

# SOME THEORETICAL AND PRACTICAL ASPECTS ABOUT THE FUNCTIONING MECHANISM OF BILL OF EXCHANGE RELATIONS AND BILL OF EXCHANGE EXECUTION

George-Bogdan IONIȚĂ\*

## Abstract

*This study aims to analyze the mechanism of operation of bills of exchange and bill of exchange execution from a theoretical and practical perspective. In this sense, the first research objective will aim to identify the mechanism of formation of bills of exchange relations as well as the mode of operation by referring to elements such as acceptance for payment of the bill of exchange, endorsement or endorsement of the bill of exchange. The second research objective aims to present the most important mechanisms that the person entitled to payment of the bill of exchange has if the amount in the title is not paid. In this sense, we analyzed the provisions relating to bill of exchange execution from both a practical and a jurisprudential perspective. In preparing this study, we analyzed the updated legislation on the subject, the relevant jurisprudence on the subject, but also the theoretical provisions incident to the analyzed topic.*

**Keywords:** bills of exchange relations, bill of exchange execution, endorsement, endorsement, bill of exchange payment.

## 1. Introduction

As we well know, the main function of the bill of exchange is that of a credit instrument<sup>1</sup> because the amount of money stipulated in the bill of exchange does not have to be paid immediately, but at a certain term, through the bill of exchange the debtor is granted credit for the period until maturity. At the same time, the bill of exchange also has the function of a payment instrument. This function is like the function performed by currency. However, the bill of exchange has the advantage of avoiding the use of cash.

## 2. The mechanism of operation of bill of exchange relations

The bill of exchange is regulated in the legislation by Law no. 58/1934 on bills of exchange and promissory notes, with subsequent amendments and updates<sup>2</sup>. Although the aforementioned normative act does not provide a definition of the notion of „bill of exchange”, several definitions have emerged in the specialized literature over time, thus, the bill of exchange is a security by which a person, called the drawer or issuer, will instruct another person, called the drawee, to pay a sum of money at maturity to a third person, called the beneficiary or to his order. Therefore, three subjects participate in a bill of exchange relationship: the drawer or the person who will issue the bill of exchange (this person will instruct to pay the amount of money, specified in the content of the bill of exchange); then follows the drawee, that is, the person to whom the amount of money from the contents of the bill of exchange is requested to be paid, and, last but not least, the beneficiary, who is the person to whom or on whose order the drawee will make the payment to the latter<sup>3</sup>.

The issuance of a bill of exchange is based on the pre-existence of legal relationships between the subjects involved in the legal relationship of the bill of exchange. Based on these legal relationships, called main or fundamental relationships, each subject has the quality of creditor or debtor in the legal relationships in which it participates. By issuing the bill of exchange and making the payment, this fact leads to the execution of the obligations from the pre-existing legal relationships. However, even if the bill of exchange has been issued, this does not lead to the extinction of the initial legal relationships since these legal relationships will continue to

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\* PhD, Lawyer in Bucharest Bar (e-mail: ionita.bogdan.george@gmail.com).

<sup>1</sup> V. Luha, *Titlurile de credit. Cambia*, 2<sup>nd</sup> ed., revised and added, Universul Juridic Publishing House, Bucharest, 2020, p. 7; M. Niță, *Titlurile de credit ca instrumente de plată*, Universul Juridic Publishing House, Bucharest, 2010, p. 10.

<sup>2</sup> Published in the Romanian Official Gazette no. 100/01.05.1934.

<sup>3</sup> V. Nemeș, *Drept comercial*, 5<sup>th</sup> ed., revised and added, Hamangiu Publishing House, Bucharest, 2023, p. 515; St. Cărpănu, *Tratat de drept comercial român*, 6<sup>th</sup> ed., updated, Universul Juridic Publishing House, Bucharest, 2019, pp. 619-620; S. Angheni, *Drept comercial. Tratat*, Hamangiu Publishing House, Bucharest, 2019, pp. 696-697.

exist, except in the case when the parties have agreed to carry out a novation, *i.e.*, the extinction of the old obligation from the fundamental relationship and its replacement with a new obligation, resulting from the bill of exchange<sup>4</sup>.

