

Moldova
Civil Code
(adopted in 2002 as amended in 2003 and 2005)

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BOOK ONE: GENERAL PROVISIONS

TITLE I: GENERAL PROVISIONS

CHAPTER I: CIVIL LEGISLATION

Article 1. Basic Principles of Civil Legislation

- (1) The basic principles of civil legislation are: recognition of equality among the parties to relationships regulated by it, inviolability of ownership, freedom of contract, prohibition to interfere with private affairs, free exercise of civil rights, guaranteed remedy of violated rights and judicial protection of the same.
- (2) Natural and legal persons are free to determine under contract their rights and obligations, and to stipulate any contractual terms, insofar as they do not run counter to the law.
- (3) Civil rights may be limited only by virtue of an organic law and only under grounds provided by the Constitution of the Republic of Moldova.

Article 2. Relationships Regulated by Civil Legislation

- (1) Civil legislation determines the legal status of participants to the civil circuit, the grounds of arising of the right of ownership and the manner of its exercise, contractual and other kinds of obligations, and other patrimonial and extra-patrimonial relationships related to the former.
- (2) Family, housing, and labor relations as well as relations arising from the use of natural resources and environment protection, which meet the criteria specified in para.(1), are regulated by this Code and other laws.
- (3) Relationships concerning exercise and protection of fundamental human rights and freedoms, and other extra-patrimonial values are regulated by this Code and other laws.
- (4) Natural persons and legal persons, whether engaged or not in entrepreneurial activity, are subjects of civil relationships.

Article 3. Civil Legislation

- (1) Civil legislation includes this Code, other laws, Government ordinances and other subordinated regulatory acts, which regulate the relationships specified in Article 2 of this Code and all must comply with the Constitution of the Republic of Moldova.
- (2) Subordinated regulatory acts regulate civil relationships insofar as they are issued under law and do not run counter to it.

Article 4. Usage

- (1) Usage is a rule of conduct, which, although not provided by the legislation, is generally recognized and applied over a long period of time in a certain field of civil relationships.
- (2) Usage applies only where it does not come into conflict with the law, public order and good morals.

Article 5. Analogy of Statute and Analogy of Law

- (1) Where relationships provided for in Article 2 are not directly regulated by law or by parties' mutual agreement, and no usage is applicable, the civil law provision regulating similar relationships shall apply to such relationships (analogy of statute), insofar as this does not contradict the substance of the same.
- (2) If it is impossible to apply analogy of statute, rights and duties of the parties shall be determined on the basis of general principles and directions of civil law (analogy of law).
- (3) A provision that either limits civil rights or imposes civil liability shall not apply by analogy.
- (4) The court has no right to decline administration of justice on civil cases on grounds that the provision of law is missing or ambiguous.

Article 6. Effect of Civil Legislation in Time

- (1) Civil law does not have retrospective effects. It does not alter or call off either conditions under which a legal situation earlier arose or the terms of extinction of an already extinguished

legal situation. Similarly, a new law shall not alter or call off the past effects of an extinguished or unfolding legal situation.

(2) A new law applies to relationships unfolding on the date when it came into force.

(3) As of the day when the new law comes into force, the effects of the old law shall cease, unless otherwise provided by the new law.

(4) In case of contractual relationships unfolding on the date when the new law comes into force, the old law shall continue to govern the nature and extent of rights and duties of the parties as well as any other contractual effects, unless otherwise provided by the new law.

(5) In situations provided for in para.(4), the provisions of the new law shall apply to the various manners in which rights are to be exercised or obligations to be performed as well as to manners regarding alienation, assignment, transformation and extinction of the same. Similarly, where the new law does not provide otherwise, provisions of a juridical act concluded before the date when the new law came into force and which are contrary to the mandatory provisions of the new law, shall on that date be voided of any legal effect whatsoever.

Article 7. Civil Legislation and International Treaties

Where an international treaty to which the Republic of Moldova is a party establishes rules that differ from those provided by civil legislation, the provisions of the international treaty shall apply.

CHAPTER II: RISE OF CIVIL RIGHTS AND DUTIES. EXERCISE AND PROTECTION OF CIVIL RIGHTS

Article 8. Grounds for Arising of Civil Rights and Duties

(1) Civil rights and obligations arise by virtue of law and by virtue of those acts of natural and legal persons, which, although not provided by law, give rise to civil rights and obligations by virtue of the basic principles and directions of civil legislation.

(2) Civil rights and obligations arise from:

- a) contracts and other juridical acts;
- b) acts issued by a public authority, if under law such acts may give rise to civil rights and obligations;
- c) court judgments providing civil rights and obligations;
- d) creation and acquisition of property on grounds that are not prohibited by law;
- e) development of scientific works, creation of works of art, literature, from inventions as well as from other products of intellectual activity;
- f) infliction of damage to another person;
- g) unjust enrichment;
- h) other deeds of natural persons and legal persons and from events which under law entail legal effects of civil nature.

Article 9. Exercise of Rights and Performance of Obligations

(1) Natural and legal persons participating in civil legal relationships have to exercise their rights and perform their obligations in good faith, pursuant to law, contract, public order and good morals. Good faith is presumed unless proven otherwise.

(2) Failure by natural and legal persons to exercise their rights does not in any way imply waiver of such rights, except in cases provided by law.

Article 10. Judicial Protection of Civil Rights

(1) An infringed civil right shall be protected by the court.

(2) Law or contract may provide for a dispute settling procedure before resorting to court trial.

(3) Civil rights shall be protected by administrative means only in cases provided by law. The administrative decision may be appealed in court.

Article 11. Means of Protection of Civil Rights

A civil right is protected by:

- a) its recognition;
- b) restoration of the condition, which existed before the violation of the right, and suppression of acts which violate or threaten to violate such right;
- c) recognition of nullity of juridical act;
- d) invalidation of the act issued by a public authority;
- e) imposing specific performance of its correlative obligation;
- f) self-defense;
- g) compensation for damage;
- h) collection of penalties;
- i) compensation for moral damage;
- j) setting aside or altering a legal relationship;
- k) judicial repeal of the act issued by a public authority, which does not comply with the law;
- l) other means provided by law.

Article 12. Invalidation of an Act Issued by a Public Authority in Breach of the Law

- (1) An act issued by a public authority, which infringes upon the legally protected civil rights and interests of a natural or legal person, shall be declared by court as invalid as of its adoption.
- (2) Where the court acknowledges the nullity of the act provided for in para. (1), the infringed right shall be remedied or protected by other means as provided for in this Code and other laws.

Article 13. Self-defense

- (1) Any persons acts whereby, for purposes of self-defense, he takes, encroaches upon, destroys or deteriorates a property or, for the same purpose, retains the bound person that is about to disappear, or fights against the resistance of the person bound to tolerate the action is legal, if the assistance of competent bodies may not be obtained and, in default of immediate intervention, there is the danger that the exercise of the right will become impossible or substantially difficult.
- (2) Self-defense shall not exceed the limits necessary to eliminate the danger.
- (3) In case of deprivation of possession of a property, where enforcement is not obtained, sequestration shall be solicited immediately.
- (4) Where the person bound is retained, he must be brought immediately before a competent authority.
- (5) A person who committed one of the acts provided for in para.(1), while erroneously assuming that he is entitled to self-defense, shall be bound to compensate for the damage inflicted upon the other party, even if the error is of the former's fault.

Article 14. Compensation for Damage

- (1) A person whose right is violated may demand full compensation for the damage inflicted to him.
- (2) Damage includes outlays, which the injured person has incurred or is about to incur on the remediation of the violated right; it also comprises loss or deterioration of his property (suffered loss), and income unearned due to the violation of the right (failed profit).
- (3) If the person who violated the right obtains a benefit from this violation, the person whose right has been violated may demand surrender of that part of the benefit that exceeds the amount of compensation.

Article 15. Protection of Personal Extra-patrimonial Rights

Personal extra-patrimonial rights and other intangible values are protected in cases and under the procedures established by this Code and other laws and to the extent to which the use of the means of civil rights protection is appropriate considering the substance of the violated right and the consequences of such violation.

Article 16. Protection of Honor, Dignity and Professional Reputation

- (1) Any person is entitled to respect to his honor, dignity, and professional reputation.
- (2) Any person is entitled to seek refutation of information, which defames his honor, dignity or professional reputation, unless the disseminator of such information proves it to be true.

- (3) Upon the request of the interested persons, the protection of the honor and dignity of a natural person is also permissible after his/her death.
- (4) If the information that defames the honor, dignity or professional reputation is disseminated in mass media, the court shall bind the mass media to publish a denial in the same rubric, on the same page, in the same program or cycle of programs, within maximum 15 days from the day on which the judgment became final.
- (5) If a document issued by an organization contains information defaming honor, dignity or professional reputation, the court shall bind the organization to replace the document.
- (6) In cases other than those provided for in para.(4) and (5), the order of refutation of the information defaming honor, dignity and professional reputation shall be determined by court.
- (7) Any person, with respect to whom the mass media have published information, which infringes upon his/her legally protected rights and interests, has the right to publish his/her response to the publication in the same mass media and at the expense of the later.
- (8) The person, whose legally protected rights and interests have been infringed by a publication in the mass media, is entitled, besides refutation, to demand reparation of material and moral damage.
- (9) Where it is impossible to identify the person who has disseminated the information, which defames honor, dignity or business standing of a person, the person with respect to whom that information has been disseminated is entitled to file action for declaring the disseminated information fictitious.

TITLE II: PERSONS

CHAPTER I: NATURAL PERSONS

Article 17. Definition of a Natural Person

By natural persons are understood human beings, regarded individually, as holders of civil rights and duties.

Article 18. Passive Capacity of a Natural Person

(1) The capacity to have civil rights and duties (passive capacity) is granted equally to all natural persons.

(2) The passive capacity of a natural person begins from birth and ends with his/her death.

(3) The right to inherit is deemed to have arisen at the time of conception, contingent on whether that person is born alive.

Article 19. Active Capacity of a Natural Person

Active capacity is the possibility to acquire and exercise civil rights by one's own acts, to personally assume civil obligations and perform them.

Article 20. Full Active Capacity of a Natural Person

(1) Full active capacity arises to its full extent with the attainment of full age, i.e. upon completion of eighteen years of age.

(2) A minor acquires full active capacity through marriage. Dissolution of marriage does not affect full active capacity of the minor. In case of marriage annulment, the court may deprive the minor spouse of full active capacity from the moment set by the court.

(3) A minor who attains the age of sixteen may be declared fully competent if he/she works under a labor contract or, with the consent of his/her parents, adoptive parents or his/her trustee, carries on a business activity. The declaration of full active capacity (emancipation) of the minor shall be made by decision of the guardianship body, with the consent of parents, adoptive parents or the guardian, or, absent such consent, by court decision.

Article 21. Active Capacity of Minors that Reached Fourteen Years of Age

(1) The minors who reached the age of 14 may enter into juridical acts, with the written consent of the parents, adoptive parents or the guardian, and – in cases provided by law – with the consent of the guardianship authority.

(2) Minors that reached the age of 14 may, without consent of their parents, adoptive parents or trustees:

a) dispose of their salary, stipend and other earnings from their own activities;

b) exercise their copyrights over works of science, literature and art, inventions and other products of intellectual activity protected by law;

make and dispose of deposits at financial institutions, in conformity with the law;

enter into juridical acts provided for in Article 22 para.(2).

(3) Upon the request of the parents, adoptive parents, the trustee or the guardianship authority, the court may limit minor's rights under para.(2) let. a) and b), if serious grounds exist.

(4) Upon completion of 16 years of age, the minor may become member of cooperative society.

Article 22. Active Capacity of Minors under Fourteen

(1) Only parents, adoptive parents or guardians of minors who have not attained the age of fourteen may enter into juridical acts on their behalf, as provided by law.

(2) Minors between 7 and 14 years of age are competent to enter by themselves:

a) current petty juridical acts of small value, enforceable upon conclusion;

b) juridical acts intended for non-repayable gain of benefit, which do not require notary certification or state registration of the ensuing rights;

c) acts for preservation.

Article 23. Inadmissibility to Limit and Deprive of One's Passive and Active Capacity

(1) Civil capacity is equally recognized to all persons, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political membership, property, and social origin, degree of cultural development or other like criteria.

(2) A natural person may not be deprived of his/her passive capacity.

(3) No one may be limited in his/her passive and active capacity and otherwise than in cases and according to procedures established by law.

(4) Complete or partial relinquishment of passive or active capacity by natural person, as well as other juridical acts intended for limitation of passive or active capacity is void.

Article 24. Declaration of Incapacity of Natural Person

(1) A natural person, who is not able to realize or control his/her actions in consequence of a mental disorder (mental illness or deficiency), may be declared incapable by court. This person shall be put under guardianship.

(2) The guardian of the incapable natural person enters into juridical acts on behalf of that person.

(3) If the grounds on which the natural person has been declared incapable cease to exist, the court shall declare him/her capable. By virtue of court decision, the guardianship over that person shall be revoked.

Article 25. Limitation of Active Capacity of a Natural Person

(1) The court may limit the active capacity of a natural person who, by abusing of alcohol, drugs or other substances influencing the mental condition, runs his/her family into financial difficulties. Such person shall be put under trusteeship.

(2) The person shown in para.(1) shall enter into juridical acts concerning disposal of property, receipt and disposal of his/her wages, pension and other revenues only with the consent of his/her trustee.

(3) If the grounds, on which the active capacity of a natural person has been limited, cease, the court shall revoke the limitation of his/her active capacity. By virtue of the court decision, the trusteeship under which the natural person was put shall be revoked.

Article 26. Entrepreneurial Activity of a Natural Person

- (1) A natural person is entitled to carry out entrepreneurial activity without creating a legal person, from the day when he/she obtains state registration as an individual entrepreneur or in any other manner as provided by law.
- (2) The person that carries out entrepreneurial activity without state registration may not rely on the absence of entrepreneurial status.
- (3) The provisions that regulate the activity of profit-making legal persons shall apply accordingly to the entrepreneurial activity carried out without creating a legal person, unless it follows otherwise from the law or the substance of legal relations.

Article 27. Liability of a Natural Person

A natural person is liable for his/her obligations with all its patrimony, except for property, which may not be seized in compliance with the law.

Article 28. Name of a Natural Person

- (1) A natural person is entitled to his/her name, established or acquired in accordance with the law.
- (2) The name consists of the surname, the given name and, in cases provided by law, the patronymic.
- (3) The surname is acquired by provenience and is changed as a consequence of change in civil status, as provided by law.
- (4) The given name is established on the date of birth registration, based on the birth declaration.

Article 29. Use of Name

- (1) Any person is entitled to respect of his/her name.
- (2) The natural person acquires and exercises his/her rights and performs his/her duties under his/her name.
- (3) The one using the name of another person is liable for all confusions or damage ensuing thereof. Both the bearer of the name, as well as his/her spouse or close relatives may oppose to this use and demand compensation for damage.
- (4) The natural person is bound to take necessary measures to inform his/her debtors and creditors about the change of his/her name and incurs the risk of the consequences ensuing from failure to comply with this duty.

Article 30. Domicile and Residence

- (1) The domicile of the natural person is the place where a natural person resides permanently or mainly. It is deemed that the natural person keeps his/her domicile as long as he/she did not establish another domicile.
- (2) The residence of the natural person is his/her temporary or secondary place of living.
- (3) The person whose domicile cannot be determined with certainty shall be deemed to have the domicile at the place of his/her residence.
- (4) In the absence of residence, the person is deemed to domicile at the place where he/she is located at the moment, and if this place is unknown – at the place of his/her last domicile.

Article 31. Domicile of Minor and of Incapable Person

- (1) The domicile of the minor under the age of 14 is with his/her parents or with that parent with whom he/she resides permanently.
- (2) The domicile of the minor who has been entrusted by court to a third party for care shall remain the domicile he/she had with his/her parents. Where the parents have separate domiciles and have not come to an agreement concerning minor's domicile, the court shall decide on the issue.
- (3) Having regard of the supreme interests of the minor, the court may, in exceptional cases, establish his/her domicile with the grandparents, other relatives or trustworthy persons, contingent on their consent, or at an institution of protection.
- (4) Where only one parent represents the minor or where the minor is under guardianship, his/her domicile shall be with the legal representative.

(5) The domicile of the minor in difficulty, in cases provided by law, is with the family or persons to which he/she was entrusted for care.

(6) The domicile of the incapable person is with his/her legal representative.

Article 32. Guardianship and Trusteeship

(1) Guardianship and trusteeship are established to protect rights and interests of natural persons that are incapable or with restricted active capacity, and of persons limited in their active capacity.

(2) Guardians and trustees protect the rights and interests of their wards in relations with natural persons and legal persons, including courts, without mandate.

(3) Minors are placed under guardianship and trusteeship, if they have no parents or adoptive parents, if their parents have been deprived of parental rights by court judgment, or if, for other reasons, such persons have been left without parental care.

Article 33. Guardianship

(1) Guardianship is established over minors less than 14 years of age and over incapable natural persons, as the case may be.

(2) The guardian acts as ward's representative by virtue of law and enters into necessary juridical acts in ward's name and interest.

Article 34. Trusteeship

(1) Trusteeship is established over minors between 14 and 18 years of age, as well as over natural persons whose active capacity is limited by court in consequence of alcohol abuse, consumption of drugs or other substances influencing mental condition.

(2) The trustee consents to juridical acts, which the natural person under trusteeship may not conclude independently.

(3) The trustee assists the ward in the exercise of his/her rights and performance of his/her duties, and protects him/her against abuse by third parties.

Article 35. Guardianship and Trusteeship Authorities

(1) The local public administration authorities are the guardianship authorities.

(2) The guardianship authority at ward's domicile shall supervise the activity of the guardian or trustee.

Article 36. Establishment of Guardianship and Trusteeship

(1) The guardianship authority is bound to decide upon the institution of guardianship or trusteeship within one month from receiving the information about the need to establish it.

(2) Until the guardian or the trustee is appointed, their duties shall be performed by the guardianship authority.

Article 37. Duty of Notification about Persons Calling for Establishment of Guardianship or Trusteeship

The following persons are bound to give notice to the guardianship authority within 5 days from becoming aware of the fact that establishment of guardianship or trusteeship is necessary:

a) those close to the respective persons, including the administrator and the inhabitants of the house that person dwells in;

b) the civil status office, in case of registration of a death, as well as the public notary in case of accrual of an inheritance;

c) the court, officers of the police and prosecutor's office, in case of adoption, application or execution of a sanction by deprivation of liberty;

d) local public administration authorities, institutions of protection, as well as any other person.

Article 38. Guardian and Trustee

(1) Only one natural person or the spouses jointly may become guardians or trustees, where they expressly consented to it and are not in a case of incompatibility provided for in para.(4).

(2) The duties of a guardian or trustee in regard of a person interned into a public institution of social assistance, education, healthcare or any other similar institution shall be exercised by those institutions, save for the case when the person has a guardian or a trustee.

(3) The guardian or trustee shall be appointed by the guardianship authority at the domicile of the person in regard of whom establishment of guardianship or trusteeship is needed, at its own initiative or upon the request of those mentioned in Article 37.

(4) The following persons may not become guardians or trustees:

- a) minors;
- b) incapable persons or persons with limited active capacity;
- c) persons deprived of their parental rights;
- d) persons declared incapable to exert functions of guardian or trustee due to health reasons;
- e) the person, in regard of whom, adoption has been annulled due to failure of according fulfillment of the duties of an adoptive parent;
- f) the person who has been restricted the exercise of certain political and civil rights, either by virtue of law or by court judgment, as well as the person with improper conduct;
- g) the person whose interests are in conflict with those of the person put under guardianship or trusteeship;
- h) the person removed by certified act or by will by the parent who, at the time of death, exerted parental protection by himself;
- i) the person who, while exerting a guardianship or a trusteeship, has been removed from exercise;
- j) the employee of the institution where the person, in regard of whom guardianship or trusteeship must be established, is interned.

Article 39. Performance of Duties of Guardian and Trustee

(1) Guardianship and trusteeship are deemed personal obligations.

(2) Guardianship and trusteeship are conducted gratuitously. Guardians and trustees are entitled to claim compensation for outlays incurred due to performance of duties related to guardianship and trusteeship.

(3) Having regard of the amount and composition of ward's property, the guardianship authority may decide that administration of the property or only a part of it be entrusted to a competent natural or legal person.

