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THE PRINCIPLE OF INDEPENDENCE OF SIGNATURES IN THE DRAWING DOCUMENT AS A COMMERCIAL PAPER

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ABSTRACT

This study aims to clarify the legal aspect of the principle of independence of signatures in the withdrawal document as a commercial paper by studying the nature of the principle of independence of signatures and its implications in accordance with the provisions of commercial law. The research problem revolved around the extent to which the Jordanian legislator is compatible in determining the legal framework for the principle of independence of signatures in the drawing document as one of the commercial papers? What is the scope of this principle in achieving exchange protection for the holder of the commercial paper? The study concluded that anyone who places their signature on commercial papers creates a stand-alone obligation over the obligations of other signatories. The study recommended that the Jordanian legislator should reform special legal articles regulating everything related to the principle of independence of signatures and its implications.

KEYWORDS: Principle of independence of signatures, deed of withdrawal, exchange obligation, principle of purification of defenses.

INTRODUCTION

Commercial papers have emerged as an effective means that aligns with the speed of commercial transactions. Therefore, it was necessary to establish the concept of dealing with commercial papers in order to strengthen trust between merchants and facilitate commercial dealings. As a result, commercial papers have replaced cash in the payment of debts. The Jordanian legislator allocated the regulation of commercial papers in Book Four of the Commercial Law No. 12 of 1966, under the title "Commercial Papers," without providing a precise and comprehensive definition of them.

Thus, jurisprudence and the judiciary have defined commercial papers based on the characteristics that distinguish them, as: "Written instruments prepared according to formal requirements and specific data determined by law, not conditional, negotiable by commercial means, representing a right involving a sum of money payable on sight, or at a fixed or determinable date, provided that commercial custom accepts them as a means of payment similar to cash. Bolton, J. (2021). Article (123) of the Jordanian Commercial Law lists the types of these commercial papers as: the bill of exchange, the promissory note, the cheque, and bearer or endorsable instruments.

Banking law is characterized by features that revolve around facilitating the circulation of commercial papers and enhancing trust in them, so that the holder feels reassured about collecting their value allowing these instruments to perform their functions effectively. Among the most prominent features are two principles of exchange law: the principle of signature independence and the principle of defense cleansing. The principle of signature independence means that each signer's obligation on the commercial paper is considered separate and independent from the obligations of other signers, and is not affected or invalidated by the invalidity of the obligations of others, whether prior or subsequent. If the obligation of one signer is invalid due to lack of capacity, defect in consent, or signature forgery, such invalidity applies only to that specific obligation and does not extend to the obligations of other signers on the instrument.

1.1 Research Problem

The main problem in this research revolves around the extent to which the Jordanian legislator aligns with defining the legal framework for the principle of signature independence in the bill of exchange as one of the commercial papers. What is the scope of this principle in achieving exchange protection for the holder of the commercial paper? And to what

extent has this principle succeeded in encouraging those dealing with bills of exchange?

1.2 Significance of the Study

The significance of this research stems from the fact that commercial papers play an important role in commercial relations, serving both as a means of payment and as a credit tool. Since the elements of speed and credit form the fundamental pillars of these relations, the principle of signature independence in commercial papers has emerged to emphasize the importance of such instruments. This is due to the increasing volume and diversity of commercial transactions both domestic and international and the potential difficulties that may arise from such dealings

2 Previous Studies

Sadoud, Asma (2022). *The Principle of Signature Independence in Commercial Papers*, Master's Thesis, Abdelrahman Mira University, Béjaïa, Algeria. This study addressed the topic of the principle of signature independence in commercial papers within Algerian and Egyptian commercial law. It was structured into two chapters: the first discussed the concept and legal nature of signature independence, while the second focused on the legal effects resulting from this principle. The study concluded that the principle of signature independence—whose most important application is the principle of defense cleansing—serves as protection for the holder of the commercial instrument against various defenses that may be raised by the debtor to evade fulfilling their obligation. The study recommended that the Algerian legislator add a specific legal article in the Commercial Law to regulate the principle of signature independence.

Peari, S. (2021). *The Principle of Signature Independence in Commercial Papers*, Master's Thesis, Lebanese University, Beirut, Lebanon. This study addressed the principle of signature independence in commercial papers under Lebanese, Egyptian, and French commercial law. It was divided into two sections: the first concerning the legal framework of the principle of signature independence in commercial papers, and the second regarding the legal effects arising from this principle. The study concluded that the principle of signature independence was established to protect the holder of the commercial paper in good faith, and that the endorsement of the commercial paper to a holder in good faith cleanses it from all defenses prior to the date of endorsement. The study recommended that the Lebanese legislator issue a modern commercial law that aligns with the

developments in the field of commercial papers. My current study differs from these two previous studies in that it focuses specifically on the principle of signature independence in Jordanian commercial law and its practical and judicial applications, away from comparative legislations such as the Egyptian, Algerian, and French laws. Furthermore, my study addresses the legal and practical effects resulting from the principle of signature independence, including practical examples.

3 Methodology

The researcher relied on the descriptive and analytical methods by describing the legal texts, jurisprudential opinions, judicial rulings, and their applications related to the principle of signature independence in the bill of exchange as a commercial paper. Then, these were analyzed to reach answers to the research problem, concluding with a summary of findings and recommendations.

