

**DOCTORAL SCHOOL OF LEGAL, POLITICAL AND SOCIOLOGICAL
SCIENCES WITHIN THE NATIONAL CONSORTIUM ADMINISTERED
BY THE STATE UNIVERSITY OF MOLDOVA**

A manuscript-style thesis
FDC (C.Z.U): 347.746(478+4)(043.2)=111

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**LEGAL REGULATION OF BILL OF EXCHANGE THROUGH
THE PRISM OF THE LEGISLATION OF THE REPUBLIC
OF MOLDOVA AND THE EUROPEAN UNION**

SPECIALTY: 553.01 - CIVIL LAW

**Abstract
of the doctoral thesis in law**

Chisinau, 2021

The thesis was drawn up within the Doctoral School of Legal, Political and Sociological Sciences within the National Consortium administered by the State University of Moldova.

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The sustenance of the doctoral dissertation will take place on **June 11th, 2021 at 10.00 a.m.**, during the meeting of the Committee for public defense of the doctoral thesis within the Doctoral School of Legal, Political and Sociological Sciences within the National Consortium administered by the State University of Moldova.

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The abstract was sent on May 8th, 2021.

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CONCEPTUAL REFERENCES OF THE THESIS

The timeliness and importance of the research topic. Today there is no doubt about the phenomenon of globalization, which, contrary to the opposition of states with old legal traditions, continues to remove the barriers regarding the movement of goods, services, capital and labor force, stimulates profound economic, social and legislative changes in the world and contributes significantly to the formation of an integrated economic and legal system, which requires adequate legal means and a legislative framework capable of responding favorably to the needs of protecting the rights and interests of the individual.

In the market economy system, based on supply and demand, everything being interdependent and interconnected, for sustainable development and prosperity of society, in addition to the need for a clear vector of development and strong synergy between state institutions, political class and business environment, a solid regulatory basis is required, with accessible, predictable and clear laws, [12] as well as viable settlement and lending mechanisms, simple and secure legal instruments, allowing for continued offsetting of reduced financial resources and efficient management.

The market economy system has evolved over time from the free market to various forms of protectionist regulation, and the development of civil and trade relations has fundamentally changed the role of debt securities in general and foreign exchange in particular. [28; 30; 31; 38] Being one of the oldest credit instruments invented by humanity, the bill of exchange cannot be compared in its evolution, in importance, with any of the instruments of the modern financial market, except money.

Emerging from the need for foreign exchange, originating in the exchange of currency, the bill of exchange evolved considerably and acquired important functions as a legal instrument of credit, due to the fact that the amount of money provided in the title did not have to be paid immediately, as well as the function of a legal instrument of payment, similar to that of currency. [40; 49]

Despite its ancient origins, the bill of exchange confirms its importance as a legal instrument of credit and payment, although the impact of modern information technologies creates premises to lose precedence over other legal instruments, and a thorough investigation of its evolution and benefits is necessary for to provide the answer if the note as a legal institution is necessary for the economy of the Republic of Moldova and if in the near future it will be excluded from the civil circuit or not.

An example in this sense can be Germany, where in terms of ensuring liquidity, the institution of bill of exchange is placed second, after money, [51, p. 52], as well as France, where the Legislator based on the fact that the Uniform Law, adopted by the Geneva Convention of 1930 on the bill of exchange and promissory note (UL), does not prohibit the issuance of bill of exchange in electronic format and because according to

Articles 1 and 2 of the UL, the bill of exchange is qualified as - document, mentioning that documents can be issued not only in written form on paper but also in electronic form, therefore, it has adapted the institution of bill of exchange to the requirements of time, and the implementation of the bill of exchange on magnetic support has significantly stimulated the use of this legal instrument in recent years. [17, p. 202-206]

The bill of exchange facilitates and simplifies the relations between the business partners, reduces the risks related to the practice of commercial loans; reduces the need for cash in the entrepreneurial activity; is a settlement instrument that accelerates transactions, ensures obtaining a cash loan and a proper deferral of payment; reduces the need for the bank loan; eliminates or reduces the interest rate for the use of the loan, and consequently helps to reduce additional money issues. [48; 35; 32] The bill of exchange allows the realization of settlements and compensation of mutual debts, and by reducing the overvaluation of a certain type of product, it contributes to the development of sales.

The bill of exchange is widely used to make payments nationally and internationally, and debtors - businessmen, farmers, industrialists, etc., using bill of exchange mechanisms, can honor their monetary obligations by deferring payment due for various periods of time. Commercial banks themselves resort to issuing bill of exchange s to replenish their credit resources, which confirms that the bill of exchange was and remains a true legal instrument of credit.

The firm place of the bill of exchange in the civil circuit, as a credit and payment title, as well as the advantage of using the bill of exchange by avoiding the use of cash, requires state institutions to give more support to this legal instrument, and legal science will concentrate more resources in the research of this complex legal institution with proposals for modernization and efficiency of the existing regulatory framework, which led us to conduct a comprehensive scientific research of the legislation of the Republic of Moldova regarding the bill of exchange through the prism of comparative law, with particular regard to the legislation of some Member States of the European Union.

The scope of the PhD thesis. Motivated by the state of affairs in society, in the paper we aimed to conduct a scientific investigation in order to identify and analyze the general conditions and peculiarities of bill of exchange through the prism of civil law of the Republic of Moldova and some European Union states, with special regard in Romania, outlining the legal regime and elucidating the existing deficiencies with the elaboration of recommendations to improve the existing legal framework.

Research objectives. Based on the theoretical desideratum/objective materialized for the purpose of the investigation, we aimed to achieve the following research objectives:

1. Determination of the prerequisites for the emergence and analysis of the evolution of the bill of exchange as a means of payment;
2. Identification of the features of the credit titles;
3. Analysis and definition of a bill of exchange as a credit title and means of payment;
4. Analysis of the legislation on bill of exchange in the civil law system of the Republic of Moldova and its relationship with international law and some states of the European Union;
5. Analysis and identification of structural features, legal nature and functions of a bill of exchange;
6. Determination and study of the validity of all conditions and methods of transfer and acceptance of a bill of exchange, as well as its legal consequences;
7. Analysis of the legal consequences of failure to fulfill obligations under a bill of exchange of exchange and methods of using bill of exchange rights;
8. Formulation of recommendations and proposals for improving the current regulatory framework.

Research hypothesis. When formulating the research hypothesis, it was necessary to study preventively and thoroughly the various aspects of the object under investigation, the causal link and the existing social relations. The legal reports submitted to the research, regarding bill of exchange, contributed to establishing the truth in the process of scientific knowledge, and based on the research carried out we tried to answer the question: “What are the specific aspects of the bill of exchange institution in the civil law of the Republic of Moldova, compared to the legislation of other EU countries, especially Romania?” This allowed the formulation of the basic research hypothesis, and to confirm or refute we used bibliographic sources in the field, we studied and analyzed the legislation on the institution of foreign exchange - especially the Foreign Exchange Law no. 1527-XII of 22.06.1993 [14]; Uniform Law, adopted by the 1930 Geneva Convention on Bills of Exchange and promissory notes [34] and Romanian Law No. 58/1934 on Bills of Exchange and promissory notes [15].

Following the study carried out and presented in the content of the paper, we highlighted the particularities of the bill of exchange in the civil legislation of the Republic of Moldova; we outlined the shortcomings, legislative gaps, made recommendations, and proposals to improve the existing legal framework.

Synthesis of the research methodology and justification of the chosen research methods. In conducting this study, we used a series of methods that facilitated the success of the research and the perception of the fundamental concepts of the investigated topic.

