SEPARATION OF SURETY AGREEMENT AND GUARANTEE AGREEMENT

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ABSTRACT

Objective: The purpose of this research is to learn the differences between the “Surety Agreement” and the “Guarantee Agreement”, which are often confused in collateral law.

Method: The research method used in this study was based on finding the general result to be obtained after comparing the opinions of academics with court decisions based on domestic legal rules in Turkey.

Results and Discussion: In contracts established in commercial and social life, there are remedies such as “Surety Agreement” or “Guarantee Agreement” to eliminate or significantly reduce the risk of the debtor's inability to pay the debt. It has been concluded that the Guarantee Agreement provides a stronger guarantee than the Surety Agreement, is established by a different contract from the articles of association, the creditor has the right to apply directly to the guarantor in the articles of association, and in case of hesitation, he has the right to apply to the guarantor. There is a practice and consensus on this issue before the Turkish courts and academics.

Research Implications: The information and documents that can be used in this research have been obtained completely from open sources. All of the quoted information is written in the footnotes and bibliography section.

Originality/Value: The novelty of this research is that it explains the reasons for using the "Bank Guarantee Letter", the most well-known example of which is due to the fact that the Guarantee Agreement provides more effective protection to the creditor party in the field of collateral law.

Keywords: Bank Letter of Guarantee, Guarantee Agreement, Surety Agreement, Guarantee Law.

RESUMO

SEPARAÇÃO DO CONTRATO DE FIANÇA E CONTRATO DE GARANTIA

Objetivo: O objetivo desta pesquisa é conhecer as diferenças entre o “Contrato de Fiança” e o “Contrato de Garantia”, que muitas vezes são confundidos no direito colateral.

Método: O método de pesquisa utilizado neste estudo baseou-se na descoberta do resultado geral a ser obtido após a comparação das opiniões dos acadêmicos com os julgamentos judiciais baseados nas normas jurídicas nacionais da Turquia.

Resultados e Discussão: Nos contratos estabelecidos na vida comercial e social, existem soluções como “Contrato de Fiança” ou “Contrato de Garantia” para eliminar ou reduzir significativamente o risco de incapacidade do devedor para pagar a dívida. Concluiu-se que o Contrato de Garantia oferece garantia mais forte do que o Contrato de Fiança, é estabelecido por contrato diferente do contrato de sociedade, o credor tem o direito de recorrer diretamente ao fiador no contrato de sociedade, e em caso de hesitação, ele tem o direito de recorrer ao fiador. Existe uma prática e um consenso sobre esta questão perante os tribunais e acadêmicos turcos.

Implicações da Pesquisa: As informações e documentos que podem ser utilizados nesta pesquisa foram obtidos integralmente de fontes abertas, todas as informações citadas estão escritas nas notas de rodapé e na seção de bibliografia.

Originalidade/Valor: A novidade desta pesquisa é que ela explica os motivos da utilização da “Carta de Fiança Bancária”, cujo exemplo mais conhecido se deve ao fato de o Contrato de Garantia proporcionar proteção mais eficaz à parte credora no domínio das garantias. lei.

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Palavras-chave: Carta de Fiança Bancária, Contrato de Fiança, Contrato de Garantía, Lei de Garantía.

SEPARACIÓN DEL CONTRATO DE FIANZA Y CONTRATO DE GARANTÍA

RESUMEN

Objetivo: El propósito de esta investigación es conocer las diferencias entre el “Contrato de Fianza” y el “Contrato de Garantía”, que muchas veces se confunden en el derecho de garantías.

Método: El método de investigación utilizado en este estudio se basó en encontrar el resultado general que se obtendría después de comparar las opiniones de los académicos con las decisiones judiciales basadas en las normas jurídicas nacionales de Turquía.

Resultados y Discusión: En los contratos establecidos en la vida comercial y social existen remedios como el “Contrato de Fianza” o “Contrato de Garantía” para eliminar o reducir significativamente el riesgo de incapacidad del deudor para pagar la deuda. Se ha concluido que el Contrato de Garantía proporciona una garantía más fuerte que el Contrato de Fianza, está establecido por un contrato diferente al de los estatutos, el acreedor tiene derecho a solicitar directamente al garante en los estatutos, y en caso de duda, tiene derecho a recurrir al garante. Existe una práctica y un consenso sobre esta cuestión ante los tribunales y académicos turcos.