Article 40. Duties of Guardian and Trustee

(1) Guardians and trustees are bound:

- a) to share residence with the ward and to inform the guardianship body about the change of domicile. The trustee and his/her ward that reached the age of 14 may reside separately only with the permission of the guardianship body;
- b) to provide maintenance to the ward;
- c) to protect ward's rights and interests.

(2) Guardians and trustees are attributed parental rights and duties in what regards education of minors.

Article 41. Administration of Property of the Person under Guardianship

(1) The guardian shall administer and dispose efficiently of ward's property, in the name of the latter, unless an administrator of the assets is appointed.

(2) Upon his/her appointment and in the presence of the representative of the guardianship authority, the guardian shall make an inventory of ward's property and shall submit it for approval to the guardianship authority.

(3) Amounts due to the ward, in the form of pension, aid, alimony and other current income, shall be received and spent by the guardian for ward's maintenance.

(4) Where ward's current income or funds are not sufficient to cover all necessary expenditures, these may be covered from his/her property, with the consent of the guardianship authority.

(5) Within 30 days from the end of the calendar year, the guardian is bound to draft and submit to the guardianship authority a report on the order in which he/she took care of the ward and on the administration and disposal of ward's property.

Article 42. Authorization of Guardianship Authority to Conclude juridical acts

(1) A guardian may not conclude and the trustee may not consent upon juridical acts of alienation (including donation), exchange or lease (rent), gratuitous use or pledge of property, juridical acts whereby rights of the ward are relinquished, agreements for partition of ward's property or shares and any other juridical acts that lead to decrease in ward's property, without prior authorization from the guardianship authority.

(2) The conclusion of juridical acts concerning ward's immovables is permitted only with prior approval by the guardianship authority.

Article 43. Prohibition to Enter into juridical acts in Ward's Name

(1) A guardian may not conclude and the trustee may not consent on conclusion of gratuitous juridical acts, whereby the ward becomes bound or relinquishes certain rights.

(2) Notwithstanding the provisions of para.(1), juridical acts compliant to the moral obligations and principles are allowed.

(3) The guardian or trustee, their spouses or relatives to the 4th degree inclusive, may not enter into juridical acts with the ward, except for donation or gratuitous use of property to the ward.

Article 44. Trust on Ward's Property

(1) Where it is necessary to administer ward's immovables and valuable movables on a regular basis, the guardianship body shall conclude a contract of trust with a trustee appointed by it. In such a case, the guardian retains authority over that part of ward's property, which is not placed in trust.

(2) In administering ward's property, the trustee is subject to the provisions of Articles 42 and 43.

(3) The trust over ward's property ends on statutory grounds provided for termination of contract of trust or with the revocation of guardianship.

Article 45. Custody over Sums Money

(1) Sums of money that exceed needs for ward's maintenance and administration of his/her property shall be placed on a deposit at a financial institution in ward's name, where they may not be withdrawn from without the permission of the guardianship authority.

(2) The guardian may deposit the amounts necessary for maintenance in the name of the minor. These shall be transferred on a separate account and may be withdrawn by the guard without preliminary authorization by the guardianship authority.

Article 46. Discharge and Removal from Office of Guardians and Trustees

(1) The minor, as well as persons provided for in Article 37, may challenge or report to the guardianship authority acts and deeds of the guardian or trustee that damage the minor.

(2) The guardian or the trustee may be discharged if he/she committed an abuse, a gross negligence or deeds that render him/her unworthy to be guardian or trustee, or if he/she does not fulfill his/her office properly.

(3) The guardianship authority shall discharge the guardian or trustee from office when the minor is returned to his/her parents or is adopted.

(4) If the ward is placed into an appropriate public institution of social assistance, education, healthcare or similar institution, the guardianship authority shall discharge the guardian or trustee, unless this is contrary to ward's interests.

(5) Provided that there are serious reasons, the guardian or trustee may be discharged upon his/her request.

Article 47. Termination of Guardianship and Trusteeship

(1) Guardianship over a minor that attained 14 years of age terminates, and the person who exercised the guardianship becomes trustee without any additional decision in this regard.

(2) Trusteeship terminates when the ward obtains full active capacity or his/her capacity is restored.

Article 48. Patronage over Capable Natural Persons

(1) A fully capable natural person, unable to exercise and protect his/her own rights and to perform his/her duties by himself, due to the state of his/her health, may be placed under trusteeship in the form of patronage, upon his/her request.

(2) The guardianship authority may appoint a trustee (assistant) for a capable natural person only with the consent of that person.

(3) The disposal of property belonging to the person under patronage is performed by the trustee (assistant) only on the basis of a contract of mandate or trust concluded with the ward. The trustee (assistant) may conclude juridical acts for maintenance and for satisfaction of ward's everyday needs, with ward's verbal consent.

(4) Patronage over a capable natural person established in compliance with para.(1) terminates upon his/her request.

(5) The trustee (assistant) of a natural person under patronage is discharged from office in cases provided for in Articles 46 para.(4) and (5).

Article 49. Declaration of Absence of Natural Person

(1) A natural person may be declared missing, if at least one year has lapsed from the moment of receipt of the last report concerning that person's whereabouts. The absence shall be declared by court upon the request of interested persons.

(2) If it is impossible to ascertain the day when the last report about the missing person has been obtained, the period of his/her absence shall run from the first day of the month following the month when the last report about the missing person was obtained, and if it is impossible to ascertain that month, the period of absence shall run from January 1 of the following year.

Article 50. Protection of Missing Person's Property

(1) Where it is necessary to administer the property of the missing person on a regular basis, the court shall appoint a trustee, with whom the guardianship authority shall conclude a contract of trust. Upon the request of an interested person, the court may appoint a trustee even before the lapse of one year from the receipt of the last report on the missing person's whereabouts.

(2) The declaration of absence of a person does not trigger modification or extinction of his/her rights and duties.

Article 51. Effects of Appearance of Person Declared Missing

(1) Where the natural person declared missing makes his/her appearance, or if his/her whereabouts is discovered, upon the request of the interested person the court shall reverse the declaration of absence and shall cancel the trust over that person's property, as the case may be.

(2) The person declared missing is entitled to claim compensation for damage caused by improper management of his/her property from the trustee.

Article 52. Declaration of Death

(1) A natural person may be declared dead by court decision if his/her whereabouts has been unknown at his/her domicile for 3 years; if the person disappears under life-endangering circumstances or circumstances giving reason to believe him/her dead from an accident, he/she may be declared dead after the lapse of six months.

(2) A military servant or other natural person, who has disappeared in connection with military actions, may not be declared dead earlier than after two years from the end of the military actions.

(3) The date of death of the person declared dead is deemed to be the day when the court decision declaring him/her dead became final. If the natural person disappears under life-endangering circumstances or circumstances giving reason to believe him/her dead from an accident, the court may declare the day of the presumptive death of that natural person to be the date of his/her death.

(4) Declaration of death produces legal effects similar to those produced by the ascertained physical death.

Article 53. Effect of Appearance of Natural Person Declared Dead

(1) Where the natural person declared dead makes his/her appearance, or if his/her whereabouts is discovered, the court shall reverse the declaration of death.

(2) Regardless of the time of his/her appearance, the natural person may demand that any person return the preserved property, which gratuitously passed to that person after the declaration of death of the natural person.

(3) The persons, to whom the property of a natural person declared dead passed under repayable juridical acts, shall not be bound to return him/her that property, unless they are proven to have known that the person declared dead was actually alive at the date of procurement. If it is impossible to return that property in kind, its value shall be indemnified in money by the acquirer in bad faith.

(4) If the property of the person declared dead passed to the state, by virtue of the right of inheritance, and has been sold, then the proceeds from the sale of that property shall be returned to that person after the reversal of the declaration of death by court.

Article 54. State Registration of Civil Status Acts

(1) The following acts of civil status are subject to state registration:

- a) birth;
- b) adoption;
- c) affiliation;
- d) marriage;
- e) divorce;
- f) change of name;
- g) death of natural person.

(2) Registration of acts of civil status is conducted by registry offices by making respective entries in civil registers and issuing certificates on the basis of those entries.

(3) The registry offices, the order of civil registration, the procedures for changing, restoring and annulling entries of civil registration, the forms of official records and certificates, the procedures and terms of custody of official records are established by law.

CHAPTER II: LEGAL PERSONS

Section 1: General Provisions

Article 55. Definition of Legal Person

(1) A legal person is an organization having a distinct patrimony and liable with such patrimony for its obligations, which may acquire and exercise patrimonial and personal non-patrimonial rights, assume obligations in its own name, sit as plaintiff and defendant in a court of law.

(2) A legal person may be organized based on the principle of corporation or based on membership; it may or may not depend on a certain number of members; it may have a profit-making purpose or a nonprofit one.

(3) Depending on participation in formation of the legal person's patrimony, its founders (members) may or may not hold rights of claim against this legal person. Commercial companies and partnerships and cooperatives are legal persons, against which founders (members) hold rights of claim. Noncommercial organizations are legal persons against which their founders (members) do not hold rights of claim.

Article 56. Legal Regime Applicable to Foreign Legal Persons

Foreign legal persons are assimilated by law with legal persons of the Republic of Moldova.

Article 57. Types of Legal Persons

Legal persons are established in the public interest or for a private interest, both being equal in civil relationships.

Article 58. Public Interest Legal Persons

(1) State and territorial-administrative units participate in legal civil relations on equal positions with other subjects of law. In such cases, the powers of the state and territorial-administrative units shall be exercised by their bodies, in accordance with their terms of reference.

(2) Bodies entitled to exercise a part of the powers (functions) of the Government possess legal personality only if this is provided by law or, in cases expressly set by law, by acts of central and local public administration.

(3) Notwithstanding the provisions of para.(2), public interest legal persons may also be established in an other manner, in cases expressly provided by law.

(4) The following articles of this Chapter shall not apply to public interest legal persons, save for expressly provided cases.

Article 59. Private Interest Legal Persons

(1) Private interest legal persons law may be freely established exclusively in accordance with the juridical forms provided by law.

(2) Private interest legal persons may have profit-making (commercial) purposes and nonprofit (noncommercial) ones.

Article 60. Passive Capacity of a Legal Person

(1) A legal person's passive capacity appears as of the date of its state registration and terminates on the date of its exclusion from the state register.

(2) A profit-making legal person may carry out any activity that is not legally prohibited, even if it is not provided for in the constituting act.

(3) A nonprofit legal person may carry out only the activity provided for in the law and in the constituting act.

(4) Public interest legal persons participate in the civil circuit to the extent that this is necessary for accomplishing their purposes. To the extent to which such legal persons participate in the civil circuit, the rules on private law legal persons shall apply appropriately.

(5) Certain types of activity, the list of which is established by law, may be carried out by a legal person only based on a special authorization (license). The right of the legal person to carry out a licensed type of activity arises as of the moment when the license is obtained or from the moment indicated in the license and terminates upon the expiry of such license, unless the law provides otherwise.

(6) A legal person's rights may be subject to limitation only in cases and under the procedures provided by law.

Article 61. Active Capacity of a Legal Person

(1) A legal person exercises its rights and fulfills its obligations through a manager, as of the day of its establishment.

(2) Managers are natural persons who, by virtue of law or of the act of constitution, are appointed to act, individually or collectively, in the name and on behalf of the legal person in relations with third parties.

(3) Relations between a legal person and those who form its executive bodies are subject by analogy to the rules governing mandate, unless the law or the constituting act provide otherwise.

(4) Where the executive body is not appointed, the participants or the creditors of the legal person may demand the court to appoint such body. The executive body so appointed by the court shall be revoked by it where the competent body of the legal person decides to appoint the executive body.

Article 62. Constituting Acts of a Legal Persons

(1) A legal person activates either under the founding contract or under the constituting contract and the by-laws, or solely under the by-laws. Public interest legal persons and, in cases provided by law, nonprofit private interest legal persons activate under the general rules concerning organizations of the respective type.

(2) The constituting act is entered into and the by-laws is approved by the founders (members) of that legal person. A legal person established by one single founder activates under a by-laws approved by such founder.

(3) The constituting act of a legal person shall specify its name and registered office, management procedures, and other information required by law for legal person of the respective type. A constituting act of nonprofit legal persons shall specify their object and goals of their activity.

Article 63. State Registration of Legal Persons

(1) A legal person is deemed established as of the moment of its state registration.

(2) A public interest legal person shall be deemed incorporated when the normative act, by which the regulation or the by-laws are approved, takes effect or from the moment specified in such act.

(3) Legal persons are subject to state registration according to the statutory procedure. The data of state registration shall be entered in the state register, which is open to the public.

(4) Any derogation from the statutory procedure of establishment, or noncompliance of the constituting act of a legal person with the law, entails refusal of state registration. State registration of a legal persona may not be refused on grounds of inexpediency.

(5) A legal person shall be subject to re-registration only in cases provided by law.

Article 64. Public Character of State Registers of Legal Persons

(1) A person in whose interest a fact should be registered may not rely on it in relation to third parties before its entry in the state register of legal persons and its publication, unless that person proves such third party was aware of that fact.

(2) Where the fact is registered and published, the third party must acknowledge it in relation to himself. This provision does not apply to juridical acts entered into within 15 days from the moment when the fact has been published, inasmuch as such third party proves that he/she was not and should not have been aware of the respective fact.

(3) Where the fact subject to registration has been erroneously published, the third party may rely on that fact against the person in whose interest it should have been registered, unless such third party was or should have been aware of its non-authentic character.

Article 65. Duration of a Legal Person

(1) A legal person exists in perpetuity unless otherwise provided by law or its constituting act.

(2) Upon the expiry of the term set for the existence of a legal person, it shall be dissolved, unless the constituting acts are amended beforehand.

Article 66. Name of a Legal Person

(1) A legal person participates in legal relationships only under its own name, set in the constituting acts and registered accordingly.

(2) The name of a legal person must specify its legal form, in the state language.

(3) A legal person shall not be registered where its purported name coincides with the name of an already registered legal person.

(4) The use of expressions contravening to legal provisions or good morals in the name of a legal person shall be prohibited, as well as the use of personal names, where they do not coincide with the names of those participating in the founding of the organization and the respective person or its successors did not consent with a view to this.

(5) A legal person may not employ in its name words or abbreviations that would have a deceitful effect as to the legal form of the person.

(6) A legal person, whose firm name is registered, is entitled to use this name. A person using the name of another legal person, shall, upon the request of the latter, cease using that name and compensate for the damage caused thereby.

(7) A legal person is bound to publish a notice in the Official Gazette regarding changes in its name, subject to compensation for damage caused by failure to comply.

(8) Acts issued by a legal person must specify its name, state registration number, fiscal code and registered office, subject to compensation for damage caused by failure to comply.

Article 67. Registered Office of a Legal Person

(1) A legal person has a registered office, specified in the constituting acts.

(2) Establishment and change of registered office are opposable to third parties as of the moment of state registration.

(3) The mail address of a legal person shall be the address of its registered office. A legal person may have other mail addresses as well.

(4) All documents and letters received at the registered office shall be deemed received by that legal person.

(5) A legal person is bound to publish a notice in the Official Gazette relative to change of its registered office, subject to compensating for damage caused by failure to comply.

Article 68. Liability of a Legal Person

(1) A legal person is liable for its obligations with all of its patrimony.

(2) A founder (member) of the legal person is not liable for the debts of that legal person, and the legal person is not liable for debts of its founder (member), except in cases provided by law or constituting act.

Article 69. Reorganization of a Legal Person

(1) A legal person can be reorganized by amalgamation (merger and jointer), split-off (division and separation) and transformation.

(2) The decision of reorganization is taken by each legal person separately, under the rules applicable to the amendment of their constituting acts.

(3) In cases provided by law, reorganization of a legal person by division or separation shall be carried out by virtue of a court decision.

(4) If a new legal person is formed by amalgamation or split-off, it shall be established under legal provisions concerning the respective form of legal person.

(5) Reorganization shall take effect in relation to third parties only after state registration of the new legal person, save for reorganization by jointer, which is effective as of the date of registration of amendments in the constituting acts of the absorbent legal person.

Article 70. Succession in Case of Reorganization of a Legal Person

(1) In case of merger of two or more legal persons, the rights and duties of each of them pass to the newly created legal person under the deed of conveyance.

(2) In case of jointer of one legal person to another, all rights and duties of the absorbed legal person pass to the absorbent legal person under the deed of conveyance.

(3) In case of division of a legal person, its rights and duties pass to the newly created legal persons according to the distributive balance.

(4) In case of separation, a part of the rights and duties of the reorganized legal person pass to each of the legal persons participating in the reorganization (either existing or newly created), according to the distributive balance.

(5) In case of reorganization by transformation, rights and duties of the reorganized legal person pass to the newly created legal person under the deed of conveyance.

Article 71. Deed of Conveyance and Distributive Balance

(1) The deed of conveyance and the distributive balance must contain provisions for succession in respect of all of its patrimony, all rights and obligations, as against all its creditors and debtors, including obligations disputed by the parties.

(2) The deed of conveyance and the distributive balance shall be approved by the founders (members) of the legal person or by the body of the legal person authorized thereto by law or by the constituting act, which has decided upon reorganization of legal person, and shall be submitted along with the constituting acts of the newly created legal persons for registration or for amending the constituting acts of the existing legal persons.

Article 72. Security for Rights of a Legal Person's Creditors in Case of Reorganization

(1) Within 15 days as of the adoption of the reorganization decision, the executive body of that legal person subject to reorganization shall notify all its known creditors in writing and shall publish a notice about the forthcoming reorganization in two consecutive editions of the Official Gazette of the Republic of Moldova.

(2) Within 2 months as of the publication of the last notice, the creditors are entitled to demand security from the legal person about to reorganize, inasmuch as they cannot claim satisfaction of claims. The right to demand security shall arise for the creditors if they prove that the reorganization puts satisfaction of their claims under risk.

(3) Creditors are entitled to inform the state registration authority regarding their claims towards the reorganizing debtor.

(4) Where the distributive balance or the deed of conveyance does not allow identification of the successor of the reorganized legal person, the legal persons participating in the reorganization become jointly and severally liable for the debts arisen before reorganization.

(5) All members of the executive body of the legal person participating in reorganization shall be jointly and severally liable, in the course of 3 years as of the date of reorganization, for damage caused by reorganization to the participants or creditors of the reorganized legal persons.

Article 73. Merger of Legal Persons

(1) The act of merger is effected by amalgamation and absorption.

(2) Amalgamation is the winding-up of all involved legal persons and full conveyance of their rights and duties to the newly created person.

(3) Absorption is the winding-up of the absorbed legal persons and full conveyance of their rights and duties to the absorbent legal person.

(4) In cases established by law, the act of joining may be contingent on the authorization of the competent state body.

Article 74. Draft Merger Contract

(1) With a view to merge, the competent body of the legal person develops the draft merger contract.

(2) A draft merge contract shall specify:

a) form (type) of merger;

b) name and registered office of each legal person involved in merger;

c) justification and conditions of merger;

d) patrimony conveyed to the acquiring legal person;

e) value ratio of contributive shares;

f) date of the deed of conveyance, which is the same for all legal persons involved in merger.

(3) Where legal persons merge, the draft merger contract shall also specify the name, registered office and executive body of the legal person to be established. The draft constituting act of the newly created legal person shall be attached to the draft amalgamation contract.

(4) The draft merger contract shall be done in writing.

(5) Where the approved merger contract is conditional, it shall be cancelled retroactively if the condition is not fulfilled within a year from approval. The contract may provide for a longer or shorter term.

Article 75. Decision of merger

(1) The merger contract shall take effect only if approved by the general assembly of the members of each legal person involved in such merger.

(2) The decision of merger shall be adopted by 2/3 of the total number of participants' votes, where a greater majority is not provided by the constituting act.

Article 76. Request for Registration of Merger

(1) After the expiry of 3 months from the last publication regarding merger, the executive body of the absorbed legal person or of the legal person involved in merger shall submit to the state body that performed its registration, a request soliciting registration of merger. The following documents shall be attached to the request:

a) a certified copy of the merger contract;

b) the decision of merger of each involved legal person;

c) proof of debt payment or of granting security accepted by creditors;

d) authorization for merger, as appropriate.

(2) After the expiry of the term set in para.(1), the executive body of the absorbent legal person or of the legal persons involved in that merger, shall submit a registration request to the state body where the absorbent legal person is registered or where the new legal person is to be registered. The documents shown in para.(1) shall be attached to the request. The legal person under incorporation shall also attach acts necessary for registration of a legal person of the relevant type.