As regards the substantive elements of a bill of exchange, Law no. 58/1934 does not make any special references in this regard, which is why the general conditions of validity applicable to all legal acts will apply, according to the CC provisions<sup>5</sup>. Bills of exchange relationships can arise both personally and through representation<sup>6</sup>. In the case of formal conditions, the bill of exchange is concluded in writing (even on standard forms) and is supposed to contain the provisions provided for by law<sup>7</sup>.

A bill of exchange can be transmitted by endorsement. Endorsement is a legal act by which the holder of the bill of exchange, called the endorser, transmits to another person, called the endorsee, by a written and signed declaration on the instrument and by handing over the instrument, all the rights arising from the instrument<sup>8</sup>. By endorsement, the holder of the bill of exchange orders the drawee to pay the amount specified in the instrument to the person in whose favor he transmitted the bill of exchange. By endorsement, the bill of exchange rights will be transmitted, that is, those rights specific to the bill of exchange rights. This category includes: the right to the amount of money specified in the bill of exchange; the right to present the bill of exchange for acceptance and, upon maturity, to present it for payment. As a result of transmitting the bill of exchange by endorsement, the endorser assumes the obligation to guarantee the acceptance and payment of the bill of exchange by the drawee. If the drawee refuses to accept and pay the bill of exchange, the endorser will be personally held to pay the amount of money stipulated in the bill of exchange. As a result of transmitting the bill of exchange by endorsement, the endorser is legitimized as a creditor of the amount specified in the bill of exchange<sup>9</sup>.

<sup>4</sup> According to art. 64 of Law no. 58/1934; See also C. Gheorghe, *Tratat de drept comercial român*, C.H. Beck Publishing House, Bucharest, 2020, pp. 686-688.

<sup>5</sup> According to art. 1179 para. (1) CC, the essential conditions for the validity of a legal act are: the capacity to conclude the legal act, the consent of the parties, the existence of a determined and lawful object as well as the existence of a lawful and moral cause. See also G. Boroi, C. Anghelescu, *Curs de drept civil. Parte general*, 3<sup>rd</sup> ed., revised and added, Hamangiu Publishing House, Bucharest, 2021, pp. 141-142; Fl. A. Baias (coord.), *Noul Cod civil. Comentariu pe articole*, 2<sup>nd</sup> ed., revised and added, C.H. Beck Publishing House, Bucharest, 2014, p. 1308; C.T. Ungureanu (coord.), *Noul Cod civil. Comentarii, doctrină și jurisprudență*, vol. II, Art. 953-1649, Hamangiu Publishing House, Bucharest, 2012, pp. 416-417.

<sup>6</sup> According to art. 9 and 10 of Law no. 58/1934. In fact, art. 1295-1296 CC establish that „the power to represent may result either from the law, or from a legal act or from a court decision, as the case may be. And the contract concluded by the representative, within the limits of the power of attorney, on behalf of the represented party produces effects directly between the represented party and the other party”.

<sup>7</sup> According to art. 1 of Law no. 58/1934, the bill of exchange shall include the following elements: • the name of the bill of exchange expressed in Romanian; • the unconditional order to pay a certain amount; • the name/name of the person who must pay, having the capacity of the drawee, respectively the name and surname, in clear of the natural person or the name of the legal person or entity that obliges; if the name of the drawee exceeds the space allocated on the title, the first characters of the name and surname, respectively of the name of the drawee, shall be entered on the bill of exchange, within the limits of the specially allocated space, without thereby causing the nullity of the bill of exchange; • the code of the drawee, respectively a unique identification number provided in the identification or registration documents of the drawee; • the due date; • the place of payment; • the name/name of the person to whom or to whose order the payment must be made; • the date and place of issue; • signature of the issuer, having the capacity of drawer. The drawer's signature means the handwritten signature of the natural person having the capacity of drawer or of his/her authorized representative, respectively the handwritten signature of the legal representatives or authorized representatives of the legal persons who are obligated or of other categories of entities that use such instruments, as the case may be; • signature of the person who accepts the bill of exchange for payment, respectively the drawee. The drawee's signature means the handwritten signature of the natural person having the capacity of drawer or of his/her authorized representative, respectively the handwritten signature of the legal representatives or authorized representatives of the legal persons who are obligated or of other categories of entities that use such instruments, as the case may be; • drawer code, respectively a unique identification number, taken from the drawer's identification or registration documents. The original bill of exchange is the bill of exchange issued on paper, bearing a handwritten signature. The image of the original bill of exchange represents the electronic copy of the original bill of exchange.