Implicaciones de la investigación: La información y los documentos que se pueden utilizar en esta investigación se han obtenido íntegramente de fuentes abiertas. Toda la información citada está escrita en la sección de notas a pie de página y bibliografía.

Originalidad/Valor: La novedad de esta investigación es que explica las razones para utilizar la “Carta de Garantía Bancaria”, cuyo ejemplo más conocido se debe a que el Contrato de Garantía brinda una protección más efectiva a la parte acreedora en materia de garantías. ley.

Palabras clave: Carta Fianza Bancaria, Contrato de Garantía, Contrato de Fianza, Ley de Garantía.

1 INTRODUCTION

In the article, I will address the elements, parties, establishment and reasons for termination of the guarantee agreement in Turkey, as it is included in the law, academy and court decisions due to the fact that it consists of anonymous contracts. Later, the aspects that differ from the bail agreement in terms of collateral law due to their importance will be discussed.

The Bail Agreement in Turkey is subject to very strict form requirements. For this reason, it later turns out that some bail agreements are invalid because they do not meet the form requirement. This situation does not give confidence to the creditor party and encourages it to look for other ways to secure its receivables.

A Guarantee Agreement provides convenience to the debtor party when establishing the contract, if the debtor party does not have any assets that will provide security to the creditor,
since it has the potential to convince the creditor party during the establishment of the contract.

In Turkey, the Bail-in Agreement is a secondary extension of the original debt relationship and is established without the need for a separate agreement. The creditor party has the right to request the person (guarantor) who vouches for the debtor to receive it even though the due date has arrived and the debt is still not paid. The Guarantee Agreement, on the other hand, is established with a different and independent contract from the original debt relationship. In this agreement, a third party (guarantor) becomes a party to the contract, and if the risk determined according to the contract is realized, the creditor party has the right to request that it will receive it directly from the guarantor. The creditor party does not enter into any debt towards the guarantor during the establishment of the Guarantee Agreement. If the guarantor pays the creditor, it becomes the successor of the creditor and obtains the right to request from the debtor in the original debt relationship.

Although the subject of our research is based on the Law of Obligations in Turkey, the Law of Obligations in Turkey may also be valid for the interpretation of the Swiss Code of Obligations, mainly because the Law of Obligations in Turkey was adopted by the legislature using the Swiss Code of Obligations as an example.

2 THEORETICAL FRAMEWORK

2.1 DEFINITION AND TYPES OF WARRANTY AGREEMENT

Although it does not have a specific descriptive provision in the law, there are various definitions around the academy. According to a description, it is made between the guarantor and the guarantor, and the guarantor undertakes that the risks in the work undertaken will be borne by him (Şahin, 2006). According to another definition, a warranty contract is a contract in which the guarantor independently assumes the risk in order to direct the warranty area to a job (Barlas, 1986). According to the interpretation of both scientific knowledge, it can be said that there are two types of guarantee contracts: “guarantee-like” and “pure” in terms of whether the guarantor encourages the guarantee area to enter into the enterprise.

2.1.1 Guarantee Agreement Aiming for Guarantee (Similar to Guarantee)

It is a contract aimed at guaranteeing, and it is a type of contract drawn up to secure the damage that may occur as a result of a work for which the guarantor guarantees (Gümüş, 2020).
In guarantee contracts aimed at guaranteeing, the guarantor undertakes to be liable to the guarantor in case the debtor is not paid, regardless of the debt in the original debt contract (Reisoğlu, 2014), (Yavuz et al., 2022). The reason why it is often confused with a surety agreement is that both of them, in the main contract, compensate for the damage that the creditor will suffer if the debt is not paid. Although the loss-compensating party is called "guarantor" in the guarantee contract and "surety" in the surety contract, the most important difference arises in terms of being primary and secondary. Namely: While the surety agreement is a debt dependent on the main contract, the guarantee agreement is independent. With this discourse, the legal consequences they will reflect will also differ; Even in cases where the main contract is invalid, canceled or terminated with perfect impossibility, the guarantee contract will not terminate and the liability of the guarantor will continue towards the creditor in the main debt relationship.

2.1.2 (Pure) Guarantee Contract Aimed at Targeting

It is a contract that aims to guide the target, and it is a contract in which the guarantor undertakes the risks other than the fact that the act that is the subject of the debt is not fulfilled at all or not performed as required (Gümüş, 2020).