Research methods used:

- The historical method, through which started the investigation of the historical evolution of the foreign exchange institution and the bill of exchange legislation at international and national level;
- The logical method was used to formulate conclusions and investigate the basic notions of the researched topic;
- The systemic analysis method was used in the structural and emphasized analysis of the basic concepts of the paper, which revealed the most relevant aspects of the topic;
- The examination method, allowed to facilitate the investigation of various case studies from the judicial practice of the courts of the Republic of Moldova, Romania, Russia, of the Court of Justice of the European Union, etc.;
- The method of description was used to examine and develop the concepts of securities, credit instruments, payment instruments, etc.;
- The synthesis method was used to determine the concepts, terminology of the research topic; structuring opinions, ideas, formulating conclusions and recommendations;
- The comparative legal method, allowed to determine the comparative aspects regarding the institution of the bill of exchange, endorsement, aval, etc.
- The normative method was used to analyze and research the legislative framework on foreign exchange in the Republic of Moldova, Romania, Germany, France, Italy, United Kingdom and the international conventions on foreign exchange and bill of exchanges.

The scientific novelty of the investigated results lies in the fact that for the first time a systematic, comprehensive study of the institution of a bill of exchange as a credit and settlement instrument in the light of comparative law, in particular based on the legislation of the Republic of Moldova, has been carried out. This study sheds light on the theoretical and practical foundations of the research undertaken earlier and is a contribution to the improvement of the regulatory framework and judicial practice in this area.

The important scientific problem solved. The scientific results obtained based on multidimensional research of legal regulations in the field, doctrinal and jurisprudential opinions from the Republic of Moldova, Romania and other EU countries, have made it possible to solve an important scientific problem in the field of identifying the particularities and conditions of exchange legislation of the Republic of Moldova, resulting in the elucidation of the deficiencies regarding the issuance, transmission, acceptance and payment of bills of exchange, as well as the legal consequences in case of non-execution of bill of exchange obligations, in order to uniform application of legal regulations in this field, as well as the formulation of lex

ferenda proposals, in order to improve the normative framework and the efficient application of the legislation.

Theoretical significance. Being the first study of this scale in the Republic of Moldova, dedicated to the promissory note as a credit and settlement instrument, will contribute to the further development of this issue and the development of new solutions aimed at improving the regulatory framework and practice in this area. The content of the study can serve as a theoretical guide for improving the qualifications of specialists in this field and a didactic manual for the disciplines: civil law, banking law and the general theory of obligations, etc.

The applicative value of the paper is attested by the scientific articles published in the specialized journals and conditioned by the applicability of the study carried out and of the proposals of *lex ferenda* elaborated.

Approval and implementation of research results. The thesis was developed and approved by the Doctoral School of Legal, Political and Sociological Sciences of the State University "Dimitrie Cantemir" in Chisinau, Republic of Moldova.

The research materials and some conclusions of the investigations were reflected in the scientific articles published during the studies. The scientific results were presented at national and international conferences, seminars and symposia, organized by the State University "Dimitrie Cantemir" in Chisinau, "George Bacovia" University in Bacau (Romania), the Institute of Legal, Political and Sociological Research in Chisinau, etc.

The results of the scientific research, the conclusions and the recommendations advanced during the study were reflected in the proposals of the *lex ferenda* submitted to the Government of the Republic of Moldova regarding the modification of the provisions of the bill of exchange Law.

Summary of thesis compartments

The paper consists of annotations in Romanian, English, and Russian, an introduction, 4 chapters divided into subchapters, general conclusions and recommendations, bibliographic references consisting of 246 sources, 2 annexes, the statement on responsibility, the author's CV.

THESIS CONTENT

The introduction of the thesis represents the substantiation and justification of the chosen topic for research, including the timeliness and importance of the research topic, the purpose and objectives of the research, the research hypothesis, the scientific novelty and the results obtained, the synthesis of the research methodology, the theoretical importance, the applicative value, the approval of the research results and the summary of the thesis compartments.

In Chapter I, entitled "**Doctrinal and normative reflections on the regulation of the bill of exchange in the legislation of the Republic of Moldova and some Member States of the European Union**", a presentation of doctrinal contributions with tangency in the scientific research of this thesis is made, through the published scientific papers in the local specialized literature and from abroad, as well as an elucidation and analysis of the national and international legislation in the field.

In relation to the aspects regarding the appearance and evolution of the bill of exchange, as well as of the bill of exchange law, we agreed with the opinions of the English researcher Edward Pearson, [46, p. 6] from the work "Law for European Business Studies", according to which the stages of development of bill of exchange law in most states were based on the same source of law - the law of merchants, part of common law, a set of common rules issued by trade unions in various countries of the world while traveling, from a port to another, from one fair to another or from one country to another. The essential difference between the bill of exchange and the common law was that it was created and implemented by merchants (traders), in order to ensure and facilitate their work, but not by lawyers, thus, in the first stage of development, the state did not participated and was not involved in creating the rules governing the circulation of the bill of exchange. [41]

The evolution of trade gradually expanded the role of bills of exchange, turning it into a means of payment due to lack of cash, because if the buyer did not have cash at the time of the transaction to pay for the goods, and the seller did not have time to wait in order to sell the goods, they agreed to issue the bill of exchange, which stipulated not only the obligation to pay the amount due at a certain time but also in a certain place. [36; 37; 39; 42] Thus, the time of issuance of the bill of exchange and the time of execution were significantly removed from each other, which gave rise to its greatest advantage. [47] Merchants, pursuing mutual interests, some to sell their goods and others to save money, began to use the bill in various transactions, making various inscriptions on its body.

The effort of traders always concerned with improving the bill to serve the circulation of money, culminated in its acquisition of a strict and stable form, being governed by clear and predictable rules codified by various legal customs. [1; 2; 5; 6; 10; 11]

In this context, the bill of exchange becomes an indisputable legal document, and its regulations are outlined and give rise to the bill of exchange law, made up of its own material and procedural rules. [51; 53; 56; 55]

Considering that the research represents a complex and multidimensional analysis of the bill of exchange as a security (credit title), payment instrument and movable asset susceptible to individual approach whose legal nature requires a double approach, on the one hand from the perspective of the legacy common law, respectively the provisions of the Civil Code, and on the other hand from the perspective of special

norms, were submitted to research works belonging to the branch of civil law, business law, commercial, banking, civil procedure law, general theory of obligations, and of a series of specialized works that treat the bill of exchange as an autonomous institution of civil law, at the same time being researched the legislation in the field of several states.

Scientific papers and articles by several authors from the specialized doctrine published in Romanian were examined and analyzed, among which: Galasescu Pyk, D.; Cristoforeanu, E .; Patrscanu, P .; Sachelarie, O .; Beleiu, Gh .; Pop, L .; Carpenaru, S .; Statescu, C .; Barsan, C .; Baias, F .; Costin, M., Dogaru, I .; Sauleanu, L .; Cercel, S .; Dumitrescu, A-D .; Popescu, T .; Capațina, O., Stefanescu, B .; Boroi G .; Babiuc, V .; Cristea, S-L .; Economu, R .; Nita, M .; Luha V .; Pipera, Gh .; Turcu, I .; Boboc-Enoiu, T .; Bonciu G .; Dobrisan, D .; Briciu, T-C; Rosca, N .; Baiesu, S., Burac, V .; Cazac, O., Cojocar, V .; Chirtoaca, L .; Rusu, V .; Focsa, Gh .; and so on Also, works published by authors of Russian language doctrine, such as Valeiko, V.; Simov D.; Efimova, L.; Moshensky S.; Belov, V; Abramova, E .; Barats S .; Shershenevich, G.; but also the works of several authors from the English, French and German legal doctrine, among which: Pearson, E .; Bradlee, H .; Savary, J .; Favier J .; Carreau, D .; Juillard P .; Jacobi, E .; Lucilla Gatt, whose works contributed to the development of the main theories on the bill of exchange and its circulation.