3.1 Research Structure

This study will be addressed in two consecutive chapters:

1. The Concept of the Principle of Signature Independence.
2. The Effects of the Principle of Signature Independence.

3.2 The Concept of the Principle of Signature Independence

All commercial papers are subject to a law called the "Negotiable Instruments Law," which refers to the legal rules regulating commercial papers. This law derives its name from the role of the bill of exchange, Rjoub, A. M. (2024) (which originally manifested in the execution of the exchange contract. Among the fundamental principles upon which the Negotiable Instruments Law is based is the principle of signature independence. Based on this, this chapter is divided into two sections: the first to clarify the concept and legal nature of the principle of signature independence, and the second to cover the conditions and methods of applying the principle of signature independence.

3.2.1 The Concept and Legal Nature of the Principle of Signature Independence

The exchange obligation is the commitment of each signatory on the commercial paper to pay its value at the due date. This obligation is independent and autonomous. This section aims to clarify this point, dedicating the first subsection to the definition and characteristics of the principle of signature independence, and the second subsection to the legal nature of the principle of signature independence.

3.2.2 Definition of the Principle of Signature Independence

The principle of signature independence holds that each obligation created by a commercial paper is independent of others. In other words, every person who signs the commercial paper incurs an autonomous exchange obligation, independent from the obligations of other signatories Geva, B. (2020). Whether they signed before or after him. If the obligation of one signatory is nullified due to lack of capacity or forgery of his signature, this does not affect the obligations of the other signatories. Gorton, G. (2024). Accordingly, the holder of the commercial paper finds in this principle a major guarantee, as if the obligation of one signatory becomes void, the right of recourse remains open against the other signatories. This approach was adopted by the Jordanian legislator in Article 130/1 of the Commercial Law, which states: "If a bill of exchange bears the signatures of persons who lack the capacity to obligate themselves, or forged signatures, or signatures of fictitious persons, or signatures that do not bind for any other reason the persons who signed the bill or those who signed on their behalf, this shall not affect the validity of the obligations of the other signatories."

In applying this principle, the Jordanian Court of Cassation ruled in a recent judgment: "Since the plaintiff filed this case as an exchange claim to demand the value of a promissory note, considering it a commercial paper with autonomous sufficiency that exempts its holder from proving its underlying cause, and since it contained all the elements required under Article (222) of the Commercial Law, and did not include any condition that would make the commitment to pay the specified monetary amount conditional upon other events The appellant's argument that the signature on the back of the promissory note does not belong to the endorser Issa Al-Zuhairi is therefore unacceptable, based on the principle of signature independence, particularly because the appellant himself did not deny the authenticity of his own signature on the promissory note as the drawer. This is in line with the application of Article (130/1) of the Commercial Law concerning the bill of exchange. Accordingly, the invalidity of the endorser's signature does not affect the appellant's obligation as the drawer, and he may not disclaim his obligation on the grounds that the endorser's signature does not belong to him. Thus, the plaintiff's claim to demand the value of the promissory note as an exchange claim based on the note is a properly filed claim, and the Court of Appeal's decision in handling the case on this basis is legally sound. Therefore, the appellant's reasons are unfounded and must be rejected Gorton, G.

(2024). Based on this, the researcher finds that through such a ruling, the obligation of the signatory is considered independent from all other obligations. Even if the drawer's obligation is void for any legal reason, such nullity does not affect the other obligations. Rather, it remains limited to the direct relationship between the drawer and the beneficiary, without extending to the remaining obligations.

3.2.3 The Legal Nature of the Principle of Signature Independence

The endorsement arising from the relationships established by a commercial instrument has sparked jurisprudential debate regarding its legal nature, leading to the emergence of multiple theories. This subsection will address these theories through the following points:

First: The Assignment of Right Theory

According to this theory, the legal relationships arising from a commercial instrument involve the existence of three contracts: The first contract is between the drawer and the drawee; the second between the drawer and the payee; and the third between the drawee and the payee. This chain continues until the last holder claims the value of the bill of exchange. However, in the case of a civil assignment of debt, the assignee receives only the rights held by the assignor and does not guarantee the existence of the right beyond that. In contrast, Gorton, G. (2024). under negotiable instruments law, the drawer and all endorsers who transferred the bill of exchange among themselves are jointly liable for the payment of the bill and for the solvency of the debtor. Takahashi, K. (2023).

Criticism of the Theory

The drawee cannot be considered an agent of the drawer in paying the holder, since the order directed to the drawee is not merely a representation on behalf of the drawer to pay, but rather a personal commitment to pay the value of the instrument from the drawee's own funds. Additionally, agency does not fall under the rule of defense cleansing, as the drawee cannot raise defenses against the drawer in the face of a good-faith holder unlike what applies in a regular agency relationship. In this context, the researcher affirms that the Assignment of Right Theory cannot serve as a legal basis for the principle of signature independence, since the drawee cannot invoke defenses against the drawer in the face of a good-faith holder, contrary to what is applicable in agency Czaplicki, P. (2021).