Warranty agreements aimed at directing (purpose-oriented - pure) are a contract that creates an obligation on the guarantor to assume the risks that may arise from this behavior of the person who takes the initiative with the encouragement of the guarantor (Tandoğan, 2010).

The purpose of the guarantor is not to save the other party from any damage that may occur to his property due to the work he will undertake, but to encourage him to take a certain initiative or action. In this case, compensation for the material damage suffered by the person receiving the guarantee becomes a secondary or intermediate element of the contract.

2.2 ELEMENTS OF THE WARRANTY AGREEMENT

2.2.1 Element of Undertaking Obligations Independent of the Main Contract

In the decisions of the academy and the Supreme Court of Appeals in Turkey, it is widely accepted that the guarantee contract is independent from the main contract. Thus, it does not lose its validity even if the original contract disappears due to non-existence, invalidity or cancellability or other reasons.
One of the main criteria that distinguishes a guarantee contract from a warranty contract is the element of independence. Since the guarantor's debt is not primary in the surety agreement, its legal validity depends on the validity of the main debt agreement (Uygur, 2013).

2.2.2 The Element of the Guarantor’s Obligation Independent of the Original Contract

If we call the emergence of non-impossible disadvantages specified in the articles of association regarding the performance of the debt as a risk, it can be said that if the specified risk occurs, the guarantor will be liable regardless of the articles of association.

However, the amount of money that the guarantor undertakes to pay must be determined. In other words, the risks the guarantor will face and the amount of money he will pay must be determined in advance (Republic of Turkey, General Assembly of Civil Chambers of the Court of Cassation; the main number of the file: 2001/19-534, decision number of the file: 2001/583, decision date: 2001/04/07). It is considered that the decision of the Supreme Court is related to the principle of legal security.

2.2.3 Provision Element

The guarantee institution, which arises from the guarantee giver's desire to direct the guarantee recipient to a job, is incompatible with the element of reciprocity due to its definitional basis. In this respect, it can be said that it is a contract that imposes a debt on one party. Likewise, if there were a provision on the same basis, we would be talking about an insurance contract.

2.2.4 The Guarantee Area Is an Element of Orientation to a Certain Mode of Action

In pure guarantee contracts, it is possible for the guarantor to direct the guaranteed party to a certain course of action, including inaction. However, it is not mandatory in bail-like surety agreements.
2.3 ESTABLISHMENT AND VALIDITY CONDITIONS OF THE WARRANTY AGREEMENT

2.3.1 Establishment of the Guarantee Agreement

The “Turkish Code of Obligations” on the establishment of the contract (hereinafter briefly: TCO) 1. after stating that the article is valid for warranty contracts, it is also necessary to refer to the reserved 2/ last article about the form. The aforementioned provisions of the Law regulate the cases in which the validity of the contract is made dependent on the form. In this context, Article 583 of the TBK, which lists the mandatory formal elements in surety agreements, and Article 603 of the TBK, which regulates other contracts containing personal guarantees, are included. Article 603 refers to Article 583 of the Turkish Code of Obligations. For the reasons explained above, it is thought that the formal validity of the guarantee contract has the same conditions as surety contracts.

2.3.2 Parties to the Warranty Agreement

Since guarantee contracts provide personal assurance of the receivable, there are three parties, namely the guarantor, the person receiving the guarantee and the beneficiary, and a Decadent relationship is formed between them.

1. Beneficiary: The party whose favor is guaranteed in the guarantee contract is also the debtor of the main contract. The beneficiary can be a natural person or legal entity. The number of beneficiaries may be single or multiple. The person giving the guarantee has the freedom to make payments to the person receiving the guarantee if there is more than one beneficiary. In such a case, it would be in the interests of the parties to renegotiate the terms of the contract in order to eliminate the disputes (Doğan, 2010);

2. Warranty Receiver: Warranty recipient; is the creditor of both the guarantee agreement and the principal debt relationship. The guarantee recipient may be a real person or a legal entity (Oğuzman & Öz, 2021). The warranty contract is established between the guarantor and the buyer. When there is no special provision in the law, the contract provisions will be applied first regarding its performance. If there is no provision in the contract, the dispute will be resolved with the general rules of interpretation regarding filling in the gaps;
3. Guarantor: It is not a party to the main debt relationship, but is the party that owes a debt to the person who receives the guarantee with its independent and personal commitment. It can be a real or legal person. In practice, we mostly see letters of guarantee coming from banks as legal entities providing guarantee.