Referring to the legislation in the field, we point out that the main regulation of the bill of exchange in the Republic of Moldova is the Bill of exchange Law no. 1527-XII of 22.06.1993, [14] which largely reflects the adherence to the Geneva bill system, as well as Romanian Law no. 58/1934 on bills of exchange and promissory note [15], amended by O.G. no. 11/1993, both based on the 1930 Geneva Convention on Bills of Exchange and promissory note.

The chapter concludes with conclusions, which derive from the analysis of the local specialized literature and which allows us to find that the stated issue does not know a broad and sufficient examination, which led us to make a theoretical foray into foreign literature for to outline the legal concepts related to the research topic.

The normative basis subject to research allowed us an exhaustive and objective analysis of the legislation of the Republic of Moldova, of the legislation of some EU member states and of the regulations in the field at international level. Regarding the legal framework necessary to carry out this study, we evoke the regulations on the Bill of Exchange Law no. 1527-XII of 22.06.1993, of the Civil Code and the Code of Civil Procedure of the Republic of Moldova, as well as the normative acts issued by the Government and the National Bank of the Republic of Moldova regarding the circulation of the bill of exchange. At European level, we note the existence in most EU Member States of regulations at the level of bills of exchange and promissory notes,

which are based on the Uniform Law on Bills of exchange and promissory notes, adopted by the Geneva Convention of 1930, and internationally the United Nations Convention on International Exchange and Exchange Orders, adopted in New York in 1988, was drawn up and is not in force at the time of the study.

From the deep analysis of the legal framework regarding the circulation of the bill of exchange in the Republic of Moldova, Romania and other EU countries, we highlighted several shortcomings regarding Lc, and a number of impediments created in the process of implementation and promotion at fair value, reason that determined us to formulate several proposals of *lex ferenda*.

Chapter II, entitled “**Bill of exchange in the civil law of the Republic of Moldova and some Member States of the European Union**”, we made an analysis of credit securities in general and bills of exchange in particular, in the light of domestic and foreign doctrine, as well as the main normative acts that regulate this field. Various definitions of bills of exchange have been studied, and because of the research, a proper definition has been proposed.

In civil relations, the bill of exchange is characterized as a document also called a credit/loan or security, which incorporates the claim (credit) itself, so that after the issuance of the document, the right or rights mentioned in the title cannot be exercised or assigned (negotiated) without this document. From these considerations, the name of credit title is born, and by incorporating the right of claim in the document, it becomes the object of property and legal operations, the fate of the claim indicated in the title being closely related to the existence of the document itself. [8; 29]

The notion of “*bill of exchange*”, “*bill of exchange legislation*”, “*bill of exchange law*” is used to describe the sphere of relations that characterize settlements and loans between persons, using the special title - bill of exchange. The bill of exchange can also be used as a guarantee of receiving payment for a future transaction, as a guarantee of the execution of the obligation and the establishment of trusting relationships between the drawee and the drawer. These relationships characterize the bill of exchange from a functional point of view, based on the practical aims and objectives regarding the use of the bill of exchange by the participants in the civil circuit.

The law of bill of exchange of the Republic of Moldova defines simple bill of exchange and treats, and the doctrine offers several definitions, which in general do not differ substantially. [14]. The legislator of the Republic of Moldova defined the bill of exchange (treaty and promissory note) taking into account the evolution and complexity of its relations as a credit title and payment instrument. It should be noted that the simple bill of exchange (promissory note) and the treaty are credit securities on the basis of which the drawer, in the case of the promissory note, undertakes to pay

the amount indicated in the bill of exchange, and in the case of the treaty, the drawer in addition to payment of the amount indicated in the bill of exchange, give an unconditional order to the payer (drawee) to pay the amount of money indicated in the bill of exchange to the holder of the bill of exchange or to the person shown in the bill of exchange.

Based on the complexity of the relations deriving from the bill of exchange, we can define the bill of exchange and the promissory note, as - ***formal and negotiable securities, payment instruments, based on which the debtor's obligation to pay at maturity to the bona fide holder of the title or at its proposal to another person, the amount of money determined and indicated in the title, and in case of refusal to pay, the holder of the bill benefits from a simplified legal judicial procedure for collecting the amount indicated in the title and the damage caused.***

Starting from the premise that any law, no matter how perfect, does not claim to be, it cannot provide all the particularities of the regulation of relations between persons, therefore in the absence of these regulations the principles of civil law will be applied.

The Civil Code of the Republic of Moldova in par. (1) art.1, establishes the principles of the civil legislation, which in our opinion are also applicable to the exchange institution. These include the principle of recognizing the equality of participants in civil relations, inviolability of property, contractual freedom, protection of good faith, consumer protection, inadmissibility of interference in private affairs, free realization of civil rights, guaranteeing the restoration of rights, etc.

According to the provisions of art. 457 of the Civil Code, the principle according to which the goods can move freely is noticed, except for the cases when their circulation is limited or prohibited by law.

At the level of European Union legislation, the principles applicable including the institution of the bill of exchange reside in the general principles of Community law strengthened by the case law of the Court of Justice of the European Union, empowered to interpret and apply the rules enshrined in the Treaties, in accordance with the provisions of Article 19 (1) of the Treaty on European Union (TEU). [33]

In the Civil Code of Romania among the general and civil law principles applicable to bills of exchange as movable property and security, we can mention the principle of freedom (art. 12 Civil Code), which refers to freedom of disposal, freedom of association and contractual freedom; the principle of the property right (art.555 Civil Code); the principle of publicity of rights (art. 18-24 of the Civil Code). [18], etc.

Knowledge of the functions of the bill of exchange is necessary for both the participants of the bill of exchange legal relationship and the legislator, who must use them to create the appropriate legal framework for social needs, which facilitated the

identification of the essential function of the bill of exchange - as a credit instrument, as well as additional functions - as a payment instrument (settlement); to guarantee payment execution and investment. Based on the circulation criteria of the bill of exchange, it results that *the lending function is a main and important one, the other functions of the bill of exchange are additional*, and the investment function of the bill of exchange is in dynamic development.

Examination of the predominant characteristic features of the bill of exchange, deriving from its regulations at national and international level, such as: formal, abstract, complete and autonomous title (document), which creates solidary, autonomous and unconditional obligations, credit title with its own form of transmission through the guarantee, allowed us to make a clear distinction between it and the other credit securities, as well as to highlight the legal nature of the bill of exchange, which results from the passive side and the active side of the bill of exchange ratio.

Chapter III of the paper, entitled "**Validity conditions for issuing, accepting and paying bills of exchange**", includes a comprehensive analysis of the substantive and formal conditions of the bill of exchange that outline its particularities. Particular attention is paid to the formal conditions of the bill of exchange, which presupposes its formal character, which must be understood in two aspects: the bill of exchange is a legal act issued in writing, the bill of exchange must include the expressly provided by law.

The bill of exchange incorporates one or more rights, which after the issuance of the bill of exchange cannot be exercised or assigned without this instrument (title). As the legislation of the Republic of Moldova includes some restrictions imposed on the issuance of the bill of exchange, it allowed us to elaborate and argue some proposals of *lex ferenda*.