Article 77. Registration of Amalgamation

- (1) Registration of amalgamation shall be done by the body that performed state registration of the absorbent legal person or by the body that must register the new legal person.
- (2) The body that has registered the absorbent legal person or the new legal person shall give notice of the registration to the body where the absorbed or merged legal persons are registered.
- (3) The body that performed state registration of the absorbed or merged legal persons shall enter into the state register the date when the merger took place and shall send all acts of the dissolved legal persons for preservation to the body that registered the amalgamation.
- (4) After registration in accordance with para.(1), the absorbed or merged legal persons shall be deemed dissolved and shall be excluded from the state register.

Article 78. Effects of Merger

- (1) As of the date of registration of merger, the patrimony of the absorbed or merged legal person is transferred to the absorbent or newly created legal person.
- (2) After registration of merger, the absorbent or newly created legal person shall include on its balance the assets and liabilities of the absorbed or merged legal persons, while the property subject to registration shall be registered as property of the absorbent or newly created legal person.

Article 79. Split-off of a Legal Person

- (1) Split-off of a legal person is done by division or separation.
- (2) Division of a legal person is the winding-up of that person and conveyance of its rights and duties to two or more newly created legal persons.
- (3) Separation is the detachment of a part of the patrimony of that legal person which is not subject to winding-up, and conveyance of that part to one or several newly created legal persons.

Article 80. Split-off Plan

- (1) A plan of split-off of the legal person shall be drafted by the executive body.
- (2) A plan of split-off shall specify:
 - a) form (type) of split-off;
 - b) name and registered office of the legal person that is splitting off;
 - c) name and registered office of each legal person created as a result of split-off or which is conveyed a part of the patrimony;
 - d) part of patrimony subject to conveyance;
 - e) number of participants that pass to the newly created legal person;
 - f) value ratio of participation shares;
 - g) order and term for conveyance of participation shares of the profit-making legal person that is splitting off and receipt of participation shares by the profit-making legal person, actual or under incorporation; the date from which this shares bear dividends;
 - h) date of drawing up of the distributive balance;
 - i) effects of split-off in regard of employees.
- (3) A split-off plan shall be drawn in writing.
- (4) A draft of the constituting act of the new legal person shall be attached to the split-off plan, as the case may be.

Article 81. Approval of Split-off Plan

- (1) The split-off plan shall be approved by the general assembly of participants by a 2/3 majority of the total number of votes, unless the constituting act does not provide for another majority.
- (2) The general assembly of participants shall approve the constituting act of the new legal person and shall appoint its executive body, by the majority shown in para.(1).

Article 82. Request for Registration of Split-off

- (1) After the expiry of the 3 months term from the last publication regarding split-off, the executive body of the legal person under split-off shall submit a request for registration of split-off to the body that performed state registration of that legal person and another request to the body that will perform state registration of the legal person under incorporation or to that where the legal person, which is conveyed a part of the patrimony, is registered. The split-off plan

signed by the agents of the participating legal persons and the proof of debt payment or security accordance, accepted by creditors, shall be attached to the request.

(2) Documents necessary for registration of a legal person of the respective type shall also be attached to the request submitted to the body that will perform state registration of the legal person under incorporation.

Article 83. Registration of Split-off

(1) The registration of split-off shall be done by the body that performed state registration of the split legal person. The registration of split-off shall be done only after the registration of the newly created legal persons or after amending the constituting act of the legal person conveyed a part of the patrimony.

(2) The authority that must perform state registration of the newly created legal person or that registered the legal person that is conveyed a part of the patrimony, shall give notice to the body where the split legal person is registered about the registration of the new legal person or the amendment of the constituting act of the legal person conveyed a part of the patrimony.

(3) The state body that performed state registration of the split legal person shall register the split-off and, if needed, shall exclude the split legal person from the register and shall give notice about this to the body that registered the new legal person or where the legal person that received a part of the property is registered.

(4) The split-off shall come into effect only from the moment of its state registration by the body where the split legal person is registered.

(5) After registration under para.(1), the split legal person shall be deemed winded-up and shall be excluded from the state register.

Article 84. Effect of Split-off

(1) From the date of split-off registration, the property of the split legal person or a part of it passes to the newly incorporated or existent legal persons.

(2) The new legal person or the existent one shall enter property received by deed of conveyance on its balance and shall register property subject to registration, as the case may be.

Article 85. Transformation of a Legal Person

(1) Transformation of legal person is the change of its legal form by amending the acts of incorporation, as provided by law.

(2) Transformation of the legal person shall also comply with conditions set for the newly adopted legal form of organization.

Article 86. Winding-up of a Legal Person

(1) A legal person may be winded-up on the following grounds:

- a) expiry of term set for person's duration;
- b) accomplishment of the goal for which it was incorporated or impossibility to accomplish that goal;
- c) decision of its competent body;
- d) court judgment, in cases provided for in Article 87;
- e) insolvency or termination of insolvency trial due to insufficiency of bankruptcy estate;
- f) the nonprofit legal person or the cooperative has no member;
- g) other grounds provided by law or the constituting act.

(2) Winding-up of a legal person entails commencement of the winding procedure, save for cases of amalgamation and split-off that bring about winding-up of a legal person without winding and universal transfer of its patrimony, as on the date of amalgamation or split-off, to the acquiring legal persons.

(3) A legal person shall subsist after winding-up inasmuch as it is necessary for liquidation of its patrimony.

(4) As of the moment of winding-up, the manager may not undertake new operations; failure to comply shall bring about manager's personal and joint liability for operations undertaken. This rule shall apply as of the day of expiry of person's term of duration or the date when the winding-up has been decided upon by the general assembly of the participants or by court.

(5) The competent body of the legal person may revise the decision of winding-up or reorganization insofar as the patrimony has not been distributed between its members or has not been transferred to another person.

(6) On the date of winding-up of the legal person, its manager shall become liquidator, unless the competent body or the court appoints another person as liquidator.

Article 87. Winding-up of a Legal Person by Court of Law

(1) A court of law shall wind-up a legal person if:

- a) its establishment is not in compliance with the law;
- b) the constituting act does not comply with legal provisions;
- c) the legal person does not meet the legal requirements concerning its form of legal incorporation;
- d) its activity contravenes to public order;
- e) in other cases provided by law.

(2) A court of law shall not wind-up a legal person if, within the term granted by the court of law, such person will comply with the law.

(3) A court of law may wind-up a legal person where it breaches prohibitions set by this Code in regard of the respective form of legal incorporation or its activity gravely breaches the constituting act.

(4) The decision for winding-up of a legal person shall be issued upon the request of the participant, the prosecutor or the Ministry of Justice.

Article 88. Management by Trust

(1) The court that examines the request regarding the winding-up of a legal person may place the property of that person under trust, upon request. The ruling shall specify the date of trust establishment. The court shall appoint one or several trustees and shall determine their terms of reference and remuneration.

(2) Where the court does not rule otherwise, the bodies of that legal person may not issue decisions without trustee's prior consent, and persons entitled to represent the legal person may not enter into juridical acts without trustee's participation.

(3) The court may modify or cancel its ruling on trust establishment any time. The trust shall cease upon coming into effect of the court judgment regarding winding-up.

(4) The trustee shall give notice of the court ruling to the body that performed state registration of the legal person and shall communicate information about him, as required from a trustee.

(5) The juridical act concluded by the legal person before registration of trust, without regard to the limitation imposed by the trust, is valid unless the other party was or should have been aware of the existence of trust.

Article 89. Registration of Winding-up

(1) Where the legal person is winded-up on grounds provided for in Article 86 para.(1) let.a)-c), f) and g), its executive body shall file a request for winding-up to the authority that performed state registration of the respective legal person. Where the legal person is winded-up by decision of the general assembly of participants, the decision shall be attached to the request.

(2) In case of winding-up by court judgment, the court shall send a copy of the judgment to the body that performed state registration of the legal person under winding-up.

(3) The request for winding-up filed by the executive authority of the legal person and the court judgment serve as grounds for registration of winding-up.

(4) As of the date of registration of the winding-up, the expression "under winding-up" shall be added to the name of the legal person in documents and information issued by it; failure to comply shall bring about liquidator's personal liability for damage caused to third parties.

Article 90. Liquidator of a Legal Person

(1) Any adult person with full active capacity and citizen of the Republic of Moldova, residing on its territory, may become liquidator. Additional conditions may be set forth by law.

- (2) The liquidator shall give notice about his/her appointment to the body that performed state registration of the legal person and shall provide information about himself, as required from a manager. The liquidator shall attach the decision for his/her appointment as liquidator.
- (3) The name, domicile, number of identity card and personal code shall be entered into the register, along with liquidator's signature.
- (4) The liquidator has powers, duties and responsibilities similar to those of the manager, inasmuch as these are compatible with the activity of the liquidator.
- (5) In case of appointment of several liquidators, they shall represent the legal person jointly, unless otherwise provided by the constituting act or the decision for appointment.
- (6) Immediately after taking office, the liquidator, together with the manager, shall make and sign the inventory and the balance in which the exact standing of assets and liabilities shall be ascertained.
- (7) The liquidator shall finalize the current operations, exercise claims, liquidate the property and satisfy creditors' claims. he/she may enter into new juridical acts inasmuch as the liquidation requires this.
- (8) The liquidator is bound to receive and take care of the patrimony, registers and acts of the legal person, and to keep a register with all liquidation operations in chronological order.
- (9) The liquidator may be removed from office anytime by the body or the court that appointed him. A new liquidator shall be appointed through the same decision. The discharged liquidator shall submit to the next liquidator a report on his/her activity. Where the successor is appointed by court, the report shall be submitted to it.
- (10) Liquidator's remuneration shall be determined by the body or by the court that appointed him, save for cases provided by law.

Article 91. Notification of Creditors

After registration of his/her appointment, the liquidator shall publish in two consecutive editions of the Official Gazette of the Republic of Moldova a notice concerning liquidation of legal person and shall, within 15 days, give notice to each known creditor about the liquidation and term for submittal of claims.

Article 92. Term for Submittal of Claims

- (1) The term for submittal of claims shall be of 6 months from the last publication of the notice in the Official Monitor of the Republic of Moldova.
- (2) Where the liquidator rejects the claim, the creditor is entitled to file a court action within 30 days from the date when he/she was given notice about rejection of claim, subject to the loss of the respective right in case of failure to comply with the term.

Article 93. Draft Liquidation Balance

- (1) Within 15 days as of the expiry of the term for submittal of claims, the liquidator is bound to make the draft liquidation balance, which should reflect the book value and the market value of the assets, including claims, liabilities of the legal person acknowledged by the liquidator and liabilities pending in court.
- (2) The draft liquidation balance shall be submitted for approval to the body or court that appointed the liquidator.
- (3) Where the draft liquidation balance shows an excess of liabilities over assets, the liquidator is bound to declare insolvency of the legal person. With the consent of all creditors, the liquidator may continue the liquidation procedure without filing action for insolvency.

Article 94. Protection of Debtors' Rights

The decision on reorganization or liquidation outside the insolvency procedure does not affect the maturity of claims, which are not yet due.

Article 95. Deposit of Amounts Owed to Creditors

Amounts owed to known creditors who did not submit claims and to creditors who did not turn up to receive performance shall be deposited on bank accounts in their names.

Article 96. Distribution of Assets of Profit-Making Legal Persons

- (1) The assets of the dissolved profit-making legal person remaining after satisfaction of creditors' claims shall be distributed by the liquidator among the participants, proportionate to their shares in the registered capital.
- (2) The liquidator shall make the necessary computations and shall draft the liquidation report, specifying the amount and composition of the remaining assets. Where two or more participants are entitled to the assets of the legal person, the liquidator shall draft a plan for assets' distribution, setting the principles of distribution.
- (3) With the consent of the participants, the liquidator of the dissolved legal person is entitled not to alienate the property of that person, if this is not necessary to satisfy creditors' claims.
- (4) The draft plan for asset distribution, the calculations and the liquidation report shall be submitted for approval to the body or the court that appointed the liquidator. The body or the court that appointed the liquidator may amend the distribution plan, having regard of the will of the participants.

Article 97. Distribution of Asset of a Nonprofit Legal Person

- (1) Assets remaining after satisfying claims of the creditors of a nonprofit legal person shall be distributed among persons, who are entitled to them according to the constituting act or, if provided by that act, in accordance with the decision of the general assembly.
- (2) Where the nonprofit legal person is incorporated for the exclusive purpose of satisfying the needs of its participants and the constituting act or the decision of the general assembly does not provide for the persons entitled to assets of the dissolved nonprofit legal person, all persons, who, at the time of winding-up, are participants in that person, shall be entitled to a part of the remaining property. Assets shall be distributed proportionately among those persons.
- (3) Where the assets cannot be distributed under para.(1) and (2), they shall be transferred to the state, which shall use them for accomplishing the purposes of the liquidated nonprofit legal person, enlisted in the by-laws.

Article 98. Term for Distribution of Assets

The assets of the winded-up legal person may not be distributed among the entitled persons before the lapse of 12 months as of the date of the last publication regarding winding-up and 2 months as of the date of approval of the liquidation balance and of the asset distribution plan, where these documents have not been appealed in court or the request for appeal has been rejected by an irrevocable court judgment.

Article 99. Exclusion of a Legal Person from Register

- (1) After the distribution of net assets, the liquidator must file the request for exclusion of the legal person from register to the state registration body.
- (2) All acts necessary for liquidation shall be attached to the request for exclusion.

Article 100. Recommencement of the Liquidation Procedure

- (1) If, after exclusion of the legal person from the register, a creditor or a person entitled to collect the remaining assets appears or the existence of accounts payable is ascertained, the court may, upon the request of any interested person, recommence the liquidation procedure and appoint a liquidator, if necessary. In such a case, the legal person is deemed existent solely for the purpose of carrying out the recommenced liquidation. The liquidator is entitled to demand from the entitled persons restitution of what they have received over the portion of assets they were entitled to.
- (2) The running of the period of limitation s for rights of action belonging to the legal person or against it shall be suspended for the period when the legal person did not exist.

Article 101. Insolvency of a Legal Person

A legal person may be declared insolvent by court decision, where that legal person is not able to fulfill its payment obligations towards creditors. The grounds and procedure for judicial declaration of insolvency of the legal person are established by law.

Article 102. Branches of a Legal Person

- (1) The legal person may establish branch offices in the Republic of Moldova and abroad, unless the law or the constituting act does not provide otherwise.

(2) The branch office is not a legal person.

Article 103. Representation Office

(1) The representation office is a separate subdivision of the legal person, situated outside the registered office of the latter, which represents the person and acts in defense of its interests.

(2) The representation office is not a legal person.

Article 104. General Provisions on Associations of Legal Persons

(1) Legal persons may form associations with a view to activity coordination, representation and protection of common interests. Where, according to participants' decision, it is expected that the association will carry out entrepreneurial activity, it shall reorganize into a commercial partnerships and companies or cooperative as required by this Code.

(2) The members of the association preserve their independence and legal personality.

(3) The patrimony transferred to the association by the founders (associates) becomes ownership of the former. The association shall use this patrimony for the purposes determined in its constituting act.

(4) The association is not liable for the obligations of its associates. The associates shall bear subsidiary liability for the obligations of the association, in the amount and the order provided by the constituting act.

(5) The specifics of the legal status of the association of legal persons shall be set by this Code and by the legislation on noncommercial organizations.

Article 105. Publications of a Legal Person

Where the law or the acts of incorporation provide for the publication of information of the legal person, the information shall be published in the Official Monitor of the Republic of Moldova.

The acts of incorporation may also provide for publication of information regarding the legal person in other mass media.

Section 2: Commercial Partnerships and Companies

§1. General Provisions

Article 106. General Provisions on Commercial partnerships and companies

(1) A commercial partnership and company is a profit-making person with registered capital, formed of the contributive shares of the founders (members). The patrimony created by the contributions of founders (members), as well as all acquired by the commercial partnerships and companies in the course of their activity, belongs to the partnership or company. In cases provided by this Code, a partnership or company may be established by a single person.

(2) The commercial partnerships and companies may be established exclusively as general partnership, limited partnership, limited liability company and joint-stock company.

(3) The commercial partnerships and companies may be the founder (member) of another commercial partnership and company, save for cases provided by this Code and by other laws.

(4) Contributions to the patrimony of the commercial partnerships and companies may consist of money, securities, other property and patrimonial rights. The pecuniary valuation of member's contribution to the commercial partnerships and companies shall be made by agreement of the founders (members) of the society and is susceptible of an independent expert control (audit).

Article 107. Establishment of Commercial Partnerships and Companies

(1) The commercial partnerships and companies shall be established based on a constituting act, certified by the notary.

(2) Each founder of the commercial partnerships and companies must contribute to the formation of the registered capital, in the amount set in the constituting act.

Article 108. Constituting Act of Commercial Partnerships and Companies

(1) The constituting act of commercial partnerships and companies shall specify:

- a) name and date of birth, domicile, citizenship and data from the identity card of the founder that is a natural person; name, registered office, nationality, registration number of the founder that is a legal person;
- b) name of partnership and company;
- c) object of activity;
- d) contributive shares of the associates, order and term for conveyance;
- e) value of property conveyed as contribution in kind and the order of valuation, if such contributions were made;
- f) registered office;
- g) structure, functions, order of formation and functioning of company's bodies;
- h) manner of representation;
- i) partnership's or company's branches and representation offices;
- j) other data, required by law for the respective type of company or partnership.

(2) The constituting act of the commercial partnerships and companies may derogate from the provisions of this section only in expressly provided cases.

(3) The constituting act of the commercial partnerships and companies may contain other clauses that do not run counter the law.

(4) The constituting act of the commercial partnerships and companies shall be drawn in the state language and shall be signed by all founder associates.

Article 109. State Registration of Commercial Partnerships and Companies

(1) The commercial partnerships and companies shall be registered in the order and within the term set by law, at the state registration body, within the jurisdiction of which its registered office is located.

(2) Where the registration of the commercial partnerships and companies did not take place within 3 months from the date of notary certification of the constituting act, its members are entitled to liberation from obligations arising from their subscriptions, unless the constituting act provides otherwise.

Article 110. Nullity of Commercial Partnerships and Companies

(1) The commercial partnerships and companies may be declared null by court judgment.

(2) The judgment declaring the nullity of commercial partnerships and companies may be issued only in cases when:

- a) the constituting act is missing or is not certified by notary;
- b) the object of the partnership or company is illicit or contrary to public order;
- c) the constituting act does not provide for partnership or company's name, associates' shares, amount of subscribed registered capital or company's purpose;
- d) legal provisions concerning the minimum amount of registered capital have not been complied with;
- e) all founders were incapable on the date of establishment of partnership or company.

(3) The concluding part of the judgment for declaration of nullity of the commercial partnerships and companies shall be inserted in its publications within 15 days from the day when the judgment became effective.

Article 111. Effects of Declaration of Nullity of Commercial Partnerships and Companies

(1) On the date of coming into effect of the judgment for declaration of nullity of commercial partnerships and companies, the company shall dissolve and commence a wind up procedure. The liquidator of the partnership or company shall be designated in the judgment for declaration of nullity.

(2) Commercial partnerships and companies nullity shall not affect juridical acts concluded on its behalf, save for cases provided for in para.(3).

(3) Where the commercial partnerships and companies declared null is insolvent, its winding up shall take place in accordance with the legislation concerning insolvency.

(4) The associate to whom the nullity of the commercial partnerships and companies is imputable shall bear unlimited and solidary liability towards all other associates and third parties for damage caused by nullification of partnership and company.

Article 112. Formation of Registered Capital in Commercial Partnerships and Companies

(1) The registered capital establishes the minimum value of assets that must be owned by the commercial partnerships and companies.

(2) The registered capital of the commercial partnerships and companies is formed of founders' contributions, expressed in Lei.

(3) The registered capital shall be paid in within 6 months from the date of partnership or company registration.

(4) Where there is only one associate, he/she shall pay the capital in before the date of registration.

Article 113. Contribution to Society's Registered Capital

(1) The contribution to the registered capital of the commercial partnerships and companies is deemed to be in monetary form, unless the constituting act provides otherwise.

(2) Contributions in labor and services rendered upon establishment of commercial partnerships and companies and in the course of its existence may not take the form of contribution to the formation or increase in registered capital.

(3) Upon the date of registration of the commercial partnerships and companies, each associate is bound to pay in at least 40% of the subscribed contribution share, unless the law or the constituting act do not provide otherwise.

(4) Interest does not accrue on the contribution to the registered capital, save for cases provided by law.

(5) Where the associate did not timely pay in the contribution, any associate is entitled to demand it from him/her in writing, by setting an additional term of at least one month and warning him/her that his/her exclusion from the society is possible.