<sup>8</sup> In one case, the court held that the provisions of art. 13 of Law no. 58/1934 regulate the specific method of transmitting the bill of exchange, *i.e.*, by endorsement, as well as the fact that it can be transmitted in this way (endorsed) even for the benefit of the drawer/other party liable for the bill of exchange who, after receiving the bill of exchange in this way, can endorse it again. At the same time, it is expressly regulated that even in the situation where the issuer/drawer has limited the circulation of the bill of exchange by endorsement, inserting in the title the mention „not to order” or any equivalent expression, this fact does not prevent the circulation of the bill of exchange, the title being able to be transmitted with the effects of an assignment of debt. This legal provision not only does not contain any regulation from which the possibility of endorsing a blank promissory note results „clearly”, but only a regulation of the specific method of transmitting the bill of exchange title. See, HCCJ, dec. no. 2306/2023 (<https://sintact.ro/#/jurisprudence/520876206/1/decizie-nr-2306-2023-din-02-nov-2023-inalta-curte-de-casatie-si-justitie-bucuresti?cm=URELATIONS>).

<sup>9</sup> In judicial practice, it has been held that the endorsement of a bill of exchange is based on pre-existing legal relationships (sale-purchase, loan, etc.) between the endorser and the endorsee. In accordance with the provisions of Law no. 58/1934, the holder of the endorsed promissory note may bring a recourse action against the endorsers if acceptance was refused in whole or in part (art. 48), after

The holder of the bill of exchange or even a simple holder may present the bill of exchange to the drawee for acceptance until maturity. Since the presentation of the bill of exchange for acceptance is optional<sup>10</sup>, it means that the holder of the exchange bill can present the bill of exchange directly for payment, without first presenting it for acceptance. In certain cases, the presentation of the bill of exchange to the drawee for acceptance is mandatory. Acceptance of the bill of exchange results in the obligation of the drawee to pay the amount of money specified in the bill of exchange when due. By accepting the bill of exchange, the drawee becomes the bill of exchange obligor and at the same time he is the principal obligor and is directly liable for the payment of the amount of money to the holder of the bill of exchange. If the drawee refuses to accept the bill of exchange, the declaration of refusal must be recorded, within the deadlines established for presentation for acceptance, by a document drawn up by the bailiff under the conditions provided for in art. 66-69 of Law no. 58/1934. This document is called a protest of non-acceptance. In the event of refusal to accept the bill of exchange, the holder of the bill of exchange may exercise, even before maturity, the right of recourse against the endorsers, the drawer and the other obligors of the bill of exchange<sup>11</sup>.

Of particular importance in the execution of a bill of exchange is its endorsement, that is, the establishment of a guarantee. The endorsement can be defined as a legal act by which a person, called the endorser, undertakes to guarantee the obligation assumed by one of the bill debtors, called the endorsee. The guarantor (the endorser) intervenes to strengthen confidence in the title, committing himself jointly with the other signatories of the bill to pay the amount of money stipulated in the bill of exchange. The endorser can be a third party or even a signatory of the bill of exchange<sup>12</sup>. The guaranteed party (the endorsee) is a bill of exchange obligor, that is, the drawer, the acceptor or the endorser. Thus, through the endorsement, the holder of the bill

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having previously informed the endorser of the non-acceptance of payment. Furthermore, in accordance with art. 64 of Law no. 58/1934, „if a causal action arises from the relationship that gave rise to the issuance or transmission of the bill of exchange, it remains in existence with the entire issuance or transmission of the bill of exchange ... which may be exercised (the causal action) only [...] after the lack of acceptance or payment is proven by the protest.” It follows from this that, under the conditions in which the claim is based on a bill of exchange or promissory note, the causal legal relationship between the creditor and the initial debtor is considered, remaining the fundamental legal relationship, generating rights and obligations. See, Bihor Court, sent. of 19.04.2023 (<https://sintact.ro/#/jurisprudence/553806088/1/sentinta-nr-rj-23-e-5783-g-6-2023-din-19-apr-2023-tribunalul-bihor-contestatie-creante-falimant?cm=URELATIONS>).