The thesis also addressed the modalities of transmission and acceptance of the bill of exchange, stating that the right / rights assigned by the bill of exchange may be transferred to another person through the assignment of debt, and as this method is unsafe for the acquirer, the legislator regulates the specific method their transmission through the endorsement.

The acceptance of the bill of exchange represents the voluntary manifestation of will by which the drawee, as a third party, intervenes in the bill of exchange report and undertakes directly to pay the amount of money entered in the title. By accepting the bill of exchange, the drawee voluntarily becomes the principal debtor, and as a result, he must be presented with the bill of exchange for payment. The bill of exchange obligation that arises from the acceptance of the bill of exchange is an autonomous, literal and abstract obligation, and the cause or reasons that determined him to accept the bill of exchange do not concern the bona fide acquirers of the bill of exchange.

As a rule, the enforcement of a civil obligation is enhanced by a guarantee, and in order to protect the beneficiary of the bill of exchange against the risk of non-execution of the payment obligation, the debtor's insolvency, etc., in order to guarantee the promissory note obligation, it established the endorsement (aval) - a legal act by which the guarantor undertakes to guarantee the obligation assumed by the guarantor (the promissory note debtor). The guarantor intervenes to strengthen the trust in the title, committing itself in solidarity with the other signatories of the bill to pay the amount of money indicated in the title.

The presentation of the bill of exchange for payment is necessary, because otherwise, the payment cannot be made, and in case the debtor refuses the payment, the presentation for payment is an indispensable condition for drawing up the protest.

In Chapter IV, entitled “**Legal consequences of non-payment of bills of exchange**”, we analyzed in detail the situations of refusal of bill of exchange payment and capitalization of bills of exchange rights. It was mentioned that, the non-execution at maturity of the bill of exchange obligation by refusing the bill to pay the bill of exchange, grants its holder the right to resort to the procedure of forced collection of the amount of money provided in the title.

According to art.38 of the L.c., "the holder of the bill of exchange may exercise the right of action against the drawer, the guarantors and the obligors". In this regard, the holder of the bill of exchange may submit his claims:

- at maturity, if the payment has not been made or only part of the bill of exchange has been paid;
- before maturity:
 - a) if the acceptance has been totally or partially refused;
 - b) in case of insolvency of the drawee, regardless of whether or not he accepted the bill of exchange, in case of cessation of payments from him even if this fact is not found by a court or arbitration, or in case the pursuit of his assets remained without result;
 - c) in case of insolvency of the drawer of a bill of exchange that cannot be subject to acceptance.

According to these texts of the law, it results that the holder of the bill of exchange can exercise the right of action against those obliged to maturity, if the payment has not been made or only part of the amount mentioned in the bill of exchange has been paid.

If the holder of the bill of exchange is convinced that it will not be paid voluntarily by the obligated persons, respectively after notifying the guarantor and the drawer of the non-payment of the bill of exchange, and the drawer also refuses to pay

the bill of exchange that the first has issued, or proposes another acceptable solution, can file a lawsuit to capitalize on their bill of exchange rights.

Also, the holder of the bill of exchange has the right to go directly to the court to exercise his bill of exchange rights, without waiting for the arrival of the due date provided in the bill of exchange:

- in the event that the acceptor has refused in whole or in part the payment of the bill of exchange;

- in case of insolvency of the drawee, regardless of whether or not he accepted the bill of exchange;

- in case of cessation of payments by the drawee, even if this fact is not ascertained by a court or arbitration;

- if the pursuit of his property has been without result;

- in case of insolvency of the drawer of a bill of exchange that cannot be accepted.

Consequently, the refusal to pay occurs in the following situations provided by law: the acceptance has been refused in whole or in part; the insolvency of the drawee (accepted or not) even when the cessation of payment is due to the fact that the pursuit of his assets remained without result and even if it was not done on the basis of a court decision, as well as in the case of insolvency of the bill drawer. In order to exercise the lawsuit, the beneficiary of the bill of exchange must meet the following formal conditions required by law, namely: presentation of the bill of exchange for payment; the act of protest and the notice.

The realization of the rights resulting from the bill of exchange can be capitalized through bills of exchange (regulated by bill of exchange law) and extra-billing (regulated by common law), and the holder of the bill of exchange has the freedom to choose one of these ways according to his interests and needs.

As a creditor, he can resort to the following ways of capitalizing on bill of exchange rights:

- 1) If it seeks to obtain the claim as soon as possible, it may have recourse to the bill of exchange executive procedure, as it is shorter, faster and less expensive;

- 2) If it seeks to recover the amount indicated in the bill of exchange and the damage caused as a result of its non-payment at maturity, it may bring a *civil action in the contentious procedure*;

- 3) If the bill of exchange was issued by misleading, the presentation of a false fact as true, or if its issuance was determined by the malicious or cunning conduct of the drawer and his accomplices who caused him considerable damage, may file a *criminal complaint with the criminal investigation body or the prosecutor*.

4) If the insolvency of the drawee is established, regardless of whether he has accepted or not the bill of exchange, as well as in case of insolvency of the bill drawer that cannot be subject to acceptance, its holder has at hand to file an *insolvency lawsuit* against them.

Also, in addition to direct bill of exchange, recourse and bill of exchange enforcement actions that have their own regulation provided by the bill of exchange legislation, in order to exercise their rights, the holder of the bill of exchange (bill of exchange creditor) in case of loss of bill of exchange use common law actions, referred to in legal doctrine [7, p. 277; 3, pp. 659; 27, pp. 251; 9, p. 813] and foreign exchange actions, such as: the causal action and the enrichment action without just cause.

The causal action, governed by common law, derives from the fundamental causal relationship (pre-existing legal relationship), or as mentioned above, when the drawer issues a bill of exchange or when the holder of the bill of exchange sends it to another person by pledge, it is presumed not to do this for free of charge, without a purpose or without a cause, but it is based on some pre-existing legal relations [14, para. (2), art. 1] (agreement for the sale of a good, agreement for the provision of services, execution of works, etc.). The causal action must be exercised in such a way that the same result is not obtained twice, or in this way the debtor would be obliged to pay double, which is unfair and abnormal. Under these conditions, the bill of exchange creditor can initiate a causal action, only in the situation where the bill of exchange rights could not be realized based on the bill of exchange actions regulated by L.c.

Unjust enrichment action (unjustified)

In accordance with the principle of fairness, Law no. 58/1934 in art. 65 stipulates that, “if the holder of the bill of exchange has lost the bill of exchange action against all obligations and has no causal action against them, he may exercise against the drawer, acceptor or guarantor an action for the payment of the amount with which they became rich without cause to its detriment”. According to the aforementioned norm, the law regulates for the benefit of the holder of the bill of exchange, another extra-exchange action for the satisfaction of the bill of exchange rights, called, the action of enrichment without cause (*actio in rem verso*).

The Civil Code of the Republic of Moldova in Book III, Title III, Chapter XXXII art. Art. 1979-1997 exhaustively regulates the institution of unjustified enrichment.

It follows that the action without cause (unjustified) enrichment can be used by the holder of the bill of exchange who has lost the bill of exchange shares and cannot bring a causal action against the debtors of the bill of exchange. Therefore, both the Romanian legislator in Law .58 / 1934 and the Moldovan one recognize the holder of the bill of exchange the possibility to request through the court what is due to him through the action of enrichment without cause (unjustified).

Paragraphs 2.4, 3.4 and 4.3 contain the conclusions reached by the author following the research carried out in Chapter 2, Chapter 3 and respectively, Chapter 4 of the thesis.