Second: The Theory of Substitution and Novation

In the context of novation, the substitution for the drawee appears in the replacement of the creditor namely, the drawer with the payee. As for the payee, the substitution occurs by replacing the debtor that is, the drawee with the drawer Ott, A. (2020). Thus, two old relationships are replaced with two new ones. However, it is said in response to this attempt that the new obligation does not arise from the old one. The obligation of the drawee (as a substitute before the holder) has no relation to the previous obligation owed to the drawer, because the drawee's purpose in accepting the bill is to act as guarantor for the drawer. If he assumes this guarantee, then his intention to ensure the debt of the holder is considered a sufficient cause for his obligation. The drawer's debt to the drawee is not the legal basis for the drawee's commitment to the holder. Therefore, even if the drawer's debt to the drawee is defective or lacks legal existence, the drawee's obligation toward the holder remains valid, as the cause of this obligation is self-sustaining and independent from the drawer's obligation to the drawee Anyamele, U. (2024).

Criticism of the Theory

This theory has not been free from criticism, mainly due to the absence of mutual consent among the three parties to the contract. If such consent is lacking, the contract is considered void. However, in commercial instruments, even when the drawee's consent is not achieved, the instrument remains valid and enforceable against prior signatories, who are held liable to the holder for the payment of its value. In contrast, a cheque does not require acceptance by the drawee, as it is payable upon presentation yet, the signatories still remain liable to its holder. Accordingly, the researcher finds that this theory also fails to explain the nature of the relationship between the signatories to the instrument when invoking the principle of signature independence. In novation, old relationships are extinguished, whereas in exchange obligations, the original relationship remains intact. Furthermore, all parties are jointly liable in exchange law, while this joint liability does not exist in cases of novation or substitution. Sun, S., & He, R. (2024).

Third: The Theory of Unilateral Substitution

This theory was proposed by German jurisprudence to address the shortcomings of traditional theories. According to this view, the bill of exchange is a credit instrument. The theory emphasizes that when a prior relationship exists between a creditor and a debtor, and another debtor also exists in relation to that creditor, the latter may, through a unilateral declaration of intent, commit to paying the creditor.

Additionally, the drawee binds himself through his own unilateral will to pay a specific amount on a specific date (the maturity date) to any holder of the bill. The same applies to all subsequent signatories, regardless of the capacity in which they signed the instrument whether as drawer, endorser, or guarantor. Each signatory thus becomes a debtor, even before knowing the creditor to whom payment will ultimately be made, in fulfillment of the exchange obligation) *International Trade Law* (2020).(

Criticism of the Theory

This theory has also faced criticism, particularly from legal systems that do not recognize unilateral will as a valid source of obligation. Afrah, Abdul Karim Khalil (2009). In such systems, the unilateral expression of will is not sufficient to establish a binding commitment. However, what supports this theory in explaining the effects of exchange obligations is that even in cases where a bearer bill of exchange is lost, and the true holder fails to initiate opposition procedures against payment if the person who found the bill presents it to the debtor, the latter cannot refuse to pay . Peari, S. (2021).

This is because the debtor's obligation in such a case arises solely from his unilateral will. Therefore, the researcher tends to adopt this theory, as it best explains the nature of the relationship arising from the principle of signature independence especially given that the debtor's obligation is rooted in his own unilateral intention, regardless of the surrounding circumstances.

3.2.4 Conditions and Methods of Applying the Principle of Signature Independence

Commercial instruments are governed by what is known as the law of exchange. These are formal, negotiable documents that represent monetary value and are transferable by endorsement. They also serve as a mechanism for executing exchange contracts. The principle of signature independence is regarded as a cornerstone of exchange law, even though it arises from the endorsement that transfers ownership of commercial instruments. Accordingly, it is essential to identify the conditions for applying the principle of signature independence and the methods of its implementation.

3.3 Conditions for Applying the Principle of Signature Independence

Under this principle, a party obligated under a bill of exchange whether as acceptor, drawer, endorser, or guarantor may not raise defenses based on personal relationships with the drawer or previous

holders against the current holder. This section will address the conditions for applying the principle of signature independence through the following points:

First: The Endorsement Must Transfer Ownership

Endorsement refers to the standard mechanism by which rights represented by a negotiable instrument are transferred. It is effected by delivering the instrument after writing an instruction such as "pay to the order of [name]" on its back. The party transferring the bill is called the endorser, and the receiving party is referred to as the holder or endorsee. This mechanism allows the holder to claim payment even before the maturity date. As a result, the relationship between the drawer Matringe, N. (2020). and the original beneficiary evolves into a series of legal relationships through successive transfers of the instrument, particularly upon Damle, D. (2022). in accordance with Articles 143 and 144 of the Jordanian Commercial Code.

Second: The Holder Must Act in Good Faith

Good faith in this context means that the holder is unaware, at the time of endorsement, of any defense that may affect the validity of the bill. Good faith is presumed unless the debtor proves otherwise using any admissible means of evidence Afrah Damle, D. (2022)The debtor under the bill of exchange may not assert against a good-faith holder any defenses arising from relationships with prior signatories. This rule is designed to protect the rights of a holder acting in good faith from being unexpectedly faced with defenses of which they had no knowledge, especially those grounded in prior dealings between the debtor Afrah, Damle, D. (2022).and other parties. However, if the holder acts in bad faith namely, if they knowingly acquire the instrument with the intent to deprive the debtor of a legitimate defense they are not entitled to the legal protections afforded by this rule. The general principle is that good faith is presumed. If the debtor claims that the holder acted in bad faith, that the holder was aware of the defense at the time of endorsement and acquired the instrument with the intention of harming the debtor Goldby, M. A. (2024). the burden of proof lies with the debtor. This is affirmed by Article 147 of the Jordanian Commercial Code, which states: "Persons sued on a bill of exchange may not invoke against the holder any defenses based on their personal relations with the drawer or with previous holders, unless the holder acquired the bill in bad faith, with the intention of harming the debtor." Accordingly, a holder cannot be deemed to have acted in bad faith unless it is proven that they had knowledge of the defense and of the harm caused to the debtor upon

acquiring the bill. The burden of proof rests with the party alleging bad faith.