<sup>10</sup> In one case, it was held that the presentation of the bill of exchange for acceptance is optional, this nature results from the wording of art. 24 of Law no. 58/1934 which provides that „the holder of the bill of exchange may present the drawee, until maturity, the bill of exchange for acceptance, at his domicile”. This optional nature of the acceptance of the bill of exchange is also emphasized in the specialized literature, since, from the economy of the law, there are only 2 cases in which the acceptance of the bill of exchange is mandatory (when the maturity of the bill of exchange was established at a certain term at sight, art. 26 of the law, and when the drawer expressly stipulated in the bill of exchange that its acceptance by the drawee is necessary, art. 25 of the law). As can be seen, the drawer did not impose this condition on the bill of exchange, of presenting the bill of exchange for acceptance, therefore the presentation of the bill of exchange and its acceptance is only optional, according to the general rule, regulated by the provisions of art. 24 of Law no. 58/1934. In support of these legal norms and the opinion expressed in the doctrine, it also invokes the case-law on the matter, namely a decision pronounced in an appeal panel chaired by Mr. Prof. Univ. X in which exactly this is supported, the fact that the acceptance of the bill of exchange is optional and not mandatory (annex). As shown in the invoked decision, both the presentation of the bill of exchange for acceptance and its acceptance are optional. Although Law no. 58/1934 in art. 24 speaks only about the presentation for acceptance of the bill of exchange, the appellant-creditor mentions, since acceptance cannot be made in the absence of presentation for acceptance, from a logical interpretation of the text of the law it clearly results that the acceptance of the bill of exchange is also optional, a fact also established by the decision invoked by it as a judicial precedent. All the provisions regarding the acceptance of the bill of exchange invoked by the respondents and by the court in the considerations are incidental only in the case of bills of exchange for which acceptance is mandatory. As it has been shown in this case, the bill of exchange is not one of those for which acceptance is mandatory, all these provisions cannot be applied to its bill of exchange. Moreover, the acceptance of the bill of exchange is a prior issue to its investment with an enforceable formula. This results from the very systematic interpretation of the bill of exchange and promissory note law, which first includes rules regarding acceptance and only later in its text rules regarding the investment with an enforceable formula of the bill of exchange. See, CA Bucharest, dec. no. 219/2018 (<https://sintact.ro/#/jurisprudence/531774435/1/decizie-nr-219-2018-din-08-mai-2018-curtea-de-apel-bucuresti-incuviintare-executare-silita-civil?pit=2025-04-06&cm=URELATIONS>).

<sup>11</sup> In judicial practice, it has been held that according to art. 49 of Law no. 58/1934, the refusal to accept or pay must be established by an authentic act (protest of acceptance or non-payment), but these legal provisions are not relevant to the case. Art. 47 of Law no. 58/1934 shows that the actions of the creditor are direct or recourse. If the debtor refuses payment, the creditor can directly pursue him or his guarantors, without the direct action being subject to any special formality. If acceptance and payment are refused, the creditor can pursue recourse against those who assumed the subsidiary obligation. Thus, the recourse action is differentiated from the direct one in that its realization is subject to substantial and formal conditions, regulated by art. 49 of Law no. 58/1934. In the case, the debtor and the guarantors are pursued. Therefore, they can be pursued directly by the creditors, without the need to complete the special formalities specific only to recourse. Guarantors have an independent and autonomous obligation, not being subsidiary to be subject to recourse. Given that the provisions of art. 49 of Law no. 58/1934 do not apply in the case, the court finds that this criticism of the petitioner is also unfounded. See, Alba Iulia Court, sent. of 29.04.2022 (<https://sintact.ro/#/jurisprudence/535995212/1/sentinta-nr-rj-394654-ede-2022-din-29-apr-2022-judecatoria-alba-iulia-contestatie-la-executare-civil?pit=2025-04-06&cm=URELATIONS>).

<sup>12</sup> Art. 35 para. (2) of Law no. 58/1934.

of exchange acquires a new debtor, in addition to the endorsed debtor. However, the endorsement gives rise to an autonomous and abstract bill of exchange obligation, identical to the obligation of any other signatory of the bill of exchange<sup>13</sup>.