The paper concludes with "**General conclusions and recommendations**", which is a generalization and a synthesis of arguments, theses and findings presented during the paper, the main results of the scientific investigation, and the nuance of all recommendations made in the field under research.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The research carried out in this scientific approach has highlighted the timelines and importance of the topic.

The scientific problem solved in this paper is to identify all the features and conditions of validity of the exchange institution through the legislation of the Republic of Moldova, which has helped to highlight and clarify specific issues regarding the issuance, transmission, acceptance and payment of the bill of exchange, as well as legal consequences in case of non-execution of bill of exchange obligations, in order to uniformly apply the legal regulations in this field.

This scientific approach, dedicated to the research of the bill of exchange institution through the prism of the legislation of the Republic of Moldova and the European Union, concludes with a series of **general conclusions**, which can be deduced from the analysis carried out, as follows:

1. In the process of analyzing the premises for the appearance and evolution of the bill of exchange as a credit and payment title, we identified that it has ancient origins, arose from the need to exchange currency, evolved considerably due to the fact that the amount of money provided in its content does not it had to be paid immediately, so that the time of issuance of the bill of exchange and the time of execution were significantly different from each other, which gave the bill of exchange an advantage, giving it important functions as a legal instrument of credit and payment.

Cambia has come a long and difficult way to become a complex and useful legal tool for the modern economy, and its maintenance in the civil circuit is necessary in the conditions of Moldova's transition to a true market economy or its advantages are obvious. The bill of exchange can be used to pay debts to business partners, pay debts on taxes to the local and state budget, pledged, introduced in the form of a contribution to the share capital of an enterprise, sold at any time on the market, discounted to the bank, etc. Although the issuance of the bill of exchange is very easy and simple, there is no need for a registration in the State Register of Securities (as in the case of the

issuance of other securities: shares, bonds or other financial instruments), no advertising required for issuance, not even a prospectus, all these contribute essentially to starting a business, to saving the issuer of financial resources, unfortunately, this legal instrument does not enjoy popularity in the Republic of Moldova due to impediments to the implementation of the Foreign Exchange Law.

2. Elucidating the particularities of credit securities, in general, and bills of exchange in particular, we conclude that the bill of exchange as a credit security is a legal act incorporating pecuniary rights and obligations, voluntarily assumed and drawn up in a strictly defined form by law, which grants the indisputable right to demand payment of the amount indicated in the title after the expiry of the period for which it was issued. The credit title is essential for the fate of the claim incorporated in it, as this claim cannot be transmitted without title (document), and payment can only be requested if the title is presented. No capitalization of the right to claim legally can be possible without title and no settlement of the claim can take place without the remittance of the title, which distinguishes the titles of credit from other legal acts.

3. As a result of the analysis of the doctrine and the legislation through the prism of the comparative law we identified several definitions of the bill of exchange (treaty and bill of exchange), including those provided by L.c., which in our opinion does not sufficiently cover the important aspects of the bill. Moreover, the legal definitions offered by the legislator in addition to restricting the area of application and interpretation, are dangerous, or the normative act should not be assimilated to a legal dictionary. These considerations led us to come up with our own definition in this regard, according to which: *Cambia (treat and bill of exchange) is a formal and negotiable credit title, as well as a payment instrument, based on which the obligation assumed of the debtor to pay at maturity to the bona fide holder of the title or at his proposal to another person, the amount of money determined and indicated in the title, and in case of refusal of payment, the holder of the bill of exchange benefits from a simplified legal judicial procedure indicated in the title and the damage caused.*

4. Analyzing the billing legislation in the legal system of the Republic of Moldova and its correlation with international law and that of some European Union countries, we found that the circulation of bills of exchange in the Republic of Moldova, a country where there were no traditions of using this legal instrument, and that have not acceded to the Convention on the Uniform Law on Foreign Exchange and promissory note (Geneva, 7 June 1930), has vague and restrictive legal regulations, favoring banks and financial organizations to issue foreign exchange. At the same time, the lack of judicial practice and specialized courses at law schools confirms that there are not enough skills to use bills, or generations of lawyers learn about bills from

foreign textbooks, which dedicate only a few pages to this legal institution. The obstacles regarding the circulation of foreign exchange and the limited use in the national economy are also confirmed by the fact that although the National Bank of Moldova elaborated the “Regulation on the way banks conduct foreign exchange operations”, approved by Board Decision no. 156/2000, with sufficient delay, this normative act regulates only aspects related to the performance of foreign exchange operations by banks. In the absence of a secondary regulatory framework relating to the distribution of bills of exchange, payment of the bill of exchange and protection of forms against counterfeiting, etc., natural and legal persons, notaries and other interested persons avoid using this legal instrument of credit and payment, and all together have led to a lack of trust in the institution of the bill.

In the European Union, with traditions in the use of bills of exchange and even in countries where legislation has been discontinued, such as Romania, legislation stimulates the circulation of bills of exchange and legal rules on bills of exchange are consistent, clear and predictable, regulating in detail both substantive and form of the bill of exchange, the legal capacity of the parties, the procedure for issuing and using bills of exchange forms, the procedure for presenting the bill of exchange for payment, the bill of exchange protest, the taxation of transactions by bill of exchange, the realization of rights in case of non-payment of bills of exchange.

5. Following the identification and analysis of the structural characteristics, the legal nature and the functions of the bill of exchange, we conclude that this is a complete and exclusive legal document, the only one from which the bill of exchange obligation arises, which cannot be supplemented by other acts. The bill of exchange represents the totality of independent obligations that arise as a result of its signing, which largely depend on the quality of the person signing. The bill of exchange differs from the other securities by specific features, which characterize both the title itself and the bill of exchange obligation deriving from it.

The bill of exchange is a formal, abstract, complete and autonomous title (document), which creates solidary, autonomous and unconditional obligations, and among its other essential characteristics, we can mention that this is a credit title with its own form of transmission through the guarantee. Since it was issued, the bill of exchange rights and obligations have an independent existence, and the bill of exchange is totally emancipated from the legal cause from which it was born.

Regarding the bill of exchange functions, we mention the essential lending function and three other additional functions. The lending function is of significant importance as it has contributed not only to the development of trade and lending, but also to the dizzying economic development of states.

6. The determination and examination of the conditions of validity, the arrangements for the transmission and acceptance of the bill of exchange and its legal effects shall indicate that the bill of exchange is a civil legal act and that the conditions laid down by law must be met for its validity, in particular regarding consent, the capacity of the parties to the bill of exchange, the object and form of the bill of exchange. With regard to the formal conditions, the bill of exchange must necessarily include the particulars expressly provided for by law, otherwise it is considered invalid and becomes a simple receipt.

The bill of exchange rights, as any patrimonial rights are transmitted to other persons, without any impediments or restrictions, however, the patrimonial rights of claim deriving from the bill of exchange differ from the real patrimonial rights whose legal content is usually established by law.

The ownership right over the bill of exchange is transferred by pledge or endorsement, a legal operation specific to the bill of exchange by which the holder of the bill of exchange (guarantor) transfers the ownership right over it to another person called guarantee. This operation is performed by simply mentioning in the bill of exchange or on the extension the name of the guarantee and the date of preparation, confirmed by the signature of the guarantor. The endorsement is its own form of bill of exchange transmission and the only form that gives it bill of exchange effects.

The endorsement as a bill of exchange or insurance given to the holder of the bill of exchange by which the full or partial payment of the amount is ensured should not be considered as the only way to insure the bill of exchange obligation, or the bill of exchange payment can be ensured by general means, and the legal relations deriving from this guarantee must not be subject to the norms of the bill of exchange law, remaining within the regulation of the Civil Code.