2.3.3 Terms ofValidity of the Warranty Agreement

After stating that all the provisions of a valid contract also apply to guarantee contracts in the TCO, it is defined in TCO No. 583, which specifies the mandatory form requirement for a Surety Agreement due to the fact that the receivable provides personal security by its nature. The problem is whether this clause will also cover warranty contracts. The legislator has clearly stipulated that it will be subject to the same form requirement with direct reference in Article 603 of the Turkish Code of Obligations. Then; Provisions regarding the form of surety, the capacity to act as guarantor and the consent of the spouse will also be required for guarantee contracts.

3 METHODOLOGY

The research method used in this research is based on determining the relevant legal provisions in the field of contract law in Turkey and classifying them according to the hierarchy of norms, researching academic publications and compiling the information obtained, and decisions made by the courts. The decisions made by the courts in Turkey regarding our research topic and the sources used were selected based on their reliability in providing accurate and up-to-date information. This approach involves searching, selecting and analyzing various sources of literature and judicial decisions related to the research topic. A comprehensive analysis of the research topic was made using data obtained from various sources such as books, scientific journals, articles, judicial decisions and online materials related to the subject under study.

During the analysis process, I compared old court decisions and scientific publications both among themselves and with today's data. For this reason, definitions and judicial decisions that remain valid today are included more in the analysis process. Finally, based on the results of the data analysis, generally valid conclusions were reached.
4 RESULT AND DISCUSSION

4.1 LEGAL CONSEQUENCES OF THE WARRANTY AGREEMENT

With the establishment of the guarantee agreement, the parties, the guarantor, the recipient and the beneficiary will be able to determine their mutual rights and obligations by the agreement they will make between them in accordance with the principle of freedom of contract, and they will also be subject to some rights and obligations arising from the law.

4.1.1 Rights and Obligations of the Guarantor

Although the guarantee contract is a contract independent of the main debt relationship, it is also a conditional contract due to its nature. If the risk in the guarantee contract occurs, the guarantor's liability will generally be in question. The first problem to be encountered in the event of such a risk is who will bear the burden of proof.

As it is known, according to the Code of Civil Procedure (TTK), the burden of proof belongs to the party who asserts the legal event in his favor and claims rights in accordance with Articles 6 and 190, unless there is a contrary regulation in special laws.

The parties can decide on the proof of occurrence of risk and damage, the method of proof and the method of payment in the contract. Otherwise, the deficiencies will be completed in accordance with the general law articles as specified in the law.

Pays pay immediately if there is an unconditional payment commitment; in this case, the guarantor should pay immediately if he cannot immediately prove that the risk has not occurred because he is under an unconditional payment commitment (Reisoğlu, 2002). In such a case, the guarantor who made the payment has the right to demand the return of the money she paid by filing an unjust enrichment lawsuit if it later turns out that the risk has not been realized.

In the surety agreement, the surety is the successor of the creditor's rights in terms of the amount paid to the creditor (Article 596 of the TCO). However, according to the decisions of the Court of Cassation, taking into account the independent nature of the guarantee agreement, it is not possible to apply the provisions applied to the bail agreement to the guarantee agreements (Republic of Turkey, General Assembly of Civil Chambers of the Court of Cassation; the main number of the file: 2001/19-534, decision number of the file: 2001/583, decision date: 2001/04/07).
The guarantor's right of recourse to the beneficiary may be for damages caused by the beneficiary to the person receiving the guarantee (Reisoglu, 2014).

The main debt of the guarantor is paying the guaranteed amount in case the risk determined by the contract is realized. The form of execution may again be decided by the parties.

It is controversial whether the payment made by the guarantor is the actual debt or compensation. In order to distinguish this, it is necessary to look at whether the amount specified in the contract is made as a lump sum or by an approximate method. With the emergence of the amount determined for the surety agreement in accordance with Article 603 of the TCO, it was no longer possible to determine the amount by lump sum method. In this case, the debt that the guarantor has to pay is the debt that arises independently of the main contractual relationship and that the person has to pay in accordance with his own contract, without taking into account any other factors (Gümüş, 2020).