Third: Defenses Covered by Endorsement

The rule that discharges certain defenses is a key protection given by the law to a holder acting in good faith. It comes from the principle of signature independence because each endorsement creates a new, separate relationship Goldby, M. A. (2024). This means the endorsee gets a clean right, free from defects that might have affected earlier dealings. This rule only applies to personal defenses and does not cover substantive defenses. So, we need to distinguish between two types Goldby, M. A. (2024). personal defenses discharged by endorsement, which cannot be used against a good-faith holder to protect them from unknown defenses; and other defenses, which remain valid even if the holder acted in good faith and cannot be cleared by endorsement Giliker, P. (2022).

3.3.1 Methods of Applying the Principle of Signature Independence

Endorsement results in the transfer of rights contained in the commercial instrument without requiring the procedures of civil rights assignment. The effects of endorsement vary depending on whether it is full, proxy, or for security purposes, detailed as follows:

First: Full Endorsement (Transfer of Ownership)

A full endorsement is defined as a legal act that transfers ownership of the rights attached to a negotiable instrument from the endorser to the endorsee by the endorser writing an endorsement statement on the instrument. This may be done either to collect the instrument's value before its maturity date or to fulfill a debt owed by the endorser to the endorsee for example, when the endorser owes the endorsee the price of goods purchased, the endorsement serves as payment of that price. For the endorsement to be valid, the signer must have legal capacity to sign commercial instruments that is, the legal competence to engage in commercial transactions and it must be the result of free will, untainted by any defect in consent. An endorsement made by someone without capacity or with limited capacity is considered void. Giliker, P. (2022). The age of majority is eighteen (18) Sagi Peari (2025). . Article 124 of the Jordanian Commercial Code clarifies the formal requirements of a bill of exchange, stating that it must include the following

1. The word "bill," "draft," or "promissory note" in the body of the instrument, in the language it is written;

2. An unconditional order to pay a specified amount of money;
3. The name of the party required to pay (the drawee);
4. The maturity date;
5. The place of payment;
6. The name of the party to whom payment is to be made or to their order (the holder);
7. The date and place of issuance of the bill;
8. The signature of the party issuing the bill (the drawer).

Second: Proxy Endorsement

Proxy endorsement involves the endorser authorizing the endorsee to collect the value of the commercial instrument at its maturity and to take legal action if the drawee refuses payment. In other words, this is done by including a phrase indicating the proxy nature of the endorsement, such as "value for collection," "value for payment," or "as proxy Sagi Peari (2025). This type of endorsement is commonly used with banks, where the holder entrusts the bank to collect the instrument's value and credit it to their account. The substantive conditions for proxy endorsement do not differ from those required for full endorsement (such as consent, object, and cause). However, it is important to note that the endorser acting as proxy is not required to have commercial capacity, since the act does not create a negotiable obligation as in full endorsement. Therefore, a minor legally permitted to engage in commerce may effect a proxy endorsement. Bolton, J. (2021). Likewise, if the holder lacks capacity, their legal representative, guardian, or custodian may endorse the instrument by proxy for the purpose of collection. Article 148 of the Jordanian Commercial Code sets out the formal conditions for proxy endorsement as follows:

1. If the endorsement includes the phrase "value for collection," "value for payment," "as proxy," or any other wording indicating agency, the holder has the full rights arising from the bill of exchange but may only further endorse it as proxy.
2. In this case, the endorsers may only raise against the holder the defenses that may be asserted against the endorser.
3. The agency created by the proxy endorsement does not terminate upon the death of the principal or any event affecting their capacity.

This article clarifies that the proxy endorsee is entitled to exercise all rights arising from the bill of exchange, including collecting its value and taking

legal steps to protect the interests and rights of the endorser. It also establishes that the agency language must be explicit and unambiguous, as an endorsement signed by the endorser is presumed to be a full transfer of ownership. Therefore, the endorser's signature alone is not sufficient if the endorsement is blank, as a blank endorsement is considered a transfer of ownership Al-Khalaileh, L., Al-Billeh, T., Al-Qheiw, M. A., & Almamari, A. (2024)

Third: Security Endorsement

The Jordanian legislator addressed security endorsement in Article 149 of the Commercial Code, which states Peráček, T. (2020).

1. If the endorsement includes the phrase "value as guarantee," "value as pledge," or any other wording indicating security, the holder of the bill of exchange is entitled to exercise all rights arising therefrom.
2. The endorser is considered to have made the endorsement as a proxy.
3. The parties liable on the bill may not raise defenses based on their personal relationships with the endorser against the holder unless the holder acquired the bill with the intent to harm the debtor. In Al-Khalaileh, L., Al-Billeh, T., Al-Qheiw, M. A., & Almamari, A. (2024) Based on this article, security endorsement can be defined as a pledge of the right established in the bill as a debt from the endorser to the endorsee. It must include any expression indicating that the endorsement was made as a pledge, such as "value as guarantee" or "value as pledge." The endorsee holds the bill as a pledgee and may exercise all rights arising from the instrument, but may not further endorse it as a transfer of Peráček, T. (2020).