7. With regard to the legal consequences of non-performance of bills of exchange obligations and ways of exercising bill of exchange rights, there is a need to ensure adequate circulation of bills of lading by reviewing procedures for simplified court decisions and swift enforcement of bills of exchange, or most European states have an operational, simplified and perfectly formalized procedure for examining bills of exchange disputes.

Although the implementation of L.c. is a complex activity due to the presence in the content of the law of specific terms, rarely encountered and used in the national legal system, we believe that state institutions must promote the advantages and benefits of foreign exchange circulation to arouse interest in practice toward the bill of exchange. Certainly the circulation of the bill of exchange must return to the traditional (civilized) forms, and the debtor (natural or legal person) can freely and independently

issue bills of exchange, obtain bank guarantees based on the bill of exchange, pay debts to creditors by discounting the bill of exchange, and banks to become more flexible, to introduce and use foreign exchange in their business at fair value.

The Law of the Republic of Moldova does not regulate the procedure for obtaining the enforceable title for the forced collection of the amount indicated in the bill, and the Civil Procedure Code of the Republic of Moldova offers the bill of exchange creditor only the right to claim his bills by simplifying the procedure, in accordance with the provisions of letter (c) art.345 C.c.p., and the Romanian Law no.58 / 1934 on the bill of exchange and bill of exchange in art.61, stipulates that the bill of exchange has the value of executory title for capital and accessories, established according to art. 53, 54 and 57.

8. The Law on Foreign Exchange of the Republic of Moldova contains tendencies and elements of monopolization and favoring of simple bills of exchange (promissory note) and bank bills of exchange, which according to their legal nature, although they can be transmitted by guarantee, it is closer to a payment title than to a credit title, that is why the bill of exchange is neglected by banks, because it can be replaced by other lending mechanisms.

The bill of exchange will obtain a favorable ground to circulate and become an efficient credit and payment title in case of abundance of goods, or, only in such conditions, the seller begins to look for the right buyer, creating the most favorable conditions for him, and today such conditions do not yet exist. Therefore, today the supplier (seller) is not ready to send the goods for delivery with the payment of their price in installments, and that these changes in the near future will take place, there is no doubt, or the dynamics of trade create premises for the development of commercial lending offered by producers and suppliers to the buyer (consumer), when the bill of exchange will take its rightful place in the economic-legal sphere of the Republic of Moldova.

Based on the conclusions we reached during the research, we come with a series of **recommendations and proposals of *lex ferenda***, which aim to improve the national legal framework - Bill of exchange Law no. 1527-XII of 22.06.1993 and streamline billing legislation:

1. In order to streamline the national legal framework in the field of foreign exchange, we consider it appropriate for the Republic of Moldova to accede to the Convention on the Uniform Law on Foreign Exchange and promissory notes (Geneva, March 19, 1931). We consider that the accession to this convention will bring value to the legal-economic relations with the signatory states and not only, moreover the Convention admits its signing with reservations, thus, the benefits of the Republic of Moldova are obvious. Therefore, we support the initiative of the Government of the

Republic of Moldova to adhere to this source of international law, which is a sure means of developing economic cooperation.

2. We consider that, in order to enforce the Foreign Exchange Law, the Regulation (Framework Rules) on the application of the Foreign Exchange Law should be developed and adopted, regulating not only issues related to foreign exchange transactions by banks, but also by all individuals and legal constituted under the law. As a model, they can serve the Framework Rules on trade made by banking companies and other credit companies with bills of exchange and promissory notes no. 6 of 8.03.1994 approved by the National Bank of Romania, which contain 516 articles and 4 annexes which regulate in detail the trade made with bills of exchange and promissory notes based on the Law on bills of exchange and promissory notes. Moreover, we recommend the example of the National Bank of Romania which developed, adopted and published the Technical Norms no. 10 of April 20, 1994 on bills of exchange and promissory notes, which establishes the technical conditions that must meet the quality of the paper on which the bill of exchange is printed, its dimensions, drawing, drafting of bills of exchange and promissory notes, etc., regulations that increase the degree of protection against counterfeiting of printed bills of exchange. We also recommend as a model the analog norms from the Russian Federation (Постановление ЦИК и СНК СССР от 7 августа 1937 г. N 104/1341 «О введении в действие положения о переводном и простом векселе»), and Ukraine (Про затвердження Положення про вимоги до стандартної (типової) форми виготовлення вексельних бланків).

3. The need to remove discrepancies in the text of the Bill of exchange Laws no. 1527-XII of 22.06.1993, especially regarding the impediments regarding the persons who can issue bills of exchange (deals and promissory notes). We recommend the amendment of art. 4 letter (h) and art. 63 letter (g) of the Law on bills of exchange of the Republic of Moldova, according to which “The natural person draws his name, domicile and confirms the bill by notarized signature”, because he unjustifiably imposes on the bill of drawer - natural person the obligation to common, especially art. 323 Civil Code, the authentic form of the legal act is mandatory in case of alienation of real estate and by agreement of the parties. The fact that the law unjustifiably imposes obstacles on the natural person in issuing the bill of exchange puts on an equal footing individuals and legal persons who do not have this obligation. In our opinion, the Law establishes the presumption of distrust of individuals, and the impediment created leads to their exclusion from the circle of persons who can freely issue bills of exchange. This provision, in addition to obstructing individuals in issuing bills of exchange, also contravenes Article 1 paragraph (1) Civil Code, which provides that

civil law is based on the recognition of equality of participants in relations regulated by it, inviolability of property, freedom of contract, etc., and is not found in the legislation of European states with a tradition in the use of foreign exchange.

4. We recommend the modification of art. 4 let. (h) and art.63 letter (g) of Lc, regarding the formal conditions of the bill of exchange, according to which the treaty and the bill of exchange issued by the drawer - legal person, must include the signature of both the chief and the accountant- boss. The mandatory establishment of the signature of the chief accountant - in case of issuance of bills of exchange by the drawer - legal entity, creates an unjustified obstacle in issuing bills of exchange by legal entities. However, in the event that there is a need to issue a bill of exchange in another place than the registered office of the legal person, where the chief accountant usually works, this is not possible without the second signature of the chief accountant. We consider that the right of the administrator of the legal person to assume responsibility and to issue bills of exchange is restricted, and the imposition of the signature of the chief accountant, in addition to the fact that his powers are unfounded, the worst is that the legal persons applying the accounting system simple item and where the accounting can be kept directly by the head of the entity, are excluded from the circle of persons with the right to issue bills of exchange. This restrictive condition when issuing the bill of exchange requires the legal person and unjustified expenses, because each time the administrator of the legal person must also invite the chief accountant (to pay unjustified travel expenses) to sign the bill of exchange or promissory notes, for this legal act to be valid and produce legal effects.

5. The exclusion from the bill of exchange law of par. (2) art.1, according to which the bills of exchange are issued as a payment instrument for the delivered goods, executed works and rendered services, and the consideration character of the goods in the bill of exchange must be certified by appropriate documents to the drawer and endorser, because it limits the issuance and circulation of foreign exchange in the context of the market economy. This rule establishes an inequality between persons when issuing the bill of exchange, as it obliges legal persons when issuing the bill of exchange for the delivered goods to prove the character of consideration through appropriate documents (accounting documents, fiscal invoices) issued by the drawee and endurance, a norm that threatens and distorts the characteristics of the bill of exchange.