4.1.2 Rights and Obligations of the Guaranteed Party

Since the guarantee agreement is a contract that imposes a debt on one party and is independent of the original contract, as a general rule, it grants rights only to the guaranteed party. Basically, if the risk materializes, he has the right to claim compensation for the damage. Thus, it will be able to claim compensation for the damage directly from the guarantor without contacting the beneficiary.

The liability of the guaranteed person, the obligation to prove that the damage occurred, can be shown. However, it is also possible to impose other obligations on the guaranteed person, provided that they do not contradict the nature of the guarantee agreement (Demirci, 2021).

4.1.3 Lehdarin Hak ve Yükümlülükleri

Although the beneficiary is the debtor of the original contract, he is the third party of the Guarantee contract. For this reason, although it does not have any rights and obligations in terms of the warranty agreement, if a contract agreement has been concluded with the guarantor, there will be an obligation to pay the guarantor within the framework of the recourse relationship.
4.2 GARANTI SÖZLEŞMESİNİN SONA ERMESİ

4.2.1 Garanti Sözleşmesini Sona Erdiren Genel Sebepler

The parties may decide among themselves to terminate the debts arising from the guarantee agreement, or they may be terminated through performance like other debts. In addition, general situations that terminate the debt, such as the discharge of the debtor, exchange or the merger of the creditor and the debtor, will also terminate the guarantee agreement.

4.2.2 Termination Due to the Main Debt

A guarantee contract differs from a suretyship contract in that it is an independent contract. For this reason, if the main debt is terminated for some reasons, the guarantee agreement may not terminate. Accordingly, a classification should be made according to the reasons for the termination of the principal debt.

Principal debt relationship; Even if the objective impossibility of the specified risk without the fault of the principal creditor ends with the statute of limitations that terminates the debt, the guarantee contract will not terminate. On the other hand, the main debt relationship is; It has been understood that there is a consensus that the guarantee agreement will terminate if the risk arising from the fault of the principal creditor arises and general situations that terminate the debt occur.

4.2.3 Expiration in Terms of Duration

In fixed-term warranty contracts, it will automatically terminate at the end of the period; In indefinite-term warranty contracts, if the guarantee owner does not take the necessary action despite the reasonable period given or if the 10-year interruption period passes from the moment the guarantor's liability arises, the guarantee contract will terminate.

4.2.4 Transfer of Receivable Right or Debt

Unless otherwise agreed in the guarantee contract, transferring the debt in the principal debt relationship terminates the guarantee contract. This situation can be explained by "relativity", one of the general principles of the TBK regarding debt relations.
Since the guarantee agreement is independent of the original debt relationship, assignment of the original receivable does not automatically terminate the receivable arising from the guarantee. However, for this purpose, in order for the Security receivable to be transferred together with the principal receivable to be assigned, there must also be an agreement that the guarantee receivable has been explicitly assigned, if the principal receivable is assigned without the express approval of the guarantor, the guarantor gets rid of its debt. In addition, it was understood that there was a consensus that in cases where explicit approval of the warranty receivable was obtained from the beginning, for example, in cases where “transferable” and similar expressions are included in the warranty agreement, it would eliminate the obligation to obtain approval from the guarantor (Develioğlu, 2009).

4.3 DIFFERENCES BETWEEN THE GUARANTEE AGREEMENT AND THE SURETY AGREEMENT

4.3.1 Whether or not it is subject to legal regulation

The separation of the guarantee agreement and the surety from each other is due to the legal provisions that exist in favor of the guarantor (Tandoğan, 2010). The surety agreement is included in articles 581-603 of the Turkish Code of Obligations. There is no special legal provision for the warranty agreement. According to the case law of the Court of Cassation, Article 128 of the TCO is considered as "Undertaking the act of a third party" as a sub-subject of the guarantee agreement. According to a decision of the Supreme Court in 1992 (Republic of Turkey, Supreme Court of Appeals 13th Civil Chamber; the main number of the file: 1992/305, decision number of the file: 1992/3896, decision date: 1992/17/04, (“https://29b13951316a490bc215ebb98f180002769de725.vetisonline.com/ictihat/yargitay/13-hukuk-dairesi-e-1992-305-k-1992-3896-t-27-04-1992”, 15.04.2024), assurances that constitute a commitment to the actions of third parties are also considered as a kind of warranty contract. In the decision of the Supreme Court, "... The plaintiffs are guaranteed compensation for the damages arising from the compulsory registration case that is likely to be filed in the future, with an independent contract." the court said his words.