Regarding the effects of security endorsement, according to the general rules of civil law, the pledgee (endorsee) must safeguard the instrument in accordance with general principles. The endorsee is obliged to present the bill for payment at maturity in order to collect its value. If payment is refused at maturity, the endorsee may file a recourse claim against the debtor and the chain of guarantors, respecting the prescribed deadlines. If the maturity date of the bill occurs before the maturity of the secured debt (the pledgee's debt), and the pledgee has collected the value of the bill, the pledgee must retain the full value of the bill until the secured debt becomes due, at which point the debt is settled from

the retained amount. If the secured debt matures before the maturity of the pledged bill, the endorser must repay the pledgee and retrieve the bill by cancelling the security endorsement to indicate that the pledge has been released. Should the endorser refuse to settle the secured debt upon maturity, the endorsee is entitled to enforce the pledge on the pledged instrument and recover their right from it. Bolton, J. (2021).

Effects of the Principle of Signature Independence

Commercial instruments are governed by what is known as the law of exchange. These are formal negotiable instruments representing monetary value and are transferable through commercial means, allowing the swift transfer of the rights they embody to serve commercial activity. The principle of discharge of defenses is considered one of the most prominent and important applications of the principle of signature independence, which entails a set of exceptions. This chapter will clarify these points by dividing them into two sections: the first will focus on the main applications of the principle of signature independence, while the second will be devoted to the exceptions to this principle

Main Applications of the Principle of Signature Independence

When the beneficiary endorses commercial instruments to a holder in good faith, the latter receives the instrument free from any defects that may affect it. Based on this foundation, this section is divided into two subsections: the first is dedicated to the concept of the principle of discharge of defenses, and the second addresses its scope of application.

The Concept of the Principle of Discharge of Defenses

In this section, we will define the principle of discharge of defenses and then study its main conditions according to the following division:

First: Definition of the Principle of Discharge of Defenses

This principle means that the right established in commercial instruments is free and cleansed from all defenses, and the debtor in the instrument whether Peráček, T. (2020).. drawee, or any of the endorsers cannot refuse payment. The Jordanian legislator stipulated the principle of discharge of defenses in Article 147 of the Commercial Code, which states: "Persons sued on a bill of exchange may not invoke against the holder defenses based on their personal relations with the drawer or previous holders, unless the holder acquired the bill with the intent to

harm the debtor. "Therefore, a holder cannot be considered in bad faith unless it is proven that they knew of the harm caused to the debtor by the bill upon receiving it, according to the principle of signature independence. The burden of proof lies on whoever claims otherwise. In application of this principle, the Jordanian Court of Cassation ruled: "In this case, the endorsement appeared on the bill of exchange subject to the lawsuit, which the plaintiff presented as its holder. The validity and sequence of endorsements were proven, which entitles the plaintiff to claim payment from the drawer as the endorser, without the court examining Takahashi, K. (2023). the validity of the endorser's signature. This is because the issue of the validity and manner of signature on the bill's endorsement concerns only the relationship between the endorser and the endorsee to whom the bill was transferred and who became its holder. This is based on the principle of signature independence, which means that the obligation of each signer on the commercial instrument is considered independent and separate from the obligations of all other signers, whether preceding or succeeding them. This principle responds to practical necessities and helps support trust in commercial instruments, as this trust would be severely undermined if the holder's right could be affected by the relationships between the debtor and previous signers.(The Jordanian Court of Cassation's ruling in its civil capacity, ruling No. 4411/2020, dated 11/19/2020, published by the electronic Qararak website - the Jordanian Bar Association).

Second: Conditions for the Application of the Principle of Discharge of Defenses

The principle of discharge of defenses becomes applicable when certain conditions are met: the endorsement must transfer ownership, the holder must act in good faith, and the holder must not be a party to the relationship from which the defense arises.

1. **The Endorsement Must Transfer Ownership**
The commercial instrument must have been transferred from the endorser to the endorsee by means of a full (ownership-transferring) endorsement. If the right established in the instrument was transferred by civil assignment, inheritance, will, or gift, then this principle does not apply Takahashi, K. (2023).. This is because, in civil assignment, the right passes to the assignee as it stands at the time of assignment, and all defenses may be raised against them. Therefore, in such cases, the principle of signature independence does

not apply, and endorsement does not discharge Sun, S., & He, R. (2024).

2. **The Holder Must Act in Good Faith** Another condition for the application of the principle is that the holder must be in good faith. Only a good-faith holder benefits from this rule. A holder acting in bad faith is not entitled to such protection; Sami, Fawzi Muhammad (2024) in that case, the principle of signature independence does not apply, and the debtor may assert against them any defenses the holder was aware of at the time of acquiring the instrument. Peari, S. (2021)
3. **The Holder Must Not Be a Party to the Underlying Relationship Giving Rise to the Defense** The core purpose of the principle is to protect the good-faith holder from being surprised by defenses they had no knowledge of. If the holder was directly involved in the legal relationship that gave rise to the defense, the principle does not apply. In other words, if the holder has a direct legal connection with the debtor which entitles the latter to raise a defense against them, the holder cannot invoke the rule of discharge of defenses. In such a case, the debtor may raise all available defenses, and the principle of signature independence becomes inapplicable Rjoub, A. M. (2024).