6. The modification of par. (2) art. 39 of the Law on Foreign Exchange of the Republic of Moldova, according to which "The protest of non-acceptance must be made within the deadlines set for submission for acceptance. If the first acceptance took place on the last day of the term, the protest can be made on the next working day ". We consider that the term "acceptance" is to be replaced by "offer", and the norm

formulated as follows “The protest of non-acceptance must be made within the deadlines set for submission to offer. If the first offer took place on the last day of the term, the protest can be made on the next working day ”. Also, the term stipulated in par. (3) art.39 of two working days, which in our opinion is a very short one and is to be replaced by “four working days”.

7. The modification of par. (3) art. 48 of the Law on Foreign Exchange of the Republic of Moldova, which stipulates that "If the force majeure ceases, the holder of the treaty must present the treaty for acceptance or payment without delay, and will protest if necessary." In this regard, we consider it necessary to replace the word "if" with "after", and the rule to be reworded as follows: "After the cessation of force majeure, the holder of the treaty must submit without delay protest". We also recommend to revise the phrase "force majeure" in relation to the provisions of the modernized Civil Code of 01.03.2019, replacing it with "impediment outside the control of the debtor" notion regulated by art.904 C.civ.RM

8. Because the legislation of the Republic of Moldova is far from perfect in terms of the consistency of pursuing the assets of the bill of exchange debtor, or although according to paragraph (5) art.459 of the Civil Code, it is provided that “goods that are not related to the category of real estate, including money, securities and other securities, are considered movable property”, in art. 89 of the Enforcement Code of the Republic of Moldova, [4] the legislator regulates the procedure of pursuing securities by withdrawing from the debtor or by applying the seizure, but in art. 86 of the Enforcement Code does not list the credit titles, among the debtor's assets that can be pursued. According to art.90 of the Enforcement Code regarding the pursuit of movable assets, the legislator although stipulates that, if the cash and the account are not sufficient to satisfy the receivables, the debtor's movable assets can be pursued in the manner established in art.86 of this code, however, the pursuit of credit securities and in particular of bills of exchange and promissory notes is not regulated. In this context, it is necessary to propose the *lex ferenda* on the establishment of a rule in the Code of Enforcement of the Republic of Moldova on the pursuit of debt securities by the debtor, as well as the legal definition in the Civil Code of securities, especially those that are not securities capital and are not regulated by Law no. 71 on the capital market. [16]

Advantages and value of the proposed elaborations. The proposals and recommendations set out in the content of the doctoral thesis aim to contribute to closing the gaps in the legislation of the Republic of Moldova on bills of exchange and to facilitate the circulation of this credit title in the civil circuit. The recommendations regarding the modification and completion of the normative framework were submitted to the Government of the Republic of Moldova, and the solutions presented in the paper

can serve as a guide of recommendation to interested persons and courts in litigation regarding bill of exchange and promissory notes.

Impact on science and culture. The use of analytical recommendations will contribute to the completion of the national legal doctrine and to the improvement of the legislation in the field of regulation of credit and payment securities, at the same time they can be used in the interpretation and application of civil legislation in the field.

Topics for perspective scientific research. Since the doctoral thesis focuses on the research and analysis of the legal regulations of the bill of exchange through the prism of the law compared with special regarding L.c., L.U. and the legislation of Romania - EU Member State, and the entry into force of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for money laundering or terrorist financing states that combating money laundering and Terrorist financing is recognized as an important public interest reason by all EU Member States, future scientific endeavors will be based on research into legislation, doctrine and legal practice on credit and payment instruments, including aspects of the use of foreign exchange as an instrument of money laundering. Thus, the research topic will be developed in perspective by conducting interdisciplinary scientific investigations on the bill of exchange and its circulation at national and international level.

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ADNOTARE

Laurențiu Novac-Diaconu. „Reglementarea juridică a cambiei prin prisma legislației Republicii Moldova și a Uniunii Europene”. Teză de doctor în drept. Specialitatea 553.01 – Drept civil. Chișinău, 2021.

Structura tezei: Teza cuprinde adnotare în limba română, rusă și engleză, introducere, patru capitole, concluzii generale și recomandări, bibliografia cu 246 de referințe, 2 anexe și 143 pagini text de bază. Rezultatele științifice au fost publicate în 14 lucrări științifice.

Cuvinte-cheie: cambia, biletul la ordin, trata, titlu de credit, titlu de plată, obligații cambiale, plata cambiei, acceptarea cambiei, protestul cambiei, girul, avalul.

Domeniul de studiu: Lucrarea fundamentează un studiu complex din sfera dreptului civil, axat pe reglementarea juridică a cambiei prin prisma legislației Republicii Moldova și a Uniunii Europene.

Scopul cercetării: constă în efectuarea unei investigații științifice în vederea identificării și analizei condițiilor generale și a particularităților cambiei prin prisma legislației civile a Republicii Moldova și a unor state din Uniunea Europeană, cu specială privire la România, elucidarea curenților existente și elaborarea unor recomandări de îmbunătățire a cadrului legal.

Obiectivele cercetării: identificarea premiselor apariției și evoluția cambiei în calitate de titlu de credit și de plată; elucidarea particularităților titlurilor de credit; analiza și definirea cambiei ca titlu de credit și mijloc de plată; analiza legislației cambiale în sistemul de drept al RM, corelația acesteia cu legislația internațională și a unor state din Uniunea Europeană; analiza și identificarea caracteristicilor structurale, naturii juridice și funcțiilor cambiei; identificarea și examinarea condițiilor de valabilitate și a modalităților de transmitere și acceptare a cambiei, precum și a efectelor juridice ale acesteia; analiza consecințelor juridice privind neexecutarea obligațiilor cambiale și a modalităților de valorificare a drepturilor cambiale; formularea recomandărilor și propunerilor în scopul îmbunătățirii conținutului cadrului legal existent.

Noutatea și originalitatea științifică: constă în realizarea unei ample investigații științifice, cu caracter de pionierat, a cambiei ca titlu de credit și de plată, prin prisma dreptului comparat cu specială privire la legislația RM. Cercetarea în cauză aprofundează aspectele lacunare ale demersurilor teoretice și practice realizate până în prezent și constituie un îndemn pentru îmbunătățirea și perfecționarea cadrului normativ și a practicii judiciare în acest domeniu.

Rezultatul obținut care contribuie la soluționarea unei probleme științifice importante: rezidă în identificarea particularităților și condițiilor de valabilitate ale cambiei prin prisma legislației Republicii Moldova, având ca rezultat elucidarea curenților privind emiterea, transmiterea, acceptarea și plata cambiei, precum și a consecințelor juridice în cazul neexecutării obligațiilor cambiale, în vederea aplicării uniforme a reglementărilor legale din acest domeniu.

Semnificația teoretică: fiind prima lucrare de o asemenea amploare în Republica Moldova, dedicată cambiei ca titlu de credit și de plată, aceasta va constitui un îndemn pentru dezvoltarea în continuare a acestei tematici și formularea de noi soluții orientate spre perfecționarea cadrului normativ și a practicii în domeniu. Conținutul lucrării poate servi în calitate de ghid teoretic pentru perfecționarea specialiștilor în domeniu și ca suport didactic în cadrul disciplinelor: drept civil, drept bancar și teoria generală a obligațiilor.

Valoarea aplicativă a lucrării: este atestată de articolele științifice publicate în revistele de specialitate și condiționată de aplicabilitatea studiului efectuat și a propunerilor *de lege ferenda* elaborate.

Implementarea rezultatelor științifice: își găsesc materializare în procesul de instruire în cadrul instituțiilor de învățământ din domeniul juridic și economic, perfecționarea programelor de studii, instruirea personalului sistemului juridic și bancar și a practicienilor în domeniu. Concluziile formulate pot facilita activitatea de interpretare și aplicare a legislației ce vizează titlurile de valoare în general și titlurile de credit în special.