4.3.2 In Terms of the Relationship Between Being Primary and Secondary

It is the most important factor used to distinguish both contracts from each other.
While the guarantee contract is primary, the surety contract is secondary. This situation significantly changes the legal consequences of both contracts, which essentially provide personal assurance against debt.

The essence of the warranty contract should be understood as follows; It does not depend on the existence, validity, litigation, traceability or continuation of another debt. Again, the liability of the guarantor may continue even in cases where the debt relationship (main contract) with which he is involved becomes invalid for any reason, loses its binding force, is cancelled, death or incapacity of the beneficiary, or force majeure.

The contract entered into by the guarantor and the addressee, independent of the main debt relationship, does not follow the main debt, unlike the surety agreement. In distinguishing between primary and secondary liability, the main criterion for attributing the person (guarantor or guarantor) to the principal debt relationship is whether the entrepreneur (debtor in the main contract and at the same time beneficiary in the guarantee contract) has undertaken the enterprise. Namely; If there is an attempt to ensure that the entrepreneur will not suffer any loss, the guarantor can be mentioned, and if the responsibility is only taken as a debtor, the suretyer can be mentioned. In response to the definition, when it comes to guarantorship, it can be said that the entrepreneur is willing to receive help and, in general, there is no relationship of interest; In guarantorship, it can be said that the entrepreneur is encouraged, possible risks are undertaken and there is usually a personal interest.

It has been accepted that a reference to the contract in the sub-relationship mostly indicates the existence of a suretyship contract. According to a new view; A reference to the contract in the sub-relationship is not sufficient to determine the nature of the contract. However, it should be mentioned that the purpose of the guarantee must also be determined. Because the subject of most guarantees is usually another debt relationship. This situation is frequently encountered, especially in terms of bank guarantee agreements (Develioğlu, 2009). Because banks refuse to prepare or sign guarantees with very high amounts and abstract content, and they avoid this situation by referring to the main contract (Barlas, 1986; Develioğlu, 2009).

The fact that the party giving the assurance assumes the responsibility of not paying the debt to the creditor without giving any justification is an indication that the commitment is secondary and constitutes evidence in favor of the surety agreement (Barlas, 1986; Tandoğan, 2010). If the condition of fault in the performance is not required, the guarantee given will be of a fundamental nature and will constitute evidence of the surety agreement.

There are differences in terms of objections and defenses in both contracts. As a result of the element of subsidiarity, the surety has all the rights granted to both herself in the surety
agreement and to the beneficiary in the principal debt relationship. However, unlike the principal debt relationship, the guarantor can only have what is given to him.

While in some cases in the surety agreement (TBK 595), the suretyer has the right to request a guarantee from the beneficiary; It is thought that a warranty contract is not possible.

4.3.3 Evaluation of Other Factors

Although it is thought that the distinction is not healthy for the types of contracts we are trying to define, it would be useful to discuss the "obligation of exact performance - obligation of compensation" in order to be helpful. At the same time, while the debt imposed on the suretyer as the successor of the beneficiary is the same act, in the event of a predetermined risk arising, the debt imposed on the guarantor will be a compensation obligation. However, in accordance with the general provisions of the Turkish Code of Obligations, the conditions required for compensation liability are the existence of a breach of obligation, the existence of a causal link, damage has occurred and the existence of fault. For this reason, it would be more accurate to say that the guarantor's liability is a de facto compensation obligation, even if it is not legal.

5 CONCLUSION AND SUGGETION

As a result of the above discussions, the following conclusions have been reached with general acceptance in the judiciary and doctrine regarding the most important differences that distinguish the Guarantee Agreement and the Surety Agreement.

1. The Guarantee Agreement is considered to be an independent and different contract from the main debt relationship;
2. Even if the original debt relationship disappears, the Guarantee Agreement will continue to be valid if its conditions are met;
3. The creditor in the main debt relationship has the right to make a request directly from the guarantor if the conditions are met;
4. The Guarantee Agreement provides more effective assurance than the Surety Agreement;
5. If there is any doubt as to whether a contract is a Guarantee Contract or a Surety Contract, it will be considered a Surety Contract.
REFERENCES