Scope of the Application of the Principle of Discharge of Defenses

The principle of discharge of defenses is not applied in absolute terms. There are defenses that may be discharged by endorsement and others to which the principle does not apply. This section outlines those distinctions as follows:

First: Cases Where the Principle Applies

The defenses that are discharged through endorsement are considered personal defenses—they can only be asserted against a party with whom the debtor has a direct relationship. These defenses cannot be raised against a holder in good faith and include:

1. **Defenses Related to Defects in Consent** :In principle, consent refers to the agreement of two or more wills to produce legal effect. If this consent is tainted by a defect of will, the party whose will was impaired may raise a defense. For instance, a mistake that motivated the signing of the commercial instrument cannot be asserted against a holder in good faith; such a defense may

only be invoked against the direct contracting party or a holder in bad faith. In other words, one may claim invalidity of their obligation due to a defect in consent when facing the original creditor, but they may not assert this defense against a good-faith holder, in accordance with the principle of signature independence. Matringe, N. (2020).

2. Defenses Based on the Cause or Termination of the Original Relationship: A defense based on the absence or illegality of cause (consideration) may be raised by the debtor within the scope of the original relationship underlying the commercial instrument. The rule prohibiting the assertion of defenses exists to protect third parties who are unaware of the original relationship. Furthermore Czaplicki, P. (2021). the defense of termination of the original relationship such as when the commercial instrument was issued as payment for goods in a sale agreement between the signer and the beneficiary may not be raised Istanbul Law Review article (2025). once the instrument has been endorsed to subsequent holders. Even if the original relationship is later canceled or terminated, the principle of discharge of defenses still applies. As such, all defenses based on cause or termination of the original relationship may be excluded when dealing with a good-faith holder, and the principle of signature independence may be validly invoked.

Second: Cases Where the Principle of Discharge of Defenses Does Not Apply

Non-dischargeable defenses are those that may be asserted against any holder, even one acting in good faith. These include defenses based on the apparent features of the commercial instrument, as well as defenses arising from forgery or lack of legal capacity Peari, S. (2021)

1. Defenses Based on the Apparent Form of the Commercial Instrument These defenses typically involve the absence of one or more mandatory elements in the commercial instrument. In such cases, the instrument may still retain its commercial nature by way of exception to the general rule provided specific conditions are met. However, if a formal defect is evident on the face of the instrument, it undermines the holder's claim of ignorance and excludes them from the protection granted

under the law of exchange. Any debtor on the instrument may invoke such visible defects such as missing essential data against the holder, since the flaw is obvious and can be recognized simply by examining the document. As such, the holder cannot claim to have been unaware of the defect. Sun, S., & He, R. (2024).

2. Forgery of a Signature: If a person's signature on the instrument was forged whether as drawer, endorser, guarantor, acceptor, or in any other capacity they may raise the defense of forgery against the holder, even if the latter was unaware of the forgery. However, this defense is strictly personal and may only be raised by the person whose signature was forged; other signatories cannot benefit from it due to the principle of signature independence. Any party whose signature was forged is entitled to assert this defense against any holder, even a holder in good faith, because they never expressed any intent to be bound by a negotiable obligation. There is no valid commitment, as the will to create a binding obligation is entirely Rjoub, A. M. (2024).
3. Lack or Absence of Legal Capacity: If the debtor lacks legal capacity or has diminished capacity at the time of signing the instrument, they may raise this defense against the holder, even if the holder acted in good faith. This type of defect is not apparent and cannot be known to the holder. Accordingly, a person with limited capacity or their legal representative, in the case of complete incapacity may assert the invalidity of the obligation against a good-faith holder. However, this rule applies only to the party lacking capacity; the obligations of other signatories remain valid in accordance with the principle of signature independence. Additionally, while such a commitment may be void as a commercial act, it may still have legal effect as a civil act if subsequently ratified Istanbul Law Review article (2025).

Exceptions to the Principle of Signature Independence

The principle of signature independence is subject to certain exceptions, which serve as safeguards for the creditor. These exceptions include the aval (guarantee by suretyship), consideration for payment, and acceptance. Accordingly, this section is divided into two parts: the first addresses the aval

and consideration for payment, while the second discusses acceptance.

Aval (Suretyship) and Consideration for Payment

In this section, we will examine aval and consideration for payment as follows:

First: Aval (Suretyship): We will define the aval, outline its conditions, and explain its legal effects.