(6) Where the contribution is not paid in within the additional term, the associate loses the right over his/her share in the society and over the portion that has been paid in, of which he/she must be given notice.

Article 114. Contribution In Kind to the Registered Capital of the Commercial Partnerships and Companies

(1) The contribution in kind to the registered capital of the commercial partnerships and companies may consist of any property in civil circulation.

(2) Property is deemed to have been conveyed into ownership, unless the constituting act does not provide otherwise.

(3) Extra-patrimonial rights and claims may not serve as contribution upon formation and increase in the registered capital of the commercial partnerships and companies.

(4) Associates in general partnership and general partners in limited partnership may undertake to contribute with labor or services, but this shall not take the form of contribution to the formation or increase of the registered capital. In exchange for such contribution, the associates are entitled to participate, in accordance with the constituting act, in the distribution of society's profit and assets, and are also bound to participate in losses.

(5) The contribution in kind must be paid in upon the term set by the constituting act, but not later than the term set in Article 112 para.(3). In case of registered capital increase, the contribution shall be paid in within the term set by the general assembly, but not later than 60 days from the adoption of the decision concerning the increase in the registered capital.

(6) The value of the contribution in kind to the capital of the commercial partnerships and companies shall be approved by the general assembly.

(7) The contribution in claims shall be deemed paid in only after the commercial partnerships and companies received payment of amount that made the object of such claim.

Article 115. Rights of Member of Commercial Partnerships and Companies

(1) The member of a commercial partnership or company is entitled:

- a) to participate in its management and activity, under terms set forth by law and the constituting act ;
- b) to receive information on partnership or company activity and to familiarize himself with the accounting records and other documents as provided by law and the constituting act;
- c) to participate in the distribution of society's profit, proportionate to his/her share in the registered capital;
- d) to receive, in case of liquidation, a part of the value of its assets remaining after satisfaction of creditors' claims, proportionate to his/her share in the registered capital;
- e) to undertake other actions provided by law or the constituting act .

(2) The constituting act may provide for other ways for distributing society's profit or assets than that provided in para.(1), but no one may be entitled to the entire society profit or be liberated from losses incurred by it.

(3) Where the management bodies refuse to do so, the member of commercial partnerships and companies is entitled on society's behalf to demand reparation for damage caused from other members.

Article 116. Duties of Commercial Partnerships and Companies Member

(1) The member of the commercial partnership or company is bound:

- a) to convey his/her contributive share in the registered capital, in the order, amount, form and terms set by the constituting act ;
- b) to refrain from disclosing confidential information about society's activity;
- c) to communicate to the society immediately change of domicile or registered office, of name, other information necessary for exercising rights and fulfilling duties of the society and of its member;
- d) to fulfill other obligations provided by law or by the constituting act.

(2) In a partnership, the member is not entitled to carry out activities similar to those carried out by the society, without partnership's consent. In regard of activities of which the members had knowledge upon acceptance of person as member, their consent is presumed, until the first disproof.

(3) Where the member breaches provisions of para.(2), the society may demand compensation for damage or assignment of rights and duties or of benefit resulting from the concluded juridical acts. The request for compensation for damage or assignment of rights and duties or of benefit is subject to a 3-months period of limitation is running from the date when the members became or should have become aware about conclusion of the juridical act, but not later than a year from the date of juridical act conclusion.

Article 117. Affiliated Commercial Partnerships and Companies

Affiliated commercial partnerships and companies are those societies, which in relation to one another:

- a) are enterprises under predominant possession and enterprises with majority interest;
- b) dominant and dependent enterprises;
- c) concern enterprises;
- d) enterprises with mutual interest.

Article 118. Enterprises under Predominant Possession and Enterprises with Majority Interest

(1) Where the majority interest in the registered capital or the majority of the votes of an enterprise that is legally independent belong to another enterprise, the first enterprise is deemed under predominant possession, and the second is an enterprise with majority interest.

(2) The enterprise under majority possession may not, directly or indirectly, own interest or votes in the enterprise with majority interest.

(3) The enterprise with majority interest bears subsidiary liability for the obligations of the enterprise under predominant possession, where the latter became insolvent due to instructions given by the enterprise with majority interest.

Article 119. Dependent Enterprise and Dominant Enterprise

- (1) The dependent enterprise is that over which another enterprise (dominant enterprise) may, directly or indirectly, exert a dominant influence.
- (2) It shall be presumed that an enterprise under predominant possession is dependent from the enterprise with majority interest in the former.

Article 120. Concern and Enterprises within Concern

- (1) Where several enterprises, without depending on each other, associate under a common management, they shall form a concern. Each enterprise is a concern enterprise.
- (2) Enterprises that entered an agreement whereby one of them subordinates its management to another or undertakes to deliver all its profit to the other, or whereby an enterprise is integrated (embodied) into another, shall be deemed to have formed a concern.
- (3) It shall be presumed that the dominant enterprise and the dependent enterprise form a concern.

§2. General Partnership

Article 121. General Provisions on General Partnership

- (1) The general partnership is a commercial partnership, whose members carry out a business in the name of the partnership, according to constituting act, and bear joint and unlimited liability for the debts of the general partnership. The clause whereby liability is limited may not be relied upon against third parties.
- (2) The number of associates must not be less than 2 and exceed 20 natural persons or legal persons. A person may be member of only one general partnership.
- (3) The firm name of a general partnership must contain the words “general partnership” in the state language, or the abbreviation GP, and the name of its members. Where the firm name does not include the names of all partners, it must include the name of at least one of them and the words “and company” or the abbreviation “& Co”.

Article 122. Constituting Act of General Partnership

- (1) In addition to the information specified in Article 108 para.(1), the constituting act of a general partnership must contain:
 - a) Amount and composition of partnership’s registered capital and the order of contribution conveyance;
 - b) Amount and order of modification of contributions to the registered capital of each participant;
 - c) Members’ liability for breaching obligations of contribution conveyance;
 - d) Procedure of decision adoption by the associates;
 - e) Procedure for admission of new associates;
 - f) Grounds and procedure of withdrawal and exclusion of the associate from the society.
- (2) The constituting act may be amended only by unanimous vote of all associates.

Article 123. Management in General Partnership

- (1) A general partnership is managed by mutual consent of all its members. The constituting act of the general partnership may provide for such cases when the working majority of the members shall make a decision.
- (2) Each member of the general partnership shall have one vote, unless the constituting act provides otherwise.

Article 124. Conducting the Business of General Partnership

- (1) Each member of a general partnership is entitled to act in the name of the partnership, unless the constituting act provides that all members of the general partnership conduct the business jointly or that the conduct of the business is assigned to certain partners.
- (2) The powers of the manager are limited to society’s field of activity. In order to undertake acts exceeding these limits, the consent of all the partners is needed.
- (3) When the partners jointly conduct the business of the partnership, decisions shall be taken unanimously. If the partners assign one or more members to conduct partnership’s business, the

other partners shall require power of attorney delegated by the former, in order to enter juridical acts on behalf of the partnership. In relations with third parties, the partnership has no right to rely on the provisions of the constituting act, limiting partners' powers, except when the partnership proves that at the time the juridical act was closed, the third party knew or should have known that the partner had no right to act on behalf of the partnership.

Article 125. Representation of General Partnership

- (1) The right and duty to represent the general partnership lies with each of the partners.
- (2) The constituting act may stipulate the right of one or several partners to represent the partnership. In such case, the other members are not entitled to represent it.
- (3) Where the right of representation belongs to several partners, each of them is entitled to act by himself, unless the constituting act provides that they must act jointly.
- (4) In case of appointment of a third party as manager, the right to represent the general partnership may be stipulated in the constituting act.
- (5) Persons entitled to represent the partnership shall be bound to notify their appointment to the state body where the partnership is registered.
- (6) The provisions of the constituting act limiting partner's right to represent the general partnership shall not be opposable to third parties in good faith. Good faith is presumed.

Article 126. Deprivation and Relinquishment of the Rights of Administration and Representation of the General Partnership

- (1) Where serious grounds exist, upon the request of any member, the court may deprive the person of the right to administer and represent the general partnership. Serious grounds are, amongst others, gross breach of obligations and impossibility to exercise functions.
- (2) Any member may relinquish the right to administer and represent the general partnership by declaration towards the persons entitled to administer and represent the partnership.

Article 127. Distribution of Partnership's Profit and Losses

- (1) Profit and losses of a general partnership shall be distributed among its members in proportion to their shares in the registered capital, unless otherwise provided by the constituting act or other agreement between members. Agreements on removal of any partner from participation in profit and losses are void.
- (2) The associate who has acted in the interest of the partnership without empowerment, is entitled, if the partnership did not accept juridical acts concluded by him, to demand compensation for outlays incurred, within the limits of benefits or savings obtained by the partnership as a result of his/her actions.
- (3) If, as a result of losses incurred by the general partnership, the value of its net assets becomes less than the amount of its registered capital, the profit earned by the partnership shall not be distributed among its members until the value of the net assets exceeds the amount of the registered capital.

Article 128. Liability of Members for Debts of the General Partnership

- (1) General partnership members bear joint and several subsidiary liabilities with all their property for the debts of the partnership.
- (2) A general partnership member, who is not founder, shall be equally liable along with the other members for the debts arisen before he/she had joined the partnership.
- (3) A member who has withdrawn from the partnership shall be liable along with the remaining members for partnership's debts arisen before his/her withdrawal, within two years from the day of approval of the business report for the year when he/she withdrew from the partnership.
- (4) Where an action is filed against an associate for the debts of the general partnership, the former may oppose only exceptions to which the partnership or the associate personally is entitled.
- (5) An agreement between partnership members regarding limitation or removal of any liability provided under this article is void.

Article 129. Change in Membership of General Partnership

(1) If a member of the general partnership withdraws or dies, or is declared missing, incapable or insolvent, or if legal proceedings are initiated against a partner by virtue of a court judgment with a view to his/her reorganization; if a legal person which is a member of the partnership is liquidated, or if a creditor carries out enforcement over partner's share in the registered capital, the partnership may continue its activity, inasmuch as this is provided for by the constituting act or by unanimous agreement of the remaining partners.

(2) A member of the general partnership may be excluded from the partnership on serious grounds, where the other members, by unanimous decision, file an exclusion request to the court.

(3) Where the partnership member has withdrawn, the shares in the registered capital of the other members shall increase accordingly, unless otherwise provided by the constituting act or members' agreement.

(4) Subject to the consent of the other members, a general partnership member may assign his/her share in the registered capital or a part of it, to another member or to a third party. The rights of the member that assigned the share shall be transferred upon assignment, in their entirety or in proportion to the part assigned.

Article 130. Withdrawal of Member from General Partnership

(1) A general partnership member may withdraw from the partnership, contingent on providing a 6-month notice to the other members.

(2) An agreement between partnership members concerning waiver of the right to withdraw is void.

Article 131. Effect of Member's Withdrawal from General Partnership

(1) The member withdrawing from the general partnership shall be paid out the equivalent of partnership property, corresponding to his/her share in the registered capital, unless otherwise provided by the constituting act.

(2) Payment in money may be replaced with compensation in kind by agreement between the withdrawing and the remaining members.

(3) The part of partnership property or its value payable to the withdrawing member shall be determined according to the balance sheet made up as of the day of that member's withdrawal.

Article 132. Decease or Reorganization of the Member of General Partnership

(1) In the event of decease or reorganization of a general partnership member, his/her successors may join the general partnership only with the consent of all other members, unless prohibited by the constituting act. The constituting act may provide for a majority vote for successor's acceptance as partner.

(2) Where the partners do not accept successors as associates, the partnership is bound to pay out a part of net assets proportionate to the share in the registered capital held by the deceased or reorganized member, as on the date of decease or reorganization.

(3) The successor of general partnership member bears liability, within the limits of property conveyed to him, for the obligations incumbent on the deceased or reorganized member, in accordance with Article 128 para.(2) and (3).

Article 133. Enforcement over Member's Share in Registered Capital of General Partnership

(1) Enforcement over member's share in the registered capital of a general partnership for debts of the former not relative to his/her membership in the partnership (personal debts) is allowed only where his/her other property is insufficient to honor those debts. Creditors of such a member are entitled to demand from the general partnership segregation of a part of its property in proportion to debtor's share in the registered capital, in order to attach it. The part of partnership's property subject to segregation or its value shall be determined according to the balance sheet made up as of the date when the creditors submitted their demand for share segregation.

(2) Enforcement over property corresponding to member's share in the registered capital of the general partnership triggers termination of his/her membership in the partnership and gives rise to effects specified in Article 128 para.(2) and (3).

Article 134. Winding-up of General Partnership

(1) Without prejudice to cases provided for in Article 86 para.(1), the general partnership shall be dissolved where it remains with only one member.

(2) The last member of the general partnership is entitled to reorganize it within 6 months, as provided by this Code.

Article 135. Reorganization of General Partnership

(1) In case of reorganization of general partnership into a joint-stock company, a limited liability company or a cooperative, the associates continue to bear joint and several liabilities for partnership's obligations before reorganization, for a period of 3 years.

(2) The associate shall neither be relieved from liability where, before the expiry of the 3-year term, he/she alienates his/her share in the registered capital.

§3. Limited Partnership

Article 136. General Provisions on Limited Partnership

(1) Limited partnership is such a partnerships where, along with the members who manage the business on behalf of the partnership and incur unlimited joint and several liability for the debts of the partnership (general partners), there are also one or more contributory members (limited partners), whose liability for losses incurred in the course of partnership's activity is limited to their contributions and who do not take part in the conduct of partnership's business.

(2) A person may be general partner only in one limited partnership. A general partnership member may not be general partner in a limited partnership. A general partner in a limited partnership may not become general partnership member.

(3) The firm name of the limited partnership shall contain the words "limited partnership" in the state language or the abbreviation "LP", as well as the names of general partners. Where not all names of general partners are included, the partnership name must include the name of at least one general partner and the words "and partners" in the state language or the abbreviation of those words. If the firm name of the limited partnership includes the name of a contributor, he/she shall bear unlimited joint and several liabilities.

(4) The provisions of this Code regarding general partnerships shall apply to limited partnerships inasmuch as they are not contradictory to the provisions of this Code regarding limited partnerships.

Article 137. Constituting Act of Limited Partnership

In addition to the data specified in Article 108 para.(1), the constituting act of a limited partnership must specify:

a) Amount and composition of partnership's registered capital and procedure of conveyance of contributive shares;

b) Amount of and procedure for modification of share in the registered capital of each general partner;

c) Liability of general partners for breach of duty to make contribution;

d) Aggregate amount of contributions conveyed by general partners;

e) Procedure for adoption of decisions by partners;

f) Order of admission of new partners;

g) grounds and procedure of withdrawal and exclusion of partners from the partnership.

Article 138. Management and Representation of Limited Partnership

(1) The limited partnership is managed by its general partners. The order of leadership, management, and representation of such partnership is established by its general partners, in conformity with the provisions of this Code regarding general partnerships.

(2) The limited partners are not entitled to participate in the administration and conduct of business of the limited partnership, to act on its behalf without powers of attorney and to appeal actions of general partners in connection with administration and representation of the

partnership undertaken within the limits of ordinary activity. Where the actions exceed the limits of ordinary activity, consent of all partners is required.

Article 139. Rights and Duties of Limited Partner

(1) The limited partner is entitled:

- a) to receive a part of partnership's profit correspondent to his/her share in the registered capital, as established by the constituting act ;
- b) to examine partnership's annual reports and balance sheets and check them against data from registers and other justificatory documents;
- c) to withdraw from partnership at the end of the financial year and receive a part of the assets proportionate to his/her share in the registered capital, as provided by the constituting act;
- d) to assign all or a part of his/her share in the registered capital to another limited partner or to a third party, if this is allowed by the constituting act .

(2) Rules on prohibition of competition, provided for in Article 116 para.(2), shall not apply to the limited partner, unless otherwise provided by the constituting act .

(3) Upon registration of limited partnership, the limited partner is bound to pay in at least 60% of the share he/she undertook to convey, while the difference is to be paid in within the term set by the constituting act. Payment of contribution shall be confirmed by the participation certificate issued by the partnership.

(4) Partnership's constituting act may provide for other rights and duties of limited partners.

Article 140. Liability in Case of Becoming Limited Partner

The person that became limited partner in an already existing partnership shall bear the risk of losses within the limits of his/her share, including obligations arisen before he/she had become partner. A clause to the contrary shall not be opposable to third parties.

Article 141. Reduction of Share of Limited Partner

(1) The reduction in the share of a limited partner cannot be relied upon against third parties before its entry in the state register.

(2) The reduction in share cannot be relied upon against creditors whose claims had arisen before the reduction was registered.

Article 142. Alienation of share of limited partner

(1) The share of the limited partner can be alienated to third parties and may pass to successors without the consent of the partners, unless otherwise provided by the constituting act .

(2) Limited partners have a right of preemption in case of alienation of share by another limited partner. Rules on alienation of share in a limited liability company shall apply accordingly.

(3) Alienation of the entire share triggers cease of membership as limited partner.

Article 143. Winding-up of Limited Partnership

(1) In addition to the grounds provided for in Article 86 para.(1), the limited partnership shall be dissolved where it has no more general or limited partners and if, within 6 months from the withdrawal of the last general or limited partner, it did not reorganize or accept a general or limited partner.

(2) Where the limited partnership is dissolved, including winding-up as a consequence of insolvency, the limited partners have a preferential right in relation to general partners, to recovery of their contribution to partnership's property remaining after satisfaction of all creditors' claims.

Article 144. Reorganization of Limited Partnership

(1) In case of reorganization of limited partnership into a joint-stock company, limited liability company or cooperative, general partners continue to be jointly and severally liable for the debts of the limited partnership incurred before reorganization, for the following 3 years.

(2) The general partner shall not be liberated from liability even where he/she alienates the right of participation in the registered capital, before the expiry of the 3-year term.

§4. Limited Liability Company

Article 145. General Provisions on Limited Liability Company

- (1) The limited liability company is a commercial company, whose registered capital is divided into shares, according to the constituting act, and whose obligations are secured by society's property.
- (2) The limited liability company may be founded by one or several persons.
- (3) The members of the limited liability company do not bear liability for its obligations. They bear risks ensuing from company's activity only within the limits of their contribution to the registered capital.
- (4) The associate who did not timely pay in the subscribed contribution shall bear subsidiary liability for company's obligations, limited to the part that has not been paid in.
- (5) The limited liability company has a full name and may have an abbreviated one. Both types of names must include the words "limited liability company" in the state language or the abbreviation 'LLC'.

Article 146. Constituting Act of Limited Liability Company

Besides those specified in Article 108 para.(1), the constituting act of the limited liability company shall include:

- a) the amount of registered capital;
- b) the face value of contributions.

Article 147. Registered Capital of Limited Liability Company

- (1) The minimum amount of the registered capital of the limited liability company shall be set by law.
- (2) The registered capital of the limited liability company is divided into shares.

Article 148. Capital Reserves of Limited Liability Company

- (1) The limited liability company is bound to form capital reserves in the amount of at least 10% of the registered capital.
- (2) Capital reserves of the limited liability company may be used only for covering losses or for increasing the registered capital.
- (3) Capital reserves of the limited liability company shall be formed by annual assignments from company's profit, in the amount of at least 5% of the net profit, until reaching the amount set by the constituting act.
- (4) Where the value of net assets of the limited liability company falls under the level of the registered capital and of capital reserves, assignments to capital reserves shall restart.

Article 149. Associate's Share in Limited Liability Company

- (1) Associate's share in the limited liability company represents a portion of its registered capital, established contingent on the amount of contribution to that capital.
- (2) An associate holds a single share. The shares may be of different value and are indivisible, unless otherwise provided by the constituting act.
- (3) Where an associate acquires another share or a part of such share belonging to another associate, the share of the former shall increase proportionate to the acquired share.
- (4) The constituting act of the limited liability company may set a maximum limit on associates' shares. The limitation may not be set only against a certain associate.
- (5) Where the constituting act does not provide otherwise, the associates may alter the ratio between shares.
- (6) The limited liability company shall issue a certificate confirming right to the share and its amount to the associate that paid in the entire contribution.
- (7) Additional contributions to the registered capital shall be made in conformity with the provisions of the by-laws, in proportion to the contribution of each associate. The constituting act may limit the obligation to provide additional contributions up to a certain amount set proportionate to the contributions.

Article 150. Spouses' Share in Limited Liability Company

- (1) Spouses' share acquired during marriage shall be subject to the regime of joint indivisible ownership.
- (2) Associate's spouse may demand neither division of share nor his/her own admittance into the company, unless the constituting act provides otherwise.