ANNOTATION

Laurentiu Novac-Diaconu. „Legal regulation of promissory note through the prism of the legislation of the Republic of Moldova and the European Union”. PhD in law thesis. Specialty 553.01 - Civil law. Chisinau, 2021.

Thesis structure: The thesis consists of an annotation in Romanian, Russian and English, an introduction, 4 chapters, general conclusions and recommendations, a bibliography consisting of 246 sources, 2 annexes and 143 pages of the main text. Scientific results were published in 14 scientific articles.

Key words: promissory note, solo bill, bill of exchange (draft), drawer, name of payment, obligations for promissory note, bill payment, bill acceptance, protested bill, endorsement (giraud), aval.

Research field: The dissertation conducts a comprehensive study in the field of civil law, focused on the legal regulation of promissory notes in the legislation of the Republic of Moldova and the European Union.

The scope of the PhD thesis is to research a promissory note, to identify and analyze the general provisions of a promissory note and its features through the prism of civil legislation of the Republic of Moldova and a number of European Union states, especially in relation to Romania, as well as to identify existing shortcomings and develop recommendations for improving the legal framework.

Research objectives are: determination of the prerequisites for the emergence and analysis of the evolution of the promissory note as a means of payment; identification of the features of the drawer; analysis and definition of a promissory note as a credit settlement instrument; analysis of the legislation on promissory note in the civil law system of the Republic of Moldova and its relationship with international law and some states of the European Union; analysis and identification of structural features, legal nature and functions of a promissory note; determination and study of the validity of all conditions and methods of transfer and acceptance of a promissory note, as well as its legal consequences; analysis of the legal consequences of failure to fulfill obligations under a promissory note of exchange and methods of using promissory note rights; formulation of recommendations and proposals for improving the current regulatory framework.

Scientific novelty and originality lies in the fact that for the first time a systematic, comprehensive study of the institution of a promissory note as a credit and settlement instrument in the light of comparative law, in particular based on the legislation of the Republic of Moldova, has been carried out. This study sheds light on the theoretical and practical foundations of the research undertaken earlier and is a contribution to the improvement of the regulatory framework and judicial practice in this area.

The results obtained in the course of the study, which contribute to the solution of an important scientific problem consist in identifying the features and conditions of the validity of a promissory note through the prism of the legislation of the Republic of Moldova, as a result of which the shortcomings of issuance, transfer, acceptance and payment of a promissory note, as well as the legal consequences in case of default for the purpose of uniform application of legal norms in this area.

Theoretical significance of the study: being the first study of this scale in the Republic of Moldova, dedicated to the promissory note as a credit and settlement instrument, will contribute to the further development of this issue and the development of new solutions aimed at improving the regulatory framework and practice in this area. The content of the study can serve as a theoretical guide for improving the qualifications of specialists in this field and a didactic manual for the disciplines: civil law, banking law and the general theory of obligations.

The practical significance of the study is confirmed by scientific articles published in specialized journals and is resulted from the applicability of the research and the developed proposals *de lege ferenda*.

Implementation of scientific results finds its embodiment in the learning process in educational institutions for legal and economic specialties, in improving educational programs, training of personnel of the legal and banking system and practicing specialists in this field. The drawn conclusions can facilitate the interpretation and application of securities law in general and securities lending in particular.

АННОТАЦИЯ

Лауренциу Новак-Дьякону. «Правовое регулирование векселя через призму законодательства Республики Молдова и Европейского союза». Диссертация на соискание ученой степени доктора права. Специальность 553.01 - Гражданское право. Кишинев, 2021.

Структура диссертации: Диссертация состоит из аннотации на румынском, русском и английском языках, введения, четырех глав, общих выводов и рекомендаций, библиографии, состоящей из 246 источников, 2 приложений и 143 страниц основного текста. Научные результаты были опубликованы в 14 научных статьях.

Ключевые слова: вексель, соло-вексель, переводный вексель (тратта), векселедатель, название платежа, обязательства по векселю, оплата векселя, акцепт векселя, опротестованный вексель, жиро (идоссамент), аваль.

Предмет исследования: В диссертации проводится комплексное исследование в области гражданского права, сфокусированное на правовом регулировании векселя в законодательстве Республики Молдова и Европейского Союза.

Цель диссертации: состоит в исследовании института векселя, в выявлении и анализе общих положений о векселе, его особенностей через призму гражданского законодательства Республики Молдова и ряда стран Европейского союза, на примере Румынии, а также в выявлении существующих недостатков и разработке рекомендаций по улучшению правовой базы.

Задачи исследования: определение предпосылок возникновения и анализ эволюции института векселя как кредитно-платежного средства; выявление особенностей векселедателя; анализ и определение векселя как кредитно-расчетного инструмента; анализ законодательства о векселе в системе гражданского права Республики Молдова и его соотношение с международным правом и некоторыми государствами Европейского союза; анализ и выявление структурных особенностей, правовой природы и функций векселя; определение и изучение действительности всех условий и способов передачи и акцепта векселя, а также его юридических последствий; анализ юридических последствий неисполнения обязательств по векселю и способов использования вексельных прав; формулирование рекомендаций и предложений по совершенствованию действующей нормативно-правовой базы.

Научная новизна и оригинальность состоит в том, что впервые проведено систематическое, комплексное исследование института векселя как кредитно-расчетного средства в свете сравнительного права, в частности на основе законодательства Республики Молдова. Данное исследование проливает свет на теоретические и практические основы исследования, предпринятые ранее и является вкладом в совершенствование нормативной базы и судебной практики в этой области.

Результаты, полученные в ходе исследования, которые способствуют решению важной научной проблемы заключаются в выявлении особенностей и условий действительности векселя через призму законодательства Республики Молдова, в результате чего выявляются недостатки выдачи, передачи, акцепта и оплаты векселя, а также правовые последствия в случае неисполнения вексельных обязательств в целях единообразного применения правовых норм в этой области.

Теоретическая значимость работы состоит в том, что, будучи первым исследованием такого масштаба в Республике Молдова, посвященное векселю как кредитно-расчетному средству, оно является вкладом в дальнейшее развитие данной проблематики и разработки новых решений, направленных на улучшение нормативной базы и практики в этой области. Содержание работы может служить теоретическим руководством для повышения квалификации специалистов в данной области и дидактическим пособием по дисциплинам: гражданское право, банковское право и общая теория обязательств.

Практическая значимость работы подтверждена научными статьями, опубликованными в специализированных журналах и обусловлена применимостью проведенного исследования и разработанных предложений *de lege ferenda*.

Внедрение научных результатов находит свое воплощение в учебном процессе высших учебных заведений на юридические и экономические специальности, в совершенствовании учебных программ, обучении персонала юридической и банковской системы и практикующих специалистов в этой области. Сформулированные выводы могут облегчить толкование и применение законодательства о ценных бумагах в целом и кредитования ценных бумагах в частности.

**LEGAL REGULATION OF BILL OF EXCHANGE THROUGH
THE PRISM OF THE LEGISLATION OF THE REPUBLIC OF
MOLDOVA AND THE EUROPEAN UNION**

SPECIALTY: 553.01 - CIVIL LAW

**Abstract
of the doctoral thesis in law**

Approved for printing: 29.04.2021
Offset paper. Digital printing.
Printing sheets: 2.0

Paper size A4
Edition 50 ex.
Command nr.11

PRINT - CARO printing house,
14, Astronom Nicolae Donici, Chisinau mun. MD-2049
Ph.num : (022) 8533-86