1. **Definition of Aval:** The aval is a guarantee provided by a person who undertakes to pay the amount stated in the bill of exchange at maturity. The surety is jointly liable and bound by a negotiable obligation. Peari, S. (2021) (The aval guarantor is the party who guarantees one of the signatories' obligations to pay the value of the bill. According to Article 161(1) of the Jordanian Commercial Code: "Payment of the full or partial amount of a bill of exchange may be guaranteed by an aval.")
2. **Substantive Conditions of Aval:** The substantive requirements for a valid aval include:
 - A. **Conditions Related to the Guarantor:** Since the aval is considered a commercial guarantee, the guarantor must have the legal capacity to undertake commercial obligations. Once this condition is met, the aval may be issued by any party whether the guarantor is a third party, someone on behalf of another, or even one of the signatories on the bill. Most often, the aval is issued by a third party not originally involved in the bill someone who has not signed it and therefore has no prior negotiable obligation. In such cases, the aval enhances and strengthens the holder's security in collecting the value of the bill. Consequently, the principle of signature independence remains applicable.
 - B. **Timing of the Aval:** Two scenarios must be distinguished here: If the aval is written on the face of the bill or on an attached sheet, it must occur within the time frame between the issuance date and the maturity date. However, it is also permissible for the aval to be provided after the maturity date, by analogy with the rule allowing endorsement after

maturity. If the aval is recorded in a separate document, the prevailing opinion is that it may be dated even earlier than the date on which the bill itself was created. Czaplicki, P. (2021).

3. **Formal Requirements for the Aval:** The formal requirements for an aval include the following:
 - A. **Writing:** For an aval to be valid, it must be made in writing, as is the case with all negotiable obligations. The legislator explicitly requires that the aval be provided in writing either on the face of the bill itself, on an attached sheet Rjoub, A. M. (2024). or in a separate document. This is in accordance with paragraphs (1) and (5) of Article 162 of the Jordanian Commercial Code. Bin Daoud, Ibrahim (2010).
 - B. **Wording Requirement:** According to Article 162(2) of the Jordanian Commercial Code, the law does not impose a specific formula for an aval. Any wording that clearly indicates a guarantee may be used. This may include an express statement such as: "I guarantee [name] for the payment of the amount," or simply "for guarantee," "accepted as aval," or any other wording conveying the same intent Rjoub, A. M. (2024). A guarantee may also be implied by the mere signature of the guarantor on the face of the instrument, provided that the signature is not from the drawer or drawee. This is because the drawer is already required to sign the instrument as its issuer and is the first party obligated under it Sun, S., & He, R. (2024).
 - C. **Signature of the Guarantor and Identification of the Guaranteed Party:** The signature of the guarantor is a prerequisite for the validity of the aval. Matringe, N. (2020). Upon signing the instrument, the guarantor must identify the party they are guaranteeing. If no such party is specified, the aval is deemed to have been made in favor of the drawer. This follows the rule set

forth in Article 162(3) of the Jordanian Commercial Code. Peari, S. (2021)

4. Effects of the Aval (Suretyship): The legal effects of the aval vary depending on the relationship between the aval guarantor and the other parties to the instrument.

- A. Relationship Between the Aval Guarantor and the Holder. As a rule, the aval guarantor is subject to recourse under negotiable instruments law. Since the guarantor intervenes solely to secure the obligation of the guaranteed debtor, they are liable to the holder in the same manner as the guaranteed party. This is clearly stated in Article 163(1) of the Jordanian Commercial Code: "The guarantor is liable in the same manner as the guaranteed party."

Accordingly, the aval guarantor who signs the bill of exchange is bound to the holder to the same extent as the debtor they have guaranteed. However, if the aval is issued in a document separate from the bill, the guarantor is only liable to the party for whose benefit the guarantee was made. The guarantor's obligation remains negotiable in nature as long as the guaranteed amount and the duration of the guarantee are specified—thus, the principle of signature independence continues to apply. Czaplicki, P. (2021).

- B. Relationship Between the Aval Guarantor and the Guaranteed Party

The aval guarantor occupies the position of a jointly liable surety with the guaranteed debtor. Therefore, if the guarantor is compelled to pay the amount of the bill to the holder in place of the party they guaranteed, they have the right to recover that amount from the debtor. The guaranteed debtor, on the other hand, has no right of recourse against the guarantor. Conversely, the aval guarantor who settles the bill may claim reimbursement for the amount paid, along with any expenses incurred Geva, B. (2020).

- C. Relationship with Other Parties to the Bill of Exchange

According to Article 163(3) of the Jordanian Commercial Code:

"If the aval guarantor pays the value of the bill, the rights arising from it transfer to them against the guaranteed party and against all other parties liable under the bill."

Thus, once the aval guarantor has paid the bill amount to the holder, they acquire all the rights associated with the instrument, including the right of recourse against the guaranteed party and all other liable signatories under the bill of exchange Rjoub, A. M. (2024).

Third: Consideration for Payment

This section addresses the definition of consideration for payment, its conditions, methods of proof, and the legal consequences associated with it.

1. Definition of Consideration for Payment: Consideration for payment refers to a monetary debt owed by the drawee to the drawer, which becomes due at the maturity date of the bill of exchange. For instance, if the drawer sells goods to the drawee, the sale price constitutes the consideration for payment of the bill drawn on the drawee. Similarly, if the drawer loans money to the drawee, the loan amount serves as the consideration for the instrument issued by the drawer. Goldby, M. A. (2024).
2. Proving the Existence of Consideration: The general rule is that the burden of proof lies with the party making the claim. Therefore, if the drawee refuses to pay the value of the bill and the holder seeks recourse, the holder must prove that the drawee received the consideration. Conversely, if the drawee honors Rjoub, A. M. (2024). the bill by paying the holder, they may claim reimbursement from the drawer this is known as payment without funds. In such a case, if the drawer asserts that the consideration was delivered to the drawee, it is the drawer's responsibility to provide proof. Thus Sun, S., & He, R. (2024), the importance of proving the existence of consideration lies in the fact that the burden of proof rests on the claimant.