Article 151. Procurement of Own Shares by Limited Liability Company

- (1) The limited liability company may procure its own shares, where they have been paid for entirely and only if:
 - a) based on the decision of the general assembly of associates, adopted upon the request of the associate that proposed his/her share or a part of it for sale;
 - b) from the successors of the deceased associate;
 - c) in case of enforcement of claims of associate's creditors;
 - d) in case of associate's exclusion.
- (2) The share may be procured by the limited liability company only on account of assets that exceed the amount of registered capital and of other funds, which the company is bound to form and from which no payment to associates is allowed.
- (3) The limited liability company that has acquired a share in its registered capital shall not be hereby entitled to obtain a part of the distributed profit and participate in voting at associates' assembly.
- (4) The limited liability company is bound to decrease the registered capital proportionate to the value of the acquired share, where this share is not alienated within 6 months from the moment of procurement.

Article 152. Alienation of Share in Limited Liability Company

- (1) The share or a part of the share may be alienated freely to the spouse, direct relatives and relatives by marriage, without limitations, and to collateral relatives to the second degree inclusive, to other associates and to the company, unless otherwise provided by the constituting act.
- (2) The associate may not alienate his/her share until complete payment of the subscribed contribution, save for the case of succession.
- (3) In case of share alienation to other persons than those specified in para.(1), the associates shall have a right of preemption. The alienation shall be governed by provisions of para.(4)-(9).
- (4) The associate intending to alienate his/her share in whole or in part shall submit a written offer to the manager of the company. The latter shall make the offer known to all associates within 15 days from the day of submittal.
- (5) The associates must submit their written approval to the manager within 15 days from the day of offer receipt. The associate shall specify amount of the part of share, which he/she intends to procure.
- (6) Where several applicants exist, each of them shall acquire a part of the share in the requested amount. Where no agreement is reached, the share shall be divided in proportion to the shares held by each of them.
- (7) Where, within 30 days from submittal of offer, the associates or the company did not procure the share, this may be alienated to a third party at a price that cannot be smaller than that indicated in the offer.
- (8) In case of sale of share or a part of it in breach of the right of preemption, any associate may demand in court, within 3 months from the day of conclusion of the juridical act, that the rights and duties of the buyer be transferred on him.
- (9) The juridical act for alienation of share shall be certified by notary.
- (10) Any clause contrary to para.(2)-(9) is void.

Article 153. Enforcement over Share by Associate's Creditors

- (1) Associate's creditors may claim enforcement over his/her share only based on a writ of execution and if the claims cannot be satisfied on account of other property of the associate.
- (2) Creditors' rights over the share shall be exercised in compliance with Article 152.

Article 154. Exclusion of Associate from Limited Liability Company

(1) The general assembly of associates, the manager, and one or several associates may demand exclusion of associate from the limited liability company:

a) where the associate was submitted warning of delay and did not pay the contribution within the additional term;

b) where the associate, while being manager, committed frauds in detriment of the company, used the property of the company for personal purposes or for purposes of third parties.

(2) An associate may be excluded only under a court decision.

(3) The excluded associate shall be reimbursed the contribution paid, within 6 months, without interest accrual, but only after reparation of the damage caused. The duty to compensate for damage subsists in the part that is not covered by the contribution paid.

Article 155. Management, Administration and Representation of Limited Liability Company
Norms on management, administration and representation of limited liability company shall be set forth by law and the by-laws.

§5. Joint-Stock Company

Article 156. General Provisions on Joint-Stock Company

(1) The joint-stock company is a commercial company, whose registered capital is divided into stock shares and whose obligations are secured by company's property.

(2) The joint-stock company may be founded by one or several persons.

(3) The shareholders are not liable for company's debts. They bear the risk of losses that result from company's activity, within the limits of participation in the registered capital.

(4) The shareholder who did not timely pay in the subscribed contribution shall bear subsidiary liability for company's obligations, within the limits of the unpaid part.

(5) The joint-stock company has a full name and may have an abbreviated one. Both names must contain the words "joint-stock company" in the state language or the abbreviation 'JSC'.

Article 157. Constituting Act of Joint-Stock Company

Without prejudice to those specified in Article 108 para.(1), the constituting act of the joint-stock company shall specify:

a) Name of founders;

b) Amount of registered capital;

c) Number, type, face value of shares; share categories and number of shares in each category;

d) Amount of contribution and number of shares attributed to each founder;

e) Number, type, face value, interest rate and terms of extinction of bonds issued by the company;

f) Order of keeping company's registers;

g) Order of conclusion of contracts with conflict of interests.

Article 158. Registered Capital of Joint-Stock Companies

(1) The minimum amount of the registered capital of the joint-stock company shall be set forth by law.

(2) The registered capital of the joint-stock company shall be formed by stock flotation among shareholders and consists of the value of contributions in money and in kind paid in proportion to the number and value of subscribed shares.

(3) Shares issued upon company incorporation shall be distributed entirely between founders.

(4) The founders are bound to pay for the subscribed shares before registration of the joint-stock company, if the contribution is in monetary form, or within 30 days from the state registration, if the contribution is in kind.

(5) Where the assets of the joint-stock company dropped under the minimum set by law and the shareholders' assembly did not take the decision to cover losses or reorganize the company, the latter shall be dissolved.

Article 159. Additional Share Issuance

- (1) The additional share issuance is public, unless the shares are invested into entirely by the shareholders.
- (2) The terms of additional share issuance shall be set by law and shall be the same for all subscribers.

Article 160. Capital Reserves of Joint-Stock Company

- (1) The joint-stock company shall form capital reserves of at least 10% of the amount of registered capital.
- (2) The capital reserves may be used only for covering company's losses or for increasing the registered capital.
- (3) The capital reserves shall be formed of annual assignments from company's profit, amounting to at least 5% of the net profit, until reaching the amount set by the constituting act .
- (4) Where the value of net assets of the joint-stock company drops under the level of the registered capital and the capital reserves, the assignments to the capital reserves shall restart.

Article 161. Shares

- (1) Shares are the fractions in which the registered capital of the joint-stock companies is divided, as provided by the constituting act.
- (2) The share certifies shareholder's right to participate in company's management, to receive dividends or a part of company's property in case of its liquidation, as well as other rights provided by law or by company's constituting act.
- (3) The types of shares shall be set by the constituting act. Otherwise, they shall be deemed bearer shares. Nominative actions may be issued in material form, on paper holder, or in incorporeal form, by entry on account.
- (4) Shares may not be issued against an amount smaller than their face value.
- (5) New shares may not be issued until those from the previous issuance are paid for.
- (6) Shares shall be issued with a total value not smaller than the amount of registered capital.
- (7) The share is indivisible. Where several persons hold one share, they shall be deemed as a single shareholder and shall exercise their rights through an agent.
- (8) Types of share, their legal regime and order of circulation shall be regulated by law.

Article 162. Procurement of Own Shares (Treasury Shares)

- (1) A treasury share is a share procured by the issuer joint-stock company from its shareholder.
- (2) The joint-stock company may not procure its own shares; either directly or through persons acting in their own name, but at company's expense, save for the case where the general assembly decides otherwise, in compliance with the provisions of this article.
- (3) The value of shares acquired by the joint-stock company, including those in its portfolio, may not exceed 10% of the subscribed registered capital.
 - (4) Only entirely issued shares may be procured and only if the subscribed registered capital has been paid in entirely.
- (5) The joint-stock company may procure its own shares only on account of assets that exceed the amount of registered capital and of other funds, which the company is bound to establish and from which no payments under shareholders' rights are allowed.
- (6) The own shares of the company procured in breach of the provisions of para.(2)-(6) shall be alienated within a year from the date of their subscription. Shares that have not been alienated within this term shall be cancelled, the company being under the obligation to reduce the registered capital accordingly.
- (7) Limitations set in para.(2)-(6) shall not apply when the procurement by the company of a certain number of its own shares, entirely defrayed, takes place under one of the following circumstances:
 - a) with the purpose to reduce the registered capital, by cancellation of a certain number of own shares, with a value corresponding to the reduction;
 - b) with the purpose of assigning a number of shares to the personnel of the company, within the limits and under the terms set by the general assembly of shareholders;

- c) by effect of universal succession or amalgamation or a court judgment issued in an enforcement procedure against a debtor of the company;
 - d) the procurement is gratuitous;
 - e) with the purpose to normalize the stock price at the stock exchange or on the organized extra-exchange market, only subject to the approval of the National Commission for Securities.
- (8) The treasury share does not grant the company voting rights in the general assembly of shareholders, right to dividends or the right to a share in property in case of company's liquidation.

Article 163. Bonds

- (1) The joint-stock company may issue bearer and nominative bonds. The immaterial bonds may be only nominative.
- (2) The face value of all bonds issued by the company may not exceed the amount of the registered capital.
- (3) The bond grants to its holder the right to interest promised by the issuer and, at the end of the period for which it has been issued, the right to the face value of the bond. The bonds may be converted into shares.
- (4) The bond cannot be issued for a term shorter than one year.
- (5) The bonds may be issued only by public offer and may be paid for only in money. Payment in installments is not allowed.
- (6) Bonds may not be issued with the aim to formation, replenishment or increase in the registered capital.
- (7) The type of bonds, the legal regime and the order of circulation shall be provided by law.

Article 164. Shareholders' Register and Bondholders' Register

- (1) The company issuing nominative shares and bonds shall keep the register of shareholders and the register of bondholders.
- (2) Where the company has more than 50 shareholders or bondholders, the registers shall be kept by an independent registrar.
- (3) Shareholders' register and bondholders register shall specify:
 - a) name, registered office, and registration number of the issuer company, registration number of each issuance, assigned by the National Commission for Securities;
 - b) name, other data from the identity card, domicile of shareholder or bondholder, who is a natural person; name, registration number and registered office of the shareholder or bondholder that is a legal persons;
 - c) number of shares or bonds, type, category and face value of shares or bonds held by each shareholder or bondholder;
 - d) date on which each shareholder or bondholder acquired or alienated shares or bonds.
- (4) The register must contain a special rubric in which attachment, pledge or other encumbrance on shares or bonds of each shareholder or bondholder is registered.

Article 165. Share or Bond Certificate

- (1) The joint-stock company is bound to issue share or bond certificates to the holder of immaterial shares or bonds.
- (2) The certificate acknowledges that the person to whom it is issued holds a certain number of shares or bonds of the issuer company. The certificate is not a security and its transmittal does not equal transmittal of securities.

Article 166. Right to Alienate Shares and Duty of Redemption

- (1) The shareholder is entitled to alienate his/her shares freely, in compliance with the law.
- (2) The company is bound to redeem the issued shares, if:
 - a) the term for redemption set upon issuance of shares has come up;
 - b) Amendments limiting shareholders' rights have been included in the constituting act ;
 - c) a major contract has been concluded based on the decision of the general assembly of shareholders;
 - d) the company reorganizes and redemption of shares is mandatory.

(3) The shareholder is entitled to request redemption of shares where he/she has not been informed or allowed to participate at the assembly that has decided on issues specified in para.(2) let.b)-d) or if he/she has voted against such a decision and requested this to be recorded in the minutes.

(4) The shareholder is not entitled to demand redemption of shares:

a) in cases set in para.(2) let.b)-d), where the actions have been included in the listing of the stock exchange;

b) where a decision for company's liquidation was adopted.

(5) The decision for redemption of shares shall be adopted by the general assembly of shareholders, unless the constituting act does not attribute this function to the council of the company.

(6) The shares shall be redeemed at market price, unless the constituting act provides otherwise.

Article 167. Additional Rights of Shareholders Detaining 5% of Stock

Shareholders detaining 5% and more of the voting stock are entitled:

a) to make proposals for the agenda of the general assembly of shareholders;

b) to propose candidates to company's council and for the position of inspector;

c) to demand convocation of the extraordinary meeting of company's council;

d) to demand from the court appointment of members of company's council, where they have not been elected during 2 consecutive meetings of the general assembly of shareholders.

Article 168. Additional Rights of Shareholders Detaining 10% of Stock

Shareholders detaining 10% and more of the voting stock are entitled:

a) to demand performance of extraordinary check-ups of the company;

b) to demand determination of the cost of stock flotation of the additional issuance, if the request is based on the conclusion of an auditor;

c) to demand, in the name of the company, reparation of damage caused to it by the members of its bodies.

Article 169. Management, Administration and Representation of Joint-Stock Company

Rules for management, administration and representation of joint-stock company shall be set by law and the constituting act.

Article 170. Shareholders' access to joint-stock company information

(1) The joint-stock company is bound to publish in its publications, at least 10 days prior to the annual general shareholders assembly, the annual accounting balance, the loss and profit balance, the book value of shares and bonds, and other data, as provided by law.

(2) The joint-stock company shall make available to shareholders, in compliance with the law and the constituting act, information regarding management, administration and representation of company, its financial standing, including the constituting act, company's and shareholders' registration certificates, regulations of the company, minutes of general assembly meetings, of council meetings, the list of council's members and managers, contracts with the registrar, auditor, accounting and fiscal reports, inspectors' reports.

(3) Upon the shareholders' request, the company is bound to issue, at the expense of the solicitors, copies and excerpts from documents specified in para.(2).

Section 3: Cooperatives

Article 171. General Provisions on Cooperatives

(1) The cooperative is a voluntary association of natural persons and legal persons, organized on corporate principles, with an aim to favor and guarantee, by joint actions of its members, their economic and other legal interests.

(2) The cooperative may not have less than 5 members. Membership in cooperative may be detained by natural persons over 16 years of age and by legal persons.

(3) The cooperative member bears the risk of its activity within the limits of his/her contribution to the property of the cooperative, including the unpaid part.

(4) The name of the cooperative must contain the word “cooperative” and specify the main purpose of its activity.

(5) The specifics and legal status of various types of cooperatives, as well as rights and obligations of members shall be set by this Code and other laws.

Article 172. Cooperative

(1) Cooperative’s by-laws shall specify:

a) Cooperative’s name;

b) Object of activity and purpose;

c) Registered office;

d) Members’ contributions to the registered capital, order and term of payment of contributions;

e) Performance in money or in kind which may be imposed on members, as well as the nature and value of such performance;

f) Structure, functions, order of formation and functioning of cooperative managing bodies;

g) Order of representation;

h) Rules of convocation of members’ general assembly;

i) Cooperative branches and representation offices;

j) Other data set by law.

(2) The following provisions shall be ineffectual, unless included in the by-laws:

a) Contributions in kind, their object and price at which they are accepted, as well as specification of the member providing such contribution;

b) Individual liability of members;

c) Departure from legal provisions concerning joining, withdrawal and exclusion of cooperative member;

d) Extent and limitations of member’s voting right;

e) Computation and destination of assets exceeding liabilities, for the reference financial period and in case of liquidation;

f) Limitation of contributions certain members to the cooperative of.

(3) The by-laws may provide for other clauses that do not contradict the law.

(4) The by-laws shall be drafted in the state language and shall be signed by all founders.

Article 173. Registration of Cooperative

State registration of cooperatives shall be performed according to the same manner as for made as commercial companies.

Article 174. Cooperative’s Registered Capital

(1) The cooperative has variable registered capital. It consists of the sum of all contributions of its members in conformity with its by-laws.

(2) Before cooperative registration, the member shall be bound to pay in his/her entire contribution, unless otherwise provided by law or the by-laws.

(3) Cooperative members are bound to recover the losses of the cooperative by additional contributions within 2 months after approval of the annual accounting balance. In case of failure to comply with this duty, the cooperative may be dissolved by court judgment, upon creditors’ request. Cooperative members bear subsidiary, joint and several liabilities for cooperative’s obligations, within the limits of the non-transferred part of the additional contribution of each member.

(4) The property remaining after cooperative liquidation shall be distributed between its members, in accordance with the by-laws.

Article 175. Management of cooperative

(1) The supreme management body of the cooperative is the general assembly of its members. A supervisory board may be created where the cooperative has more than 50 members, exercising control over the activity of its executive bodies. The members of the supervisory council shall not be entitled to act in the name of the cooperative.

(2) The executive bodies of the cooperative – the management council and the director of the cooperative – exercise current administration and are subordinated to the supervisory board and the general assembly.

(3) Only a cooperative member may become director of cooperative, member of the supervisory board and of the management council. A person may not be at the same time member of the supervisory board and of the management council or director of cooperative.

(4) The terms of reference of the management bodies and the order of decision-taking shall be set by law and the by-laws.

(5) The exclusive terms of reference of the general assembly includes:

a) amendment of constituting act;

b) creation of the supervisory board and termination of its powers, granting and terminating powers of cooperative's executive bodies, unless this right is attributed by the by-laws to the supervisory board;

c) approval of annual reports and accounting balance, distribution of losses;

d) deciding upon cooperative reorganization and liquidation.

(6) Legislation regarding cooperatives and the by-laws may also set other issues within the exclusive terms of reference of the general assembly. The issues within the exclusive terms of reference of the general assembly or of the supervisory board may not be attributed into the terms of reference of cooperative executive bodies.

(7) Cooperative member is entitled to one vote at the general assembly.

Article 176. Entrance into Cooperative

(1) The cooperative may accept new members anytime.

(2) The by-laws may set certain conditions for acceptance of new members.

Article 177. Termination of Membership and Return of Contribution

(1) Membership in cooperative terminates by withdrawal, exclusion, decease or liquidation.

(2) The member is entitled to withdraw from the cooperative until adoption of the decision of winding-up.

(3) The withdrawing member shall be compensated for the value of his/her contribution or shall be granted property according to his/her share. The computations shall be made according to the balance on the date of withdrawal and where the withdrawal occurs in the course of the financial period, the restitution shall take place according to the last balance.

(4) Unless otherwise provided by the by-laws, the cooperative member may at any time alienate his/her share to another member or to a third party that will hence become member, thus withdrawing from cooperative without claiming restitution of contribution.

(5) The cooperative member may be excluded by decision of the general assembly in case of failure to fulfill or inadequate fulfillment of duties imposed by by-laws, as well as in other cases provided for in the law or the by-laws. The member excluded from the cooperative shall be entitled to restitution of his/her share as under para.(3).

(6) The share may pass by succession, unless the by-laws provide otherwise. Where the successors cannot become cooperative members, they shall be paid the value of the share.

(7) The enforcement over share for personal debts is allowed only in case of insufficiency of another property of cooperative member to cover the debts as provided by law and by by-laws.

Article 178. Cooperative Reorganization and Liquidation

The cooperative shall reorganize and liquidate according to the manner set forth for commercial companies.

Section 4: State Enterprises and Municipal Enterprises

Article 179. State Enterprises and Municipal Enterprises

(1) State enterprises are founded and provided with property by the Government or other authorities authorized thereto.

- (2) Municipal enterprises are established and provided with property by local public administration authorities.
- (3) State and municipal enterprises are legal persons liable for their obligations with all their property.
- (4) The state and territorial-administrative units shall not be liable for the debts of state and municipal enterprises. The enterprises shall not be liable for debts of the state and of territorial-administrative units.
- (5) The specifics of incorporation, activity and cease of activity of state and municipal enterprises are established by this Code, legislation concerning state and municipal enterprises, legislation concerning local public administration, other normative acts, as well as standard form by-laws of these enterprises.

Section 5: Noncommercial Organizations

Article 180. General Provisions on Noncommercial Organizations

- (1) The noncommercial organization is the legal person whose purpose is other than profit-making.
- (2) The following persons are noncommercial organizations:
 - a) Association;
 - b) Foundation;
 - c) Institution.

Article 181. Association

- (1) The association is a noncommercial organization voluntarily incorporated, as provided by law, by associated natural persons and legal persons, based on common interests that do not infringe upon public order and good morals, for the purpose of satisfying non-material needs.
- (2) The association may take the form of a public association, a religious association, a political party or another social-political organization, trade union, association of legal persons, employer association, and other forms as provided by law.
- (3) Membership in association is recorded.
- (4) The property conveyed to the association by founders (associates) belongs to the former.
- (5) Members do not preserve title to property conveyed to the association into ownership, as well as the right on the membership fee paid. Members shall not be liable for association's obligations, and the latter shall not be liable for obligations of its members.
- (6) The specifics of incorporation, activity and legal status of various types of associations shall be set by law.

Article 182. Foundation

- (1) The foundation is a noncommercial organization, without members, formed of one or several natural persons and legal persons, endowed with distinct property, separated from that of the founders, designated to accomplish noncommercial purposes provided in the constituting act.
- (2) The foundation may be instituted through will.