As for the payment of the bill of exchange, it must be presented for payment. The presentation of the bill of exchange and therefore the right to payment is the legitimate owner of the title. This may be the beneficiary indicated by the drawer in the bill of exchange or the endorser. Payment of the bill of exchange may be requested, first, from the accepting drawee, who is the principal debtor of the bill of exchange. Payment of the bill of exchange may also be requested directly from the drawee's guarantor, if such a guarantor exists. Alternatively, the bill of exchange may be presented for payment to the recourse debtors, if the legal formalities have been fulfilled. As a rule, payment of the bill of exchange may be requested at maturity<sup>14</sup>.

### 3. Specific means of obtaining payment of the bill of exchange – bill of exchange execution

If the entitled person does not receive payment of the bill of exchange, he has at his disposal the use of bill of exchange or non-bill of exchange means<sup>15</sup>. Bill of exchange means refer to those procedures for the valorization of bill of exchange rights that arise from the principles governing the bill of exchange. They consist of certain actions (bill of exchange actions) that can be used against those obligated to pay the bill of exchange or in the enforcement of the bill of exchange. Bill of exchange actions are of two types: direct and recourse<sup>16</sup>. Direct actions are actions directed against those directly obligated to pay, which are the acceptor and his guarantor. These actions are ordinary lawsuits that are exercised based on the bill of exchange. Recourse actions are actions against any other bill of exchange obligor, that is, against the drawer, their guarantors and guarantors. These actions can be carried out through the courts only under the conditions provided for by the

<sup>13</sup> It has also been noted in judicial practice that when verifying the reason for the appeal, the court notes that according to art. 33 of Law no. 58/1934, the guarantee represents a guarantee, and the object of the guarantee is the payment of the promissory note, through which the guarantor undertakes to guarantee the obligation assumed by the debtor named as the guarantor, strengthening confidence in the title, jointly and severally committing himself to the payment of the amount due. According to art. 35 of Law no. 58/1934: „the guarantor is bound in the same way as the one for whom he guaranteed. It is valid even if the obligation he guaranteed is void for any reason other than a formal defect. When the guarantor pays the bill of exchange, he acquires the rights arising from it against the guarantor, as well as against those who are obligated to the latter, based on the bill of exchange”, and according to art. 52 of the same normative act: „The drawer, the acceptor, the endorser and the guarantor of the bill of exchange are jointly and severally obligated to the holder, in case of non-payment. The holder may act against all these persons, individually or collectively, without being required to observe the order in which they obligated themselves. Any signatory who paid the bill of exchange has the same right. The action brought against one of the obligated parties does not prevent the prosecution of the others”. See, Trib. Bucharest, dec. of 10.02.2025 (<https://sintact.ro/#/jurisprudence/553970473/1/decizie-nr-rj-2397-de-8-d-2-2025-din-10-feb-2025-tribunalul-bucuresti-contestatie-la-executare...?pit=2025-04-06&cm=URELATIONS>).