3. **Ownership of the Consideration:** Article 135 of the Jordanian Commercial Code provides: "The ownership of the consideration for payment passes by operation of law to the successive holders of the bill of exchange. "This means the drawer retains ownership of the consideration held by the drawee until the bill's maturity date even if the consideration has already been placed at the drawee's disposal. The drawer is entitled to reclaim the funds from the drawee prior to maturity. Geva, B. (2020).
4. **Legal Effects of the Transfer of Ownership:** Based on the aforementioned, once the consideration becomes the property of the holder, Czaplicki, P. (2021). several legal consequences follow: If the drawer is declared bankrupt, the bankruptcy trustee may not reclaim the consideration from the drawee for inclusion in the bankruptcy estate. Should this occur, the creditors would be unjustly enriched and required to return the consideration. The holder's right to the consideration is not affected by the drawer's death or loss of legal capacity. The drawer may not prevent the drawee from paying the holder. Any notice given by the drawer instructing the drawee not to honor the bill has no legal effect and does not release the drawee from their obligation to pay.
 - A. **Substantive Requirements** The individual signing the bill as an acceptor must be legally authorized to do so and possess Geva, B. (2020). the capacity required to assume negotiable obligations. Furthermore, the acceptance must be validly expressed and unconditional. Peráček, T. (2020).
 - B. **Formal Requirements** According to Article 156 of the Commercial Code Matringe, N. (2020). the formal requirements for valid acceptance are as follows: The acceptance must be in writing and recorded on the bill itself, in line with the principle of document self-sufficiency. It must be signed by the drawee. The drawee's signature alone is deemed an acceptance. The date of acceptance is only relevant in two cases as per Article 156(3) of the Code:
 1. Where the bill is payable a certain period after sight.
 2. Where there is a condition requiring that the bill be presented for acceptance within a specified period.

Third: Legal Effects of Acceptance

Several consequences result from acceptance, including:

1. **The Relationship Between the Drawee and the Holder** Acceptance confirms the holder's right to the consideration for payment, which had previously been contingent. Once the drawee accepts the bill, they become the principal debtor, bearing a direct obligation to pay the holder. This obligation is independent of any relationship between the drawer and the drawee Peráček, T. (2020).
2. **The Relationship Between the Drawee and the Drawer** Acceptance renders the drawee the primary debtor under the bill, while the drawer becomes a guarantor, liable only if the drawee fails to pay. If the drawer has provided the consideration and the drawee fails to honor the bill, the drawer may claim compensation from the drawee Al-Khalaileh, L., Al-Billeh, T., Al-Qheiw, M. A., & Almamari, A. (2024).
3. **The Relationship Between the Holder and the Drawer and Endorsers** Even if the drawee accepts the bill, the drawer cannot assert that the holder's failure to take

The Obligation of Acceptance

In this section, we address the definition of acceptance, its conditions, and the resulting legal effects, as follows:

First: Definition of Acceptance

Acceptance refers to the drawee's commitment to pay the amount specified in the bill of exchange on its maturity date to the beneficiary or holder Goldby, M. A. (2024). This commitment, or negotiable obligation, arises upon the drawee's signature on the bill. The drawee's acceptance constitutes a fundamental guarantee of payment. This is confirmed by Article 159(1) of the Jordanian Commercial Code, which states: "The drawee, by accepting the bill of exchange, becomes obligated to pay it at maturity."

Second: Conditions of Acceptance

Acceptance is subject to both substantive and formal requirements:

action has extinguished their right of recourse unless the drawer proves that they provided the consideration. The acceptance does not release the drawer and endorsers from their obligations; rather, they remain liable as guarantors of payment. This reflects one of the key benefits of the principle of the independence of signatures Sudoud, Asma (2022).

4 Conclusion

Commercial instruments serve crucial economic functions in practical terms, facilitating the smooth execution of commercial transactions. The focus of this study has centered on the principle of the independence of signatures, examining its legal foundation and the effects arising from its application. By analyzing this principle from a legal perspective including its legal nature, modes of application, conditions, and the consequences it entails under commercial law, in addition to certain civil law principles the following key findings have been reached:

1. Every individual who signs a commercial instrument incurs an obligation that is independent from the obligations of other signatories, whether they signed before or after. The foremost outcome of this is the independence of signatures principle.

2. The principle of independence of signatures was established for economic purposes aimed at protecting the bona fide holder of a commercial instrument.
4. The principles of independence of signatures and cleansing of defenses complement one another and form a foundational basis of commercial instruments.
5. The Jordanian legislator grants the holder the right to bring claims against any party who has signed a commercial instrument. This includes the acceptor, drawer, endorser, and guarantor, and the holder may pursue such claims either individually or collectively, without being bound by the order in which obligations were incurred.

Recommendations

The Jordanian legislator did not sufficiently expand upon the principle of the independence of signatures in the Commercial Code. This principle is primarily addressed in Article 130(1), therefore, it is recommended that dedicated legislative provisions be introduced to comprehensively regulate all matters relating to the independence of signatures. A broad awareness campaign should be promoted within commercial circles to emphasize the importance of the principle of independence of signatures and the legal protections offered by commercial instruments, particularly the bill of exchange.

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