Article 183. Institution

- (1) The institution is a noncommercial organization created by the founder (founders) in order to fulfill certain functions of administrative, social, cultural, educational nature or other noncommercial functions, financed in whole or in part by that founder (those founders).
- (2) The property is deemed conveyed by the founder into institution's ownership, unless the constituting act provides otherwise.
- (3) Both natural persons and legal persons, including legal persons of public law, may become founders.
- (4) The founder shall be liable for institution's obligations inasmuch as its property is not sufficient for their extinction.
- (5) The institution may be public or private.

Article 184. Public Institution

- (1) The public institution shall be established based on an act issued by the public authority and shall be financed, in whole or in part, from the budget of the latter.
- (2) The public institution shall not be entitled to establish other legal persons, save for unions of legal persons.

Article 185. Private Institution

- (1) The private institution shall be established based on the decision of a natural person or a legal person of private law that provides the institution with financial resources in accordance with the purpose set.
- (2) The decision to establish a private institution shall be certified by notary.

Article 186. By-laws of Noncommercial Organization

- (1) The noncommercial organization acts based on its by-laws, unless the law provides otherwise.
- (2) The by-laws shall be signed by all founders, unless the law provides otherwise.
- (3) The by-laws of the noncommercial organization shall specify:
 - a) Name;
 - b) Purpose and object of activity;
 - c) Registered office;
 - d) Name, domicile, date of birth, citizenship and other data from the identity cards of the founders;
 - e) Conditions and order of admittance into the noncommercial organization, order of withdrawal and exclusion of members (for associations);
 - f) Order of property formation, founders' contributions and members' periodical fees;
 - g) Procedure of appointment and discharge of body members;
 - h) Procedure for creation and liquidation of branch offices;
 - i) Order and terms of reorganization;
 - j) Order of organization's liquidation;
 - k) Other data set forth by the law for the respective type of noncommercial organizations.
- (4) The by-laws may provide for other clauses that do not contradict the law.

Article 187. Types of Activity of Noncommercial Organization

- (1) Noncommercial organizations are entitled to carry out any type of activity that is not prohibited by law and pertains to the accomplishment of purposes provided by the by-laws.
- (2) Activity subject to licensing under the law shall be carried out by noncommercial organizations only after obtaining license.

Article 188. Economic Activity of Noncommercial Organization

- (1) The noncommercial organization is entitled to carry out economic activity that directly derives from the purpose provided in the by-laws.
- (2) Noncommercial organizations may establish commercial partnerships and companies and cooperatives, in order to carry out economic activity that does not follow directly from the purpose provided by the by-laws.
- (3) The rights of certain types of noncommercial organizations to found commercial partnerships and companies and cooperatives may be limited by law.

Article 189. Management, Administration and Representation of Noncommercial Organization

Rules concerning management, administration and representation of noncommercial organization shall be set by law and its by-laws.

Article 190. Conflict of Interests

- (1) The noncommercial organization must avoid conflicts of interests in its activity, and when such conflicts arise it shall solve them in conformity with Article 191.
- (2) It shall be deemed that there is a conflict of interests in case of conclusion of a juridical act regarding property of noncommercial organization, between that organization and the interested person.

(3) For the purpose of this article, the following persons shall be deemed as interested: organization's manager, members of its management and control bodies, employees, as well as other persons who, due to specific relations with the noncommercial organization, may influence decisions regarding conclusion of juridical acts in the name of the organization with himself or with other persons that are relatives up to the third degree inclusive, have labor relations with, or are debtors of, the interested person.

Article 191. Resolution of Conflicts of Interests

(1) juridical acts with conflict of interests must receive preliminarily approval from the supreme body of the noncommercial organization, unless the by-laws attributes this to the terms of reference of another collective body.

(2) The interested person is bound to compensate for the damage caused to the noncommercial organization by conclusion of a juridical act with conflict of interests, where the competent body had not approved it.

(3) In addition to provision of compensation for damage, the interested person is bound to return to the organization all income obtained as a consequence of concluding the juridical act with conflict of interests. Where the damage has been caused by actions of several interested persons, they shall bear joint and several liabilities towards the noncommercial organization.

CHAPTER III: PARTICIPATION OF THE REPUBLIC OF MOLDOVA AND TERRITORIAL-ADMINISTRATIVE UNITS OF THE REPUBLIC OF MOLDOVA IN RELATIONS REGULATED BY CIVIL LEGISLATION

Article 192. Republic of Moldova and territorial-administrative units of the Republic of Moldova as subjects of civil law

(1) The Republic of Moldova and the territorial-administrative units of the Republic of Moldova participate in relations regulated by civil legislation based on the principle of equality with other parties to these relations – natural and legal persons.

(2) The rules that govern participation of legal persons in relations regulated by civil legislation shall apply to the subjects specified in para.(1), unless it appears otherwise from the law or the nature of these subjects.

Article 193. Participation of the Republic of Moldova and territorial-administrative units in relations regulated by civil legislation

(1) Central public administration authorities may acquire and exercise patrimonial and personal extra-patrimonial rights and duties on behalf of the Republic of Moldova, as well as represent the Republic of Moldova before courts, within the limits of their terms of reference.

(2) Local public authorities may acquire and exercise rights and duties, in the name of territorial-administrative units, within the limits of their terms of reference.

(3) In cases and in the order provided by the law, Presidential decrees, Governmental decisions and ordinances and by acts of local public administration, natural persons and legal persons may act in the name of those authorities, under a special authorization. The rules of mandate shall apply inasmuch as they do not contravene to the essence of the legal relation or a different stipulation has been expressly provided.

Article 194. Civil liability of the Republic of Moldova and its territorial-administrative units

(1) The Republic of Moldova and its territorial-administrative units are liable for their obligations with all property belonging to them by the right of private ownership.

(2) The Republic of Moldova does not bear liability for the obligations of territorial-administrative units.

(3) The territorial-administrative units are not liable for the obligations of the Republic of Moldova.

(4) Provisions of para.(2) and (3) shall not apply in cases when the Republic of Moldova has offered guaranty for the obligations of territorial-administrative units or the latter have offered guaranty for the obligations of the Republic of Moldova.

(5) The specifics of civil liability of the Republic of Moldova and its territorial-administrative units in relations with foreign natural persons and legal persons or in relations with other states shall be set forth by law.

TITLE III: JURIDICAL ACT AND REPRESENTATION

CHAPTER I: GENERAL PROVISIONS ON JURIDICAL ACT

Article 195. Definition of Juridical Act

A juridical act is a declaration of the will of a natural person or legal person intended for rise, alteration or termination of civil rights and duties.

Article 196. Unilateral, Bilateral and Multilateral Juridical Act

(1) A juridical act may consist in the declaration of will of a single party. The unilateral juridical act gives rise to obligations of third parties only in cases provided for by law.

(2) Rules concerning obligations and contracts shall apply to unilateral juridical acts accordingly, unless this contravenes to the law or the unilateral character of the juridical act.

(3) A bilateral juridical act consists in declaration of the coordinated will of two parties.

(4) A multilateral juridical act is a declaration of will of three or more parties.

Article 197. Gratuitous Juridical Act and Onerous Juridical Act

(1) Gratuitous juridical act is the act whereby a property benefit is procured in favor of a party, without aiming at obtaining another property benefit in exchange.

(2) The onerous juridical act is the act whereby a property benefit is procured in favor of a party in exchange for another property benefit.

Article 198. Juridical Acts for Preservation, Administration and Disposal

(1) A juridical act for preservation is the act whereby prevention of loss of a subjective civil right is pursued.

(2) A juridical act for administration is the act whereby an ordinary use of a property or of a patrimony is pursued.

(3) A juridical act for disposal is the act aiming at alienation of a right from one patrimony or charging a property with real encumbrances.

CHAPTER II: CONDITIONS OF VALIDITY OF JURIDICAL ACTS

Article 199. Consent

(1) The consent is person's expressed declaration of will to conclude a juridical act.

(2) The consent is valid where it comes from a person of sound mind, is expressed with the intention to produce legal effects and is not vitiated.

Article 200. Moment when Consent Becomes Effective

(1) The declaration of will that must be received by the other party shall produce effects at the moment when it is received by the latter, regardless of whether that party became aware of its content.

(2) The declaration of will shall not produce effects where the other party has earlier or at the same time received a declaration of retraction.

(3) The validity of declaration of shall not be affected by the decease of person who expressed his/her will, or his/her deprivation of active capacity, where these events occurred after declaration of will.

Article 201. Impossibility to Determine Substance of Consent

The juridical act shall not be deemed concluded where the substance of consent cannot be inferred with certainty either from the expressed declaration or from other circumstances of conclusion.

Article 202. Consent of Third Party upon Juridical Act Conclusion and Performance

(1) Where the effect of a juridical act that must ensue in relation to another person depends on the consent of a third party, the consent or disapproval may be expressed towards either of the parties involved.

(2) The consent does not require compliance with the form requirements set for the juridical act.

Article 203. Preliminary Consent for Conclusion of Juridical Act

Preliminary consent is revocable until the juridical act is concluded, unless it follows otherwise from the legal relation based on which the preliminary consent has been given. Revocation may be expressed towards either of the parties involved.

Article 204. Subsequent Consent on Conclusion of Juridical Act

(1) Absent provisions to the contrary, the subsequent consent (confirmation) has retroactive effects from the moment of conclusion of the juridical act.

(2) Acts of disposal prior to confirmation made by the person entitled to confirm, or those made in the course of enforcement or attachment procedure, or those taken by the insolvency trustee, shall not be cancelled by retroactivity of confirmation.

Article 205. Effects of Juridical Act for Disposal Made by Person without Powers

(1) The juridical act for disposal in regard of a thing, made by a person without powers, shall produce effects where it is concluded with the consent of the entitled person.

(2) The juridical act for disposal in regard of a property, made by a person without powers, shall produce effects where the entitled person confirms it, or where the one who concluded the juridical act later acquires the property or inherits it from the entitled person, undertaking unlimited liability for the inherited obligations. In case of acquisition or inheritance, where several mutually incompatible juridical acts for disposal have been concluded, only the juridical act concluded first shall produce effects.

Article 206. Object of Juridical Act

(1) Obligation of the person who concluded a juridical act is deemed to be the object of such juridical act.

(2) The object of a juridical act must be licit, in civil circulation and determined or determinable at least in its genre.

(3) Future property may constitute object of juridical act as well.

Article 207. Cause of Juridical Act

(1) A civil juridical act concluded without cause or based on a fictitious or illicit cause cannot produce any effects.

(2) The cause of juridical act is presumed until the first disproof.

(3) A cause that contravenes to legal provisions, public order or good morals is deemed illicit.

Article 208. Form of Juridical Act

(1) A juridical act may be concluded by word of mouth, in written or in certified form.

(2) The form shall be a condition for validity of juridical act only in cases expressly provided by law.

(3) A juridical act that may be concluded by word of mouth shall also be deemed concluded where the intent to conclude the juridical act obviously appears from person's conduct.

(4) Silence shall be deemed declaration of the will to conclude a juridical act in cases provided by law or under parties' agreement.

(5) Any amendment of juridical act must take the form set for that juridical act.

(6) A promise to conclude a juridical act is not subject to the form required for such juridical act.

Article 209. Juridical Act Concluded by Word of Mouth

(1) The juridical act for which the law or parties' agreement does not establish written or certified form may be concluding by word of mouth.

(2) The juridical act performed upon conclusion may be concluded by word of mouth. This rule does not apply to juridical acts requiring certified form or juridical acts for which written form is required ad validitatem.

Article 210. Juridical Act Concluded in Written

- (1) Juridical acts between legal persons, between legal persons and natural persons, and those between natural persons, with regard to an object the value of which exceeds 1000 lei, or, in cases provided by law, regardless of object value, shall be concluded in written.
- (2) Where, according to legal provisions or parties' agreement, the juridical act should be concluded in writing, it may be concluded either by drafting a single document, signed by the parties, or by an exchange of letters, telegrams, phoned telegrams, other similar instruments, signed by the party that sent them.
- (3) Use of technical means for signing juridical acts is allowed in cases and in the order set by law or by parties' agreement.
- (4) Where, due to physical disability, illness or other reasons, the person cannot personally sign the juridical act, it may be signed by another person, based on empowerment given by the former. The signature of the third party shall be certified by notary or another person empowered by law and record shall be made of the reason by virtue of which the juridical act could not be signed personally.

Article 211. Nonobservance of Written Form Requirement

- (1) Nonobservance of written form requirement shall deprive the parties of the right to demand proof of juridical act by witness testimony, in case of dispute.
- (2) Nonobservance of written form requirement shall render the juridical act null only this is expressly provided by law or by agreement of the parties.

Article 212. Certified Form of Juridical Act

Conclusion of juridical act in certified form is mandatory in the following cases:

- a) cases set forth by law;
- b) cases set forth by parties' agreement, even if the law does not require certified form.

Article 213. Effects of Nonobservance of Certified Form Requirement

- (1) Nonobservance of certified form requirement shall render the juridical act null.
- (2) Where one of the parties performed, in whole or in part, the juridical act for which the certified form is required, while the other party is eluding notary certification, the court is entitled, upon the request of the party that performed the juridical act, to declare the juridical act valid, unless it contains elements that contradict legal provisions. In such case, subsequent certification of juridical act by notary is not required.
- (3) The party that eluded notary certification of juridical act without good reason is bound to compensate the other party for damage caused by delay of certification.

Article 214. Registration of Juridical Act

- (1) A juridical act concerning immovables shall be registered as established by law.
- (2) Law may set registration requirement for other juridical acts.

Article 215. Effects of Nonobservance of Juridical Act Registration Requirement

- (1) Where the juridical act subject to registration is concluded in the legally required form, but the party bound eludes registration or the term for registration set by law has lapsed, the court may, upon the request of the interested party, order registration of juridical act. In such case, registration of juridical act shall be made on basis of court decision.
- (2) The party that eluded registration of juridical act without good reason is bound to compensate the other party for damage caused by delay of registration.

CHAPTER III: NULLITY OF JURIDICAL ACT

Article 216. Null and Annulable Juridical Acts

- (1) A juridical act is null on grounds established by this code (absolute nullity).
- (2) The juridical act may be declared null on grounds established by this Code by the court or by parties' agreement (relative nullity).

Article 217. Absolute Nullity of Juridical Act

- (1) The absolute nullity of a juridical act may be invoked by any person having a present and actual in doing so. It is invoked by court of its own motion.
- (2) Absolute nullity may not be lifted by parties' confirmation of such null juridical.
- (3) The action for ascertainment of absolute nullity shall not be subject to period of limitation s.

Article 218. Relative Nullity of Juridical Act

- (1) The relative nullity of a juridical act may be invoked only by the person in whose interest it is established or by successors of that person, by his/her legal representative or by the unsecured creditors of the protected party, by means of oblique action.
- (2) Relative nullity may be remedied by express or tacit will of the person in whose interest the nullity is provided for. The will to confirm the annulable juridical act must be certain and evident.
- (3) In order to confirm an annulable juridical act, it is not necessary for the will to be expressed in the form required for the respective juridical act.
- (4) Where the nullity of a juridical act may be invoked by each of the parties or by several of them, confirmation by one of them does not prevent the others from invoking nullity.

Article 219. Effects of Juridical Act Nullity

- (1) The null juridical act ceases retroactively from its inception. Where it follows from the substance of the juridical act that it may cease only for the future, the juridical act shall not produce effects for the future.
- (2) Each party is bound to return all that he/she received by virtue of null juridical act and, in case of impossibility of restitution, to compensate for the value of counter-performance.
- (3) The party and third parties in good faith are entitled to compensation for the damage caused under the null juridical act.

Article 220. Nullity of Juridical Act Contrary to Law, Public Order and Good Morals

- (1) A juridical act or a clause contrary to mandatory rules is void, unless it follows otherwise from legal provisions.
- (2) A juridical act or a clause contrary to public order or good morals is void.
- (3) Nullity of clause does not entail nullity of the entire juridical act if it may be assumed that the juridical act would have been concluded even in the absence of the void clause.

Article 221. Nullity of Sham and Feigned Juridical Acts

- (1) A juridical act made with no intention to create legal effects (sham juridical act) is void.
- (2) A juridical act concluded with the purpose to conceal another juridical act (feigned juridical act) is void. In regard of the concealed juridical act the respective rules shall apply.
- (3) In case of transfer of property acquired by virtue of a sham juridical act to a third party in good faith, it shall be deemed that the transfer occurred on a valid legal ground.

Article 222. Nullity of Juridical Act Concluded by Incapable Person

- (1) A juridical act concluded by an incapable person is void.
- (2) A person with full active capacity shall be bound to compensate for the damage caused to the other party by conclusion of the void juridical act; if it is proved that the former was or should have been aware that the other party was incapable.

Article 223. Nullity of Juridical Act Concluded by a Minor between 7 and 14 Years of Age

- (1) Juridical acts concluded by a minor between 7 and 14 years of age are void, save for those set forth in Article 22 para.(2).
- (2) A person with full active capacity shall be bound to compensate for the damage caused to the minor, unless he/she proves that he/she was not and shouldn't have been aware of the fact that the other party lacked capacity needed to conclude the juridical act.

Article 224. Nullity of Juridical Act Concluded by a Minor between 14 and 18 Years of Age or by a Person with Limited Capacity

- (1) A juridical act concluded by a minor between 14 and 18 years of age or by a person with limited active capacity, without the consent of the parents, adoptive parents or the trustee, where such consent is required by law, may be declared void by court, upon the request of the parents, adoptive parents or trustee.

(2) A person with full active capacity shall be bound to compensate for the damage inflicted to the other party; if it is proved that he/she was or should have been aware that the other party was lacking capacity to conclude the juridical act.

Article 225. Nullity of Juridical Act Concluded by a Person without Discernment or a Person Unable to Direct his/her Actions

A juridical act concluded by a capable person in a moment when he/she was not able to realize or direct his/her actions may be declared void by court.

Article 226. Nullity of Juridical Act Concluded in Breach of Powers Accorded

Where powers of a person to conclude juridical acts are limited by contract or – in regard of powers of a body of a legal person – by constituting act, as compared to the powers stipulated in the mandate, law or deducted from the circumstances of juridical act conclusion, the juridical act concluded in breach of the limits imposed shall be declared null only where it is proved that the other party was or should have been aware about those limits.

Article 227. Juridical Act Made by Error

(1) A juridical act made on basis of a serious error may be declared void by court.

(2) An error is deemed serious if upon conclusion there has been a false representation in regard of:

- a) the nature of the juridical act;
- b) the substantial properties of the object of juridical act;
- c) the parties to the juridical act (partner or beneficiary), where their identity constitutes a decisive reason for concluding the juridical act.

(3) Error regarding reason for juridical act is substantial only where the reason is included in the object of juridical act.

(4) Error imputable to the one whose consent is vitiated may not serve as grounds for annulment of juridical act.

(5) A person in whose interest the nullity has been declared shall be bound compensate the other party for damage caused, limited to the amount of the benefit the latter would have obtained absent the nullification of juridical act. Likewise, the damage shall not be compensated for, where it is proved that the person entitled to compensation knew or should have known about the error.

(6) A juridical act concluded by error may not be contested, if the other party agrees to perform in conformity with the wish of the party that intends to challenge the juridical act.

Article 228. Nullity of Juridical Act Made by Fraud

(1) A juridical act, conclusion of which has been induced by fraudulent or deceitful conduct of one of the parties, may be declared null by the court, even where the author of fraud had estimated that the juridical act is also advantageous for the other party.

(2) If a party conceals certain circumstances, which, if revealed, would prevent the other party from concluding the juridical act, the latter may demand nullification of juridical act only if, based on the principle of good faith, it could have been expected that the other party would reveal those circumstances.

(3) Where the fraud is committed by a third party, the juridical act may be declared null only if it is proved that the other party knew or should have known about the fraud.

Article 229. Juridical Act Made by Duress

(1) A juridical act concluded under physical or mental duress may be declared null by court even in cases when duress had been exercised by a third party.

(2) Only such duress may serve as grounds for annulment of juridical act, which, by its nature, is sufficient to make a person believe that an inevitable danger threatens him, his/her spouse, his/her relatives or other close persons or their property.

(3) For the purposes of this article, there is no duress where its author has not used illicit means.

Article 230. Nullity of Juridical Act Made under Confluence of Difficult Circumstances

(1) A juridical act concluded by a person under extremely unfavorable terms, due to confluence of difficult circumstances, which the other party profited by, may be declared null by court.

(2) A court may maintain the juridical act where the defendant offers a reduction of claim or a fair pecuniary compensation.