<sup>14</sup> In another case, it was held that art. 41 para. (1) of Law no. 58/1934 provides that „the holder of a bill of exchange payable on a fixed day or at a certain date from the date of issue or at sight must present it for payment, either on the day it is payable or on one of the two following business days” and point 237 of Framework Norms no. 6/08.03.1994 regarding the trade carried out by banking companies and other credit companies with bills of exchange and promissory notes, based on Law no. 58/1934 on bills of exchange and promissory notes, amended by Law no. 83/1994 establishes issued by the BNR, „the holder of a bill of exchange payable on a fixed day or at a certain term from the date of issue or at sight must request payment from the debtor either on the day the bill of exchange is payable, or on one of the two working days following the day of payment. If, within the two working days allowed for postponing payment beyond the due date of the bill of exchange, a legal holiday of one or more days occurs, the number of days representing the legal holiday is added to the tolerance of two working days mentioned”. Art. 49 of Law no. 58/1934 stipulates that the refusal to accept or pay must be established by an authentic act (protest of non-acceptance or non-payment). The protest of non-acceptance must be made within the time limits set for presentation for acceptance. If, in the case provided for in the first paragraph of art. 27, the first presentation took place on the last day of the time limit, the protest may still be made on the following day. The protest of non-payment of a bill of exchange payable on a fixed day or at a certain time from the date of issue, or at a certain time at sight, must be made on one of the two working days following the day on which the bill of exchange is payable. When the bill of exchange is payable at sight, the protest must be made under the conditions set out in the previous paragraph, for the protest of non-acceptance. The protest of non-acceptance exempts the presentation for payment and the protest of non-payment. In the case where the drawee has ceased payments, whether he has accepted or not, or in the case where a tracing of his assets is not possible has been successful, the holder may not exercise his right of recourse, except after the bill of exchange has been presented to the drawee for payment and after the protest has been made. If the drawee, whether he has accepted or not, has been declared bankrupt, as well as in the event of bankruptcy of the drawer of a bill of exchange stipulated as unacceptable, the presentation of the declaratory bankruptcy decision is sufficient to allow the holder to exercise his right of recourse. See, Bistrița Court, sent. of 02.02.2022 (<https://sintact.ro/#/jurisprudence/535997359/1/sentinta-nr-rj-62-g-853872-2022-din-02-feb-2022-judecatoria-bistrita-contestatie-la-executare...?pit=2025-04-06&cm=URELATIONS>).

<sup>15</sup> Extra-cambial means refer to the causal action based on the initial (fundamental) relationship and the unjust enrichment action.

<sup>16</sup> Art. 47 of Law no. 58/1934.

bill of exchange law. The bill of exchange enforcement is a special procedure for the enforcement of the bill of exchange rights and is carried out under the conditions established by law<sup>17</sup>.

As we have specified, the bill of exchange has the value of an enforceable title for the capital and accessories, established according to art. 53, 54 and 57 of Law no. 58/1934<sup>18</sup>. The court has jurisdiction to invest the bill of exchange with the enforceable formula and the investment decision is not subject to appeal. The bill of exchange issued abroad has the same enforceable effects if they are also admitted by the law of the place where the bill of exchange was issued. The enforcement summons must include the exact transcription of the bill of exchange or the protest, as well as the other documents from which the amount due results<sup>19</sup>. For bill of exchange obligations subscribed by power of attorney, the summons will also mention the document from which the mandate results<sup>20</sup>. Within 5 days from the communication of the summons, the debtor may file a contestation of the enforcement<sup>21</sup>.

The contestation will be filed with the enforcement court, which will judge it according to the Code of Civil Procedure, urgently and before any other cause. The decision on the appeal may only be appealed within 15 days of the ruling. The court may suspend the execution only if the appellant, by signing falsely, does not recognize his signature or that of his legal representatives or proxies or does not recognize the power of attorney. In the event of suspension of the execution, the creditor will be able to obtain insurance measures.

<sup>17</sup> C. Tănăsă, *Cambia, biletul la ordin și contestația la executare. Corelații între procedura specială și procedura de drept comun*, in *Revista Română de Executare Silită* no. 3/2021 (<https://sintact.ro/#/publication/151024427?keyword=cambia&cm=SREST>).

<sup>18</sup> According to the articles, the holder may claim by way of recourse: • the amount indicated in the unaccepted or unpaid bill of exchange, together with interest, if any, provided for; • the legal interest calculated from the due date; • protest expenses, those of the notifications sent, as well as other justified expenses. If the recourse is exercised before the due date, a discount will be deducted from the amount shown on the bill of exchange. This discount will be calculated according to the discount of the National Bank in force, on the date of recourse, at the place of residence of the holder. The person who paid the bill of exchange by recourse may request from his endorser: • the entire amount paid; • the legal interest on this amount, calculated starting from the date of payment; • the expenses he has incurred.

Any person, having the right to exercise the recourse, may, unless otherwise stated, recover the amount by a new bill of exchange (counter-bill of exchange), drawn at sight on one of his endorser. The counter-bill of exchange includes, in addition to the amounts shown in art. 53 and 54, a brokerage fee and stamp duty for it. If the counter-bill of exchange is drawn by the holder, the amount is fixed at the rate of a bill of exchange at sight, drawn from the place where the original bill of exchange was payable at the place of domicile of the endorser. If the counter-bill is drawn by an endorser, the amount is fixed at the rate of a bill of exchange at sight.

