradict it. Adalah's publications, and as decided by its Resolution No. 413/1987 of May 11, 1987, Adalah Publications).
- Fawzi, Md. (n.d.) *Explanation of Commercial Law, commercial papers, 253.*
- Al-Qudah, F. (n.d.) *Explanation of Commercial Law, commercial papers, 273.*
- Aziz, A. (2010). *Explanation of Commercial Law, commercial papers and Bank Operations, 194, Tarawneh, Bassam, & Melhem, B.Md. (n.d). Commercial papers and banking operations (1st edition). Dar Al-Masirah for Publishing and Distribution, Amman, 281.*
- Aziz, A. (n.d.). *Explanation of Commercial Law, commercial papers and Banking Operations, 194, Fawzi Muhammad Sami, Explanation of Commercial Law, 253.*
- Hassan, M. (1996). The legal meaning of the first session in litigation. *Mu'ta Journal for Research and Studies, Volume 11(1), 181.*