Article 231. Nullity of Juridical Act Concluded due to Fraudulent Agreement between Party's Agent and Other Party

(1) A juridical act concluded due to a fraudulent agreement between the agent of a party and the other party may be annulled by court.

(2) The request for annulment under para.(1) may be submitted within one year from the day when the interested person became or should have become aware of the conclusion of juridical act.

Article 232. Nullity of Juridical Act Concluded in Breach of Interdiction to Dispose of a Property

A juridical act whereby a property, regarding which the law or a competent body had established an interdiction of disposal, has been disposed of in favor of certain persons, may be declared null by court, upon request of the persons in whose interest the interdiction is set.

Article 233. Term for Filing Action for Annulment of Juridical Act

(1) The entitled person may demand annulment of juridical act on grounds set in Articles 227, 228 and 230 within 6 months from the day when that person became or should have become aware about the grounds for annulment.

(2) The annulment request on grounds set in Article 229 may be submitted within 6 months from the day when violence ceased.

CHAPTER IV: CONDITIONAL JURIDICAL ACTS

Article 234. Conditional Juridical Act

A juridical act is deemed conditional where the rise or termination of civil rights and duties is conditional upon a future uncertain event.

Article 235. Void Condition

(1) A condition shall be void if it is contrary to the law, public order and good morals or if its fulfillment is impossible. A juridical act that depends on such a condition is null.

(2) A condition the occurrence or non-occurrence of which depends on the will of parties to the juridical act is void. A juridical act concluded under such a condition is ineffective.

Article 236. Positive Condition

(1) Where the juridical act is concluded contingent on occurrence of a certain event within a fixed term, the condition is deemed unfulfilled if that term has elapsed and the event did not come about.

(2) Where no term is fixed, the condition may be fulfilled anytime. The condition shall be deemed unfulfilled if it is clear that the event cannot come about.

Article 237. Negative Condition

(1) If a juridical act is concluded contingent on non-occurrence of certain event within a fixed term, the condition shall be deemed fulfilled even when, before the lapse of the term fixed, it is clear that the event cannot come about.

(2) If no term is fixed, the condition shall be deemed fulfilled only when it is clear that the event will not come about.

Article 238. Inadmissibility to Influence Occurrence of Condition

(1) A person, who concludes a juridical act under a certain condition, is not entitled, before the satisfaction of that condition, to commit any act, which may prevent fulfillment of his/her obligations.

(2) If the condition occurs at a certain time and the person has already committed an interfering act, he/she shall be bound to compensate the other party for damage caused thereby.

Article 239. Juridical Act under Suspensive Condition

A juridical act shall be deemed concluded under a suspensive condition, if the rise of rights and duties stipulated by the juridical act depends on a future uncertain event or an event, which has already happened, but is not yet known to the parties.

Article 240. Juridical Act under Subsequent Condition

A juridical act shall be deemed concluded under a subsequent condition, if the occurrence of that condition results in termination of juridical act and restores the state, which existed before concluding the juridical act.

Article 241. Good faith in Condition Occurrence

(1) If the occurrence of a condition is delayed in bad faith by the party to whom the occurrence of this condition is disadvantageous, the condition is deemed to have occurred.

(2) If the occurrence of a condition is brought about in bad faith by the party to whom the occurrence of this condition is advantageous, the condition is deemed not to have occurred.

CHAPTER V: REPRESENTATION AND POWER OF ATTORNEY

Article 242. Representation

(1) Juridical acts may be concluded either personally or by agent. Agent's authority may be granted either under law, under a juridical act or follow from the circumstances under which such agent acts.

(2) A juridical act concluded by a person (the agent) in the name of another person (the principal) within the scope of his authority shall give rise, modify and extinguish the rights and duties of the principal.

(3) If a juridical act has been concluded in the name of another, the principal may not set up a lack of authority against the other party, where this principal has caused such circumstances that made the other party in good faith to believe that such authority had been granted.

(4) Where, at the conclusion of a juridical act, the agent fails to disclose his authority, such juridical act shall bind the principal insofar as the other party ought, under the circumstances of its conclusion, to have known that the agent was acting as an agent. The same applies where the contracting party's quality is irrelevant to the other party.

(5) A juridical act may not be concluded by an agent, where, owing to its nature, the principal must conclude it personally or conclusion by agent is prohibited under law.

Article 243. Agent with Limited Active Capacity

The validity of a juridical act entered into by an agent is not impaired by the fact his active capacity is limited.

Article 244. Subagency

(1) An agent shall conclude all juridical acts for which he was granted authority personally. He may appoint a subagent insofar as he is authorized to do so by the principal or this is in the latter's best interests.

(2) An agent who appointed a subagent is bound to give, as soon as possible, notice about this to the principal specifying the subagent and any other relevant information. Where this is not complied with, such agent shall be liable for any subagent's acts as if they were his own acts.

Article 245. Vitiating Consent. Duty of Awareness

(1) Where an act concluded by an agent is to be nullified on grounds of vitiated consent, regard shall be had only to the consent of such agent.

(2) Where an agent's authority is granted under a power of attorney and he acted in compliance of such authority, the principal may not rely on such agent's unawareness of any circumstances that he himself knew or ought to have known.

Article 246. Granting Authority

(1) Authority may be granted by declaration of will either towards the agent or the third party with whom such agent is to treat.

(2) A declaration whereby authority is granted need not be made in the form required for the juridical act to be concluded by agency. This does not apply where it will hinder the protective function of form requirements.

Article 247. Duration of Authority

(1) Where the authority is granted by declaration to a third party, it shall remain valid such third party until their cancellation by the principal.

(2) Where a person announced, in a public communication or in a special communication addressed to a third party, that he grants authority to another person, such agent's authority continues in respect to any person, in the first case, and in respect to such third party, in the second case. Agent's authority continues until such authority is cancelled in the same manner in which it was originally granted.

Article 248. Alteration or Withdrawal of Authority

Third parties must be given notice of alteration or withdrawal of authority through adequate means. Where this is not complied with, such alteration or withdrawal of authority may not be set up against third parties, save for cases where it is proved that such third parties, at the conclusion of juridical act, knew or ought to have known about this alteration or withdrawal.

Article 249. Agent Acting without or outside its Authority

(1) Where a person acting as an agent acts without authority or outside the scope of its authority, a juridical act so concluded shall be binding upon the principal insofar as he subsequently confirms it. In this case, such juridical act may be confirmed either expressly or by any action implying such confirmation.

(2) Where the other party submits to the principal a request for confirmation of a juridical act, such confirmation may be done by an express declaration submitted directly to the other party. Where such declaration of confirmation is not submitted to the other party within 2 weeks as of receipt of request, it shall be deemed that the principal has refused to confirm such juridical act.

(3) Pending confirmation and subject to the party, who concluded a juridical act with an unauthorized agent, not knowing the lack of authority, such party may cancel such that juridical act by a declaration submitted either to the agent or the principal.

Article 250. Liability of Agent Acting without Authority

(1) Where a person, who concluded a juridical act as agent, fails to prove his authority and the principal refuses to confirm such juridical act, the former is bound, upon the choice of the of the other party, either to perform such juridical act or to compensate for damage caused thereby.

(2) Where an agent was not aware of his lack of authority, he shall be bound to compensate only for damage incurred because the other party was convinced that he was granted authority and to the extent to which the other party bears an interest in the validity of such an act.

(3) An agent who has acted without authority shall bare no liability, where the other party knew or ought to have known about the lack of such authority. Nor shall he be liable in cases where his active capacity was limited, save for cases when he acted subject to the consent of his trustee.

Article 251. Juridical Act Concluded with Agent Himself

Inasmuch as he is not expressly authorized, an agent may not conclude juridical acts in the name of the principal with himself, either in agent's own name, or as agent of a third party, save for cases where the juridical act consists exclusively in performance of an obligation.

Article 252. Power of Attorney

(1) A power of attorney is a writ executed to confirm authority granted to one or several agents.

(2) A power of attorney issued for conclusion of juridical acts requiring notary certification must be also certified by notary.

(3) Powers of attorney certified by local public administration authorities, in conformity with the law shall be equivalent to powers of attorney certified by notary.

(4) Powers issued by the following authorities shall be equivalent to those certified by notary:

a) Powers of attorney issued by persons under in-patient treatment in hospitals, sanatoriums and other military medical institutions, where powers of attorney are certified by the chiefs of those institutions, by their deputies in medical problems or by the chief medical officer or the doctor on duty;

b) powers of attorney issued by military men, and – in points of dislocation of military units, institutions or military educational institutions, where there are no notary offices or other bodies that perform notary acts – powers of attorney issued to employees of those institutions, to their

family members and to family members of military men, certified by the commander (chief) of the respective unit or institution;

c) powers of attorney issued by persons serving their sentence in institutions of confinement, certified by the chief of that institution;

d) powers of attorney issued by adult persons found in institutions of social protection of the population, certified by the administration of the respective institution or by the chief of the respective social protection body.

(5) Powers of attorney issued for receipt of salary or other benefits at the workplace, for receipt of pension, aids, stipends, correspondence, including parcels and money transfers, may be certified by administration at the workplace or place of study of the person that issues the power of attorney, by the organization for housing administration from the domicile of the person issuing the power of attorney or by the management bodies of the medical institution where the person issuing the power of attorney is interned.

Article 253. Substitute Power of Attorney

(1) A person to whom the power of attorney is issued may issue a substitute power of attorney only if this is expressly provided for in such power of attorney or this is in the principal's best interest.

(2) Such substitute power of attorney shall be certified by notary in all cases.

Article 254. Duration of Power of Attorney

(1) The duration of a power of attorney shall not exceed 3 years. Where the power of attorney fails to specify the period of its duration, it shall be valid for one year from the date of issuance.

(2) A power of attorney that fails to specify the date of its issuance is void.

(3) A power of attorney issued for concluding juridical acts outside the Republic of Moldova and certified by notary shall be valid until its cancellation by the person that issued it.

Article 255. Termination of Power of Attorney

(1) A power of attorney shall end in case of:

a) expiry of its duration;

b) its cancellation by the principal;

c) refusal of the agent;

d) winding-up of a legal person that has issued the power of attorney;

e) winding-up of a legal person to whom the power of attorney has been issued;

f) death of natural person-principal or him becoming incapable, limited in active capacity or declared missing;

g) death of natural person-agent or him becoming incapable, limited in active capacity or declared missing.

(2) The person that issued the power of attorney may cancel it anytime, while the person to whom the power of attorney is issued may refuse anytime to provide Representation under the power of attorney. Any clause to the contrary shall be void.

(3) Upon cease of validity of the power of attorney, the replacement power of attorney shall also terminate.

Article 256. Notification on Cancellation and Termination of Power of Attorney

The person that issued the power of attorney is bound to give notice on cancellation and cease of validity of power of attorney to the one to whom it was issued and to third parties known to the former, whom the agent was to contract with. The same obligation is binding on the successors of the person that issued the power of attorney, in cases set in Article 255 para.(1) let.d) and f).

Article 257. Effects of Cease of Validity of Power of Attorney

(1) juridical acts concluded by agent before he/she became or should have become aware of the cease of validity of the power of attorney shall remain valid for the principal and his/her successors, save for the case when they prove that the other party was or should have been aware that the power of attorney had terminated.

(2) Upon cease of validity of the power of attorney, the person that issued it or his/her successors shall be bound to return the power of attorney immediately.

Article 258. Commercial Representation

- (1) The commercial agent is the person that represents independently and permanently the interests of the entrepreneur upon conclusion of juridical act with a view to business conduct.
- (2) The concomitant commercial Representation of different participants to the conclusion of the juridical act is allowed only with the express agreement between parties regarding this issue and in other cases provided by law, the commercial agent being bound to fulfill his/her duties with the diligence of a good owner.
- (3) The commercial agent is entitled to demand the agreed remuneration, as well as compensation for outlays incurred upon fulfillment of power of attorney, from the persons who have been represented concomitantly as provided by para.(2), unless the contract provides otherwise.
- (4) The commercial Representation is carried out by virtue of contract, concluded in writing, specifying the powers of the agent and, in case of absence of such powers, by virtue of power of attorney as well.
- (5) The commercial agent is bound not to disclose confidential information that became known to him/her due to representation, even after termination of commercial power of attorney.
- (6) The specifics of commercial representation in certain spheres of entrepreneurial activity shall be set by law.

TITLE IV: TERMS

CHAPTER I: COMPUTATION OF TERMS

Article 259. Term Setting

- (1) The term may be set by law, court judgment or by agreement of the parties.
- (2) Regardless of the grounds for term setting, the term shall be computed according to the rules stipulated in this Title.

Article 260. Order of Term Setting

The term shall be set forth by specification of a calendar date, of a period or by reference to a future event that will certainly occur.

Article 261. Beginning of Term Running

- (1) If a term begins to run from an event or a moment in time occurring during the course of a day, then, upon term computation, the day in which the event or the moment comes about is not taken into account.
- (2) If the beginning of a day is moment from which a period begins to run, then this day shall be taken into account while computing the period. The same rule applies to the day of birth at age computation.

Article 262. Types of Terms

- (1) Half a year or semester means 6 months, quarter – 3 months, half a month – 15 days, ten-day period – 10 days.
- (2) Where the term was set for a period and a fraction of that period, the fraction shall be computed last.
- (3) Where terms “beginning”, “middle” or “end” of month are used, the dates of first, fifteenth or the last day of the month are meant, respectively.

Article 263. Computation of One-Year and One-Month Term

Where one-year and one-month terms are computed without having regard to their continuous running, it shall be deemed that a month has 30 days and a year – 365 days.

Article 264. Expiry of term

- (1) A term determined by years expires in the respective month and on the respective day of the last year of the term.
- (2) The term set in months expires on the respective date of the last month of the term.
- (3) The term set in weeks expires on the respective day of the week.

(4) The term expires at 12 pm of the last day of the term. Where the action must be performed at an organization, the term expires at the hour when the work program of that organization ends, in conformity with the established norms.

(5) Where the term is shorter than a day, it expires upon the running out of the respective unit of time. The second phrase of para.(4) shall apply accordingly.

(6) Documents handed to mail or telegraph offices until 12 pm of the last day of the term shall be deemed timely submitted. Transmittal of the text of the document through teletype, fax or other means of communication shall be deemed equivalent with handing of document to the mail office.

Article 265. Expiry of Term during a Day-Off

Where the last day of the term is a Sunday, a Saturday or a day, which, in conformity with the effective legal provisions, is a day-off at the place of obligation fulfillment, the term shall expire on the following workday.

Article 266. Prolongation of Term

In case of prolongation, the new term shall be computed from the moment of expiry of the previous term.

CHAPTER II: PERIOD OF LIMITATION

Article 267. General Period of limitation

(1) The general term within which the person may defend his/her infringed right by way of filing an action with the court is 3 years.

(2) Actions concerning protection of personal extra-patrimonial rights shall be subject to period of limitation s only in cases expressly provided by law.

Article 268. Special Terms of Period of limitation s

In regard to the following actions, the period of limitation constitutes 6 months:

- a) collection of penalty;
- b) hidden defects of sold property;
- c) defects in works executed based on contract of consumer services;
- d) disputes under contract of carriage.

Article 269. Period of Limitation regarding Defects in Constructions

(1) Under contract for work, the right arising from a defect in construction shall be subject to a 5-year period of limitation.

(2) Under the contract of sale and purchase, the right arising from a defect in construction, shall not be prescribed before the elapsing of 5 years from the execution of construction works.

(3) In regard to defects in raw materials or materials designated for execution of construction, that have caused a defect of such construction, the according right shall prescribe after 5 years.

Article 270. Prohibition of Modification of Period of Limitations or of Computation Order

The juridical act concerning modification of the period of limitation or of the order of its computation or concerning relinquishment of the right to invoke period of limitation is void.

Article 271. Application of Period of Limitation

The action concerning protection of the infringed right shall be rejected on grounds of period of limitation s only upon the request of the person in whose interest the period of limitation has run, filed until finalization of examination in the first instance. In appeal or review procedure, the period of limitation may be relied upon only where the court is deciding on the merits of the case.

Article 272. Beginning of Period of Limitation

(1) The period of limitation s starts running from the date of arising of the right to file action.

The right to file action arises on the date when the person became or should have become aware about infringement of right.

(2) Unless the law provides otherwise, the period of limitation s starts running from the date when the obligation becomes due, or – if pertaining to an obligation to refrain from an action –

from the date on which the obligation is infringed. Where the right of action is subject to a suspensive term or a suspensive condition, the period of limitation starts running from the date of term elapsing or from the date when the condition comes about.

(3) In legal relations that do not specify the term of obligation performance or where performance may be demanded anytime, the period of limitation shall start running from the date when the debtor became bound to perform the obligation.

(4) In actions for delictual liability, the period of limitation starts running from the date when the injured person became or should have become aware of the damage and the person responsible for it.

(5) The period of limitation in case of action for annulment of a juridical act for duress starts running on the day when duress ceased. In other cases of annulment, the period of limitation starts running from the date when the entitled person, his/her legal representative or the person designated by law to approve juridical acts, became aware of the grounds for annulment.

(6) In case of recourse obligations, the period of limitation starts running from the date when the principal obligation should have been performed.

(7) Period of limitation on actions for hidden defects starts running:

a) in case of an alienated property or of an executed work, other than a construction, after a year from the date of taking over (handing over) such property or work. Where the defect was discovered earlier, the period of limitation starts running from that date.

b) in case of a construction, after 3 years from the date of taking over (handing over) of the construction. Where the defect has been discovered earlier, the period of limitation starts running from that date.

(8) In case of execution of current works, terms set in para.(7) shall constitute 1 month in the case provided by let.a) and 3 months in the case provided by let.b).

(9) In case of recurring performance, the period of limitation starts running from the date when each performance becomes due and – if such performance constitutes a unity – from the date of default of performance.

Article 273. Effect of Assignment of Claim or Assumption of Debt on Period of limitation
Assignment of claim or assumption of debt does not affect the running of the period of limitation.

Article 274. Suspension of Period of Limitation

(1) The running of the period of limitation may be suspended if:

a) filing action is impossible due to force majeure;

b) performance of obligations is deferred (moratorium);

c) the creditor or the debtor is enrolled in the military forces, in state of war;

d) the creditor is incapable or with limited active capacity and does not have a legal representative, save for cases in which the creditor has procedural capacity;

e) the normative act on which the disputed relation is based is suspended;

f) the activity of courts that are competent to solve the dispute between the parties is suspended.

(2) The running of period of limitation shall be suspended only if grounds for suspension arose or continued to exist in the last 6 months of the period of limitation, or within the term of the period of limitation, if it is less than 6 months.

(3) The running of period of limitation continues from the date of cease of circumstances serving as grounds for suspension of period of limitation. The term for which the period of limitation was suspended shall not be included into the period of limitation. The remaining term shall be extended to 6 months or – if the period of limitation is shorter than 6 months – to the term or the period of limitation.

Article 275. Suspension of Period of Limitation in Family Relations

The running of the period of limitation shall be suspended:

a) for claims between spouses – for the duration of marriage;

b) for claims between parents and children – until children attain majority;

c) for claims between guardians or trustees and persons under their guardianship or trusteeship – for the duration of guardianship or trusteeship.

Article 276. Suspension of Period of Limitation in case of Administration of Property of Another Person

The period of limitation s shall not start running, and the commenced period of limitation s shall be suspended in relations between the person that administers the property of another person by virtue of law, court judgment or juridical act, and the person whose property is being administered, until administration terminates and settlements are submitted and approved.

Article 277. Interruption of Period of Limitation

(1) The running of the period of limitation is interrupted:

- a) where an action is filed in compliance with the set forth procedure;
- b) where the debtor performs actions in witness of acknowledgement of his/her debt.

(2) A new term shall start running after interruption of the period of limitation. The time elapsed before interruption of the period of limitation shall not be counted in the new term of limitation.

Article 278. Running of Period of Limitation in case of Disregard of Action

Where the court disregards the action, the period of limitation that commenced before filing the action shall continue running without interruption.

Article 279. Restoration of Omitted Period of Limitation

(1) In extreme cases, where the court concludes that the period of limitation is not complied with due to circumstances linked to plaintiff's person, the infringed right shall be entitled to protection.

(2) Restoration of period of limitation may not be prescribed unless the party exercised his/her right to file action within 30 days, calculated from the day when he/she became or should have become aware of the cease of grounds that justified omission of the term of period of limitation.