<sup>19</sup> T.C. Briciu, *Unele probleme privind executarea cambiei sau a biletului la ordin*, in *Revista Română de Executare Silită* no. 2/2015 (<https://sintact.ro/#/publication/151009988?keyword=executarea%20cambiala%20la%20ordin&cm=SRESTm>).

In judicial practice, it was noted that with regard to the criticism regarding the lack/irregularity of the bill of exchange summons, the court takes into account the fact that indeed, according to art. 61 of Law no. 58/1934, „the enforcement summons must include the exact transcription of the bill of exchange or the protest as well as the other documents from which the amount due results” (the amendments brought by Law no. 180/2022 being only grammatical). But it must be considered that when the law was adopted, in 1934, there was neither a xerox nor a computer, at most typewriters, so that in the content of the summons it was necessary to transcribe all the elements of the bill of exchange/promissory note. Currently, thanks to modern means, the front/back copy of the promissory note was inserted in the content of the Summons, so that it meets the requirements of the law. See Brașov Court, sent. of 13.05.2024 (<https://sintact.ro/#/jurisprudence/553941706/1/sentinta-nr-rj-86324-g-428-2024-din-13-mai-2024-judecatoria-brasov-contestatie-la-executare-civil?pit=2025-04-06&cm=URELATIONS>).

<sup>20</sup> In one case, the court held that after this moment, under penalty of the absolute nullity of the entire procedure, the bailiff will have to communicate to the debtor the enforcement notice, which must include, according to art. 61 para. (6) of Law no. 58/1934, „the exact transcription of the bill of exchange or protest, as well as of the other documents from which the amount due results”. Thus, the bill of exchange notice is made before any enforcement act, and the notice provided for in art. 668 CPC represents an initial enforcement act. Therefore, the two, being successive, cannot appear within the same procedural act, so that the notice provided for in art. 668 CPC can only be made after the communication of the bill of exchange notice. The bill of exchange summons represents an act committed prior to the commencement of the forced execution, while the common law summons is the first enforcement act and represents the debtor's notification of the initiation of the forced execution measures if he does not comply with the payment obligation. The execution summons is mandatory and is not identical to the ordinary summons drawn up by the bailiff, this execution summons must be made by the creditor and communicated through the bailiff. It includes the exact transcription of the bill of exchange (BO) of the protest (if any) as well as the other acts from which the amount due results. At the same time, the summons must also mention the act from which the mandate results, for the obligations subscribed by power of attorney. Moreover, when the summons provided for in the Civil Procedure Code is suppressed by the legislator, the bill of exchange summons continues to be mandatory. The summons provided for in art. 61 para. (5) of Law no. 58/1934 on promissory notes and promissory notes, is still mandatory, including in cases where the forced execution is carried out without a physical presence. By the lack of the procedural act initiating the forced execution, he considered that he was seriously violated in his right to be informed about the forced execution initiated against him, as well as in his right to object to the execution within the deadline and to use the exceptions to the promissory note. See Sighetul Marmăției Court, sent. of 24.04.2024 (<https://sintact.ro/#/jurisprudence/553937194/1/sentinta-nr-rj-23-d-695367-2024-din-24-apr-2024-judecatoria-sighetu-marmatiei-contestatie-la...?pit=2025-04-06&cm=URELATIONS>).

<sup>21</sup> Compared to common law, art. 668 CPC establishes that „the debtor will be summoned to fulfill his obligation, immediately or within the term granted by law, stating that, otherwise, the enforcement will continue”.

#### 4. Conclusions

As we have seen, a bill of exchange is a security by which a person, called the drawer or issuer, will instruct another person, called the drawee, to pay a sum of money to a third person, called the beneficiary, or to his order, on maturity. If the entitled person does not receive payment of the bill of exchange, he has at his disposal the use of bill of exchange or non-bill of exchange means. Bill of exchange means refer to those procedures for the valorization of bill of exchange rights that arise from the principles governing the bill of exchange. They consist of certain actions (promissory note actions) that can be used against those obligated to pay the promissory note or in the enforcement of the promissory note. Promissory note enforcement is a special procedure for the enforcement of promissory note rights and is carried out under the conditions established by law.

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