Article 280. Claims Not Subject to Period of Limitation

The following claims are not subject to period of limitation s:

- a) claims regarding protection of personal extra-patrimonial rights, unless the law provides otherwise;
- b) claims of depositors against financial institutions regarding restitution of deposits;
- c) claims for damages for injury caused to life or health of a person. In such case, damage for up to 3 years preceding the filing of the action shall be compensated for.

Article 281. Performance of Obligations after Expiry of Period of Limitation

(1) After expiry of the period of limitation, the debtor may refuse to perform the obligation.

(2) Voluntary performance of obligations after the expiry of the period of limitation shall not be deemed as an act without legal grounds.

(3) The person that performed the obligation after the expiry of the period of limitation is not entitled to demand restitution of performance, even if, on the date of execution, that person was not aware of the expiry of period of limitation. This provision shall also apply to acknowledgement of contractual debts, as well as to security offered by debtor.

Article 282. Effects of Period of Limitations in regard of Secured Rights

(1) The expiry of the period of limitation s regarding a right secured by pledge does not preclude the person entitled to claim satisfaction from the pledged property.

(2) Where a right has been assigned as security, the restitution of performance may not be claimed on grounds that the right has been lost due to expiry of the period of limitations.

(3) Para.(1) and (2) does not apply to period of limitation concerning interest and other kinds of recurring performance.

Article 283. Period of Limitation of Additional Performances

The period of limitation regarding additional performances runs together with the period of limitation regarding the principal right, even when the special period of limitation for that right did not begin to run.

BOOK TWO: REAL RIGHTS

TITLE I: OF PATRIMONY

Article 284. Definition of Patrimony

(1) A patrimony is made of all patrimonial rights and obligations (i.e. are susceptible of monetary assessment), regarded as an amount of assets and liabilities tightly connected between them, belonging to a certain natural or legal person.

(2) All person's property enters its patrimony.

Article 285. Property

(1) Property is any thing susceptible of individual or collective appropriation, as well as patrimonial rights.

(2) Things are all corporeal objects in respect of which civil rights and obligations can exist.

Article 286. Civil Circulation of Property

Property may circulate freely, save for cases when their circulation is limited or prohibited by law.

Article 287. Animals

(1) Animals are not considered things. They are protected by special laws.

(2) With regard to animals, provisions regulating things shall apply, save for cases provided by law.

Article 288. Movable and Immovable Property

(1) All property is immovable or movable.

(2) Land plots, underground areas, separate water reservoirs, rooted plantations, buildings, constructions and any other objects firmly attached to soil, as well as anything that is, naturally or artificially, firmly incorporated in the mentioned constructions and objects, namely property that cannot be moved without causing a significant damage to their destination are immovables.

(3) There shall also be deemed as immovables materials that are temporarily separated from a plot, but with the purpose of return to the initial use, as long as they are preserved in the same form, as well as integral parts of an immovable that are temporarily detached therefrom, if they are destined to be put back. New materials used instead of the old ones become immovables.

(4) Under the law, some other property can be related to the category of immovables.

(5) All other property, that is not qualified as immovable, including money and securities, is movable.

Article 289. Provisions Applicable to Real Rights

Provisions regarding immovables and movables shall apply accordingly to real rights thereover.

Article 290. Registration of Rights to Immovables

(1) Ownership and other real rights to immovables, charges over these rights, their rise, modification and termination are subject to state registration.

(2) State registration of rights to immovables is public. The body authorized to perform state registration is bound to give to any person information about all rights and charges registered with regard to any immovable.

(3) Upon the request of a person whose right is registered, the body bound to perform registration shall issue a document confirming registration procedure or shall stamp the document submitted for registration.

Article 291. Divisible and Indivisible Property

(1) A property that can be divided in kind without change in its economic destination is divisible property.

(2) A property, the parts of which in case of its partition lose their initial qualities and destination, is deemed indivisible.

(3) By transaction, a property, divisible by its nature, can be deemed indivisible.

Article 292. Principal and Accessory Property

(1) A property meant for permanent economic use of another (principal) property and linked with the latter through a common destination is deemed to be an accessory property, as long as it is appropriate for such use. All other property is deemed principal.

- (2) The common destination may be established only by the owner of both properties, unless otherwise provided in the contract.
- (3) Accessory property follows the legal status of the principal one, unless otherwise agreed by the parties.
- (4) Cease of quality of accessory property may not be relied upon against the third party that has previously acquired rights pertaining to the principal property.
- (5) Temporary separation of the accessory property from the principal one does not remove its quality as accessory property.
- (6) Rights of a third party to a property shall not be prejudiced by its transformation into an accessory one.

Article 293. Fungible and Non-Fungible Property

- (1) A property that can be substituted by other ones, without prejudice to validity of payment when performing an obligation, is fungible. All other property is non-fungible.
- (2) The quality of a property as fungible or non-fungible may be reversed by virtue of transaction.

Article 294. Individual (Certain) and Generic Property

- (1) A property, which is by its nature characterized by properties that are only inherent to it, is an individual property.
- (2) A property having features common for all property of the same kind and which is individualized by counting, measuring and weighting, is a generic property. Generic property shall be fungible.
- (3) The quality of a property as an individual or generic one may be reversed by virtue of a transaction.

Article 295. Consumable and Non-Consumable Property

- (1) Property, common use of which implies alienation or consumption of its substance, is consumable. All other property is non-consumable.
- (2) A consumable property can be deemed non-consumable by virtue of a transaction.

Article 296. Public Domain and Private Domain Property

- (1) Property belonging to the state or to administrative territorial units shall be private domain property, unless transferred to the public domain by or under law.
- (2) The public domain of the state or of administrative territorial units shall comprise property determined by law and property that by its nature is of public use or interest. Public interest implies that the property is designated for use in a public service or in any activity that satisfies needs of a community, without community's direct access to property's use, according to the mentioned destination, being necessary.
- (3) Underground, air space, water and forest resources used to the public interest, natural resources of the economic zone and continental plateau, communication networks, as well as other property set by law constitute exclusive object of public property.
- (6) Public domain property is inalienable, exempt from seizure and may not be lost by prescription. The right of ownership over such property does not terminate by non-use and shall not be acquired by third persons through acquisitive prescription

Article 297. Complex Property

- (1) Where several properties constitute a single whole that is destined for common use attributed by the nature of unification, such shall be deemed a single property (complex property).
- (2) The effects of transaction concluded with respect to a complex property shall cover all its parts, unless otherwise provided by the transaction or by law.

Article 298. Universality of Things

- (1) A factual universality is a plurality of homogeneous corporeal property considered as a single whole.
- (2) A legal universality is a plurality of corporeal and incorporeal property of any type, which, together, is considered a single whole.

Article 299. Fruit

- (1) A fruit of a thing is the income, the gain and the products that the property yields.
- (2) A fruit of a right is the income and the benefits obtained consequent to the use of the right.
- (3) Fruits of thing and of right are also deemed income and benefits which this thing or right provide by virtue of legal relations.
- (4) Authority over the thing or right gives opportunity to retain the fruits of this thing or right, in compliance with the duration and extent of that authority, unless otherwise provided by law.
- (5) Where a person is bound to return the fruits, he/she may demand compensation for outlays incurred with regard to those fruits, if those outlays are the result of a judicious administration and do not exceed the value of the fruits.

Article 300. Appurtenant and Limited Rights

- (1) A right is appurtenant where it is associated with another right in such manner that it cannot exist without it.
- (2) A right is limited where it derives from a larger right which is charged with that limited right.

Article 301. Protected Results of Intellectual Activity

- (1) In cases and in the manner set, the law recognizes the exclusive right of natural person and legal entity to the results of intellectual activity and to attributes of identification of legal entities, as well as to elements for individualization of production, works or services delivered (firm name, commercial emblem, trademark, etc.).
- (2) The results of intellectual activity and elements for identification and individualization are objects of an exclusive right and may be used by third parties only subject to the consent of the entitled person.

Article 302. Money

- (1) The national currency – leu – is a legal means of payment, mandatory for acceptance according to the nominal value on the territory of the Republic of Moldova.
- (2) Cases, conditions and procedure of payments in foreign currency on the territory of the Republic of Moldova shall be provided for in the law.

TITLE II: POSSESSION

Article 303. Acquisition and Exercise of Possession

- (1) Possession is obtained by voluntary mastering of a property.
- (2) A person shall not be deemed possessor where he/she masters the property in favour of another person, by virtue of powers of possession granted to him/her by the latter. The possessor is the person who granted the powers.
- (3) Where the possessor started to possess for another person, it is presumed that he/she preserved this quality, until the contrary is proved.
- (4) Where several persons possess a property, they are deemed co-possessors.
- (5) Where several persons possess parts of a property, they are deemed possessors of separate parts.
- (6) Incapable persons and legal entities shall exercise possession through their legal representative.

Article 304. Direct and Indirect Possession

- (1) A possessor can master the property directly, through his/her own power (direct possession) or through another person (indirect possession).
- (2) Where a person possesses the property as usufructuary, pledge creditor, lessee, agricultural lessee, and depositor or by virtue of another similar legal relation, by which he/she is entitled or bound towards another person to exercise temporary possession of a certain property, the latter shall also be deemed possessor.

Article 305. Presumption of Ownership

- (1) A possessor is presumed to be the property's owner, unless it is proved that he/she started to possess in favour of another person. This presumption does not apply in case where the right of

ownership must be registered in the public register or in relation to a former possessor whose property has been stolen, lost, or taken out from possession in another manner without his/her consent, save for money and securities.

(2) It shall be deemed that the previous possessor was the property's owner during the period he/she possessed it.

Article 306. Presumption of Continuous Possession

Where a person possessed the property at the beginning and at the end of a certain period, it shall be presumed that he/she continuously possessed it during that entire period.

Article 307. Possession in Good Faith

(1) A possessor in good faith is a person who lawfully possesses or that may be deemed entitled to possess, under a diligent examination of the grounds for his/her entitlement, necessary in civil relations. Good faith is presumed.

(2) Possession in good faith ceases where the owner or another person with preferential right submits well-grounded claims to the possessor.

Article 308. Claim by Possessor in Good Faith of Illicitly Possessed Property

Where the possessor in good faith is deprived of a property, he/she may claim its restitution from the new possessor within 3 years. This rule shall not apply where the new possessor has a preferential title to possession. The claim of possession may be applied in relation to a person who has preferential title to possession, where the property has been obtained by the latter through violence or fraud.

Article 309. Right of Possessor in Good Faith to Non-Disturbed Possession

Where the possessor has not been deprived of the property, but the exercise of possession is disturbed in any other way, the possessor in good faith may demand, as an owner, cessation of disturbance, as well as compensation for disturbing possession. Compensation may also be claimed where cessation of disturbance is not demanded or cessation is impossible.

Article 310. Legitimate Possession

(1) A legitimate possessor may not be submitted a claim for handing over a property. During the period of legitimate possession, the fruits of the property shall be deemed his/her ownership, unless expressly stipulated otherwise.

(2) Provisions of para.(1) also apply to relations between direct and indirect possessor.

Article 311. Duties and Rights of Possessor in Good Faith with regard to Property Handing Over

(1) A possessor in good faith that is not entitled to possess a property or has lost this title, is bound to hand such property over to the entitled person. Where the entitled person does not exercise his/her right and the possessor rightfully considers that he/she must maintain possession, the fruits of such property and rights shall belong to the possessor.

(2) A possessor in good faith may demand from the entitled person compensation for improvements, where these improvements cannot be separated without damaging the property, as well as for investment, charges, taxes and other outlays incurred during possession in good faith of such property, which are not compensated through property's use and fruits obtained, having regard of the fruits that were not obtained, due to possessor's fault. This rule also applies to outlays that resulted in an increase in the property's value, if that increase still exists at the moment of property's handing over.

(3) A possessor in good faith is allowed not to hand over the property until his/her claims are satisfied.

Article 312. Duties of Possessor in Bad Faith Related to Property's Handing Over

(1) A possessor in bad faith shall hand over to the entitled person both the property and its fruits. he/she shall be bound to compensate for the value of fruits that were not obtained due to his/her fault. These provisions do not prevent submittal of other claims to the possessor in bad faith.

(2) A possessor in bad faith may demand compensation for property-related outlays only where these outlays lead to enrichment of the entitled person, upon property's handing over.

Article 313. Conveyance of Possession by Virtue of Succession

Possession is conveyed by virtue of succession in the condition it was in while held by the succeeded natural person or legal entity.

Article 314. Termination of Possession

(1) Possession terminates where the possessor irrevocably and expressly relinquishes mastering of the property or loses factual mastering of it in any other way.

(2) Temporary impossibility to exercise property's factual mastering does not trigger termination of possession.

TITLE III: OWNERSHIP

CHAPTER I: GENERAL PROVISIONS

Article 315. Substance of Right of Ownership

(1) An owner has the right to possess, use and dispose of its property.

(2) The right of ownership is perpetual.

(3) The right of ownership may be limited by law or by rights of a third party.

(4) The right to use a property involves the freedom to refrain from doing so. Law may establish the obligation to use, where a property non-usage contravenes to public interests. In such a case, the owner may be bound to use the property himself or to give it into use to third parties in exchange for an according compensation.

(5) The specifics in using agricultural plots shall be set by law.

(6) An owner is bound to take care and maintain its property, unless otherwise provided by law or contract.

Article 316. Guaranty of Right of Ownership

(1) Ownership is inviolable, under law.

(2) The right of ownership is guaranteed. Nobody may be compelled to transfer his ownership except by expropriation for public utility and in consideration of a just and prior indemnity.

Expropriation shall be made according to law.

(3) With regard to works of general interest, the public authority may use the land of any real estate, under the obligation to compensate the owner for damage caused to soil, plantations or constructions, as well as for other imputable damage.

(4) Compensation provided for in para.(2) and (3) shall be determined jointly with the owner, or, in case of a dispute, by court judgment. In such a case, the decision to withdraw property from person's ownership may not be executed before the court judgment remains final.

(5) Legally acquired property may not be seized, save for property destined for committing administrative infringements or criminal offences. The effective presumption is that of legal acquirement.

Article 317. Extent of Right of Ownership

Everything that a property produces and everything that joins it or is incorporated into it due to owner's act, the act of another person or due to an accident, pertains to the owner, unless the law provides otherwise.

Article 318. Risk of Accidental Loss or Damage

The risk of accidental loss of or damage to property shall be borne by its owner, unless otherwise provided by law or contract.

Article 319. Rights Acquired Prior to Conveyance of Ownership

Change of owner does not prejudice the rights of third parties to the property acquired in good faith prior to conveyance of the right of ownership.

CHAPTER II: ACQUISITION AND TERMINATION OF THE RIGHT OF OWNERSHIP

Section 1: Acquisition of Ownership

Article 320. Acquisition of Right of Ownership

- (1) Ownership over a new property, made by a person for his own use, pertains to that person, unless otherwise provided by law or contract.
- (2) Ownership may be acquired, as provided for by law, by way of occupation, transaction, succession, accession, acquisitive prescription, as well as by court judgment, where it pertains to transfer of ownership.
- (3) In cases provided by law, ownership may be acquired by virtue of an administrative act.
- (4) Law may also provide for other ways of ownership acquisition.

Article 321. Time of Acquisition of Ownership

- (1) Ownership shall be transferred to the acquirer upon handing over of the movable, unless otherwise provided by law or contract.
- (2) With regard to immovables, ownership shall be deemed acquired as of the date of its entry into the real estate register, unless otherwise provided by law.

Article 322. Property's Handing Over

- (1) A property is handed over when it's delivered to the acquirer, as well as to the carrier or post office for shipment, where such property is alienated without an obligation of carriage.
- (2) Submission of a bill of lading or other act granting the right to dispose of the property shall also be deemed as due handing over of a property.

Article 323. Occupation

- (1) A possessor of a ownerless movable shall become its owner by way of occupation as of the date of taking possession, in compliance with the law.
- (2) Are deemed ownerless, movables with regard to which their owner relinquished his/her right of ownership, abandoned property, and property that by its nature has no owner.

Article 324. Found Property

- (1) A lost movable continues to belong to its owner.
- (2) A person who has found that property shall return it to its owner or previous possessor, or, where the owner cannot be identified, shall hand it to the local public authority or police of the precinct in which it was found.
- (3) A property found in public premises or public means of transportation shall be handed over to the possessor of the premises or the means of transportation, who shall take over the rights and obligations of the person who found it, save for the right to reward.
- (4) A person who found such property shall bear responsibility for any loss of or damage to it only in case of wilful act and subject to its value.
- (5) The competent body that received the found property shall post a note regarding the it at its premises and shall be bound to keep it for 6 months. In such case, rules on necessary deposit shall apply.
- (6) Where, due to the existing circumstances or property's nature, its keeping could result in diminished or disproportionate outlays, the property shall be sold in accordance with the law. In such case, rights and obligations with regard to the property shall apply to the sale proceeds.

Article 325. Acquisition of Right of Ownership over Found Property

- (1) Where the owner or other entitled person shall not claim, within 6 months, conveyance of found property, the latter shall be conveyed, based on a deed of conveyance, to the person who found it. The deed of conveyance shall stand for title of ownership for such person, while being also opposable to the previous owner.
- (2) Where a person who has found the property relinquished his/her rights, the property shall pass into state's ownership.
- (3) Where in accordance with this article, a right of ownership over an animal has been acquired, the previous owner may require that the animal be returned, where animal's affection to him/her is proved or new owner has a cruel conduct in relation to such animal.

Article 326. Obligation of Owner of Found Property to Compensation of Outlays and Reward Payment

- (1) The owner or previous possessor of the found property shall be bound to compensate for storage outlays. Where the found property has been sold, the outlays for storage and sale shall be deducted from the proceeds.
- (2) The owner or previous possessor of the found property shall pay to the person who found it a reward not exceeding 10% of propriety's price or actual value.
- (3) Where the property does not have commercial value or the reward payment could not be established by mutual agreement, the person who found the property shall receive the amount fixed by a court of law.
- (4) Where the owner made a public offer of reward, the person who found the property may choose between the offer made by the owner and the reward established by law or court of law.

Article 327. Treasure

- (1) Any movable hidden or buried, even involuntarily, whose owner cannot be identified or has lost right of ownership, as provided by law, shall be deemed treasure.
- (2) Where a treasure is found within an immovable, half of it shall belong to the owner of the immovable and the other half to the person who discovered the treasure, unless they reached a different understanding. The latter shall not be entitled to anything if he/she trespassed the immovable property or searched through it without the owner's or possessor's consent. Owner's consent shall be presumed, until proven otherwise.
- (3) Where the discovered treasure consists of a property (properties) recognized as historical or cultural monument, it shall into State's ownership. The owner of the immovable where the treasure was discovered and the person who discovered it shall be entitled to a reward of 50% from treasure's price. The reward shall be divided equally between the owner of the immovable where the treasure was discovered and the person who discovered it, unless they reached a different understanding. The reward shall be paid integrally to the owner if the discoverer trespassed the immovable property or searched it without owner's or possessor's consent.
- (4) The provisions of this article shall not apply with regard to persons who acted in the interest of a third party, including when exercising one's labour duties, archaeological excavations or searches, which resulted in discovery of the treasure.

Article 328. Natural Immovable Accession

- (1) Land increments to riversides shall belong to the owner of the riverside plot only if these increments have formed gradually (alluvium). Lands gradually occupied by riverbeds shall belong to the owner of these rivers.
- (2) The owner of plot surrounded by rivers, ponds, lakes, canals or other waters shall not become possessor of land that appeared as a result of temporary lowering of waters. The owner of these waters shall not be entitled to any right over land covered as a result of sporadic floods.
- (3) The owner of the plot, from which a significant portion has been suddenly separated by a natural flow of water and attached to another's plot shall not lose right of ownership over the detached portion, where he/she submitted the claim within one year as of the date when the owner of the plot to which the portion has attached entered into its possession.
- (4) Where a natural flow of water by way of a new armlet surrounds the plot of a riverside owner, the latter shall remain owner of the newly formed island.

Article 329. Artificial Immovable Accession

- (1) Constructions and underground or aboveground works are assumed to be performed by the owner of the plot at his/her own expense and to belong to him/her unless proved otherwise. Works shall refer to planting and any improvements to the land that are not durably incorporated into it.
- (2) A plot owner who performed construction works by using materials belonging to another person shall reimburse the latter for the value of the materials. If the works were performed in bad faith, the owner shall also be bound to provide reparation for the damage caused.
- (3) Where a third party performs the works, the plot owner shall be entitled to retain them for his/her own use or bind the third party to demolish them at his/her own expense and repair the damage caused. If the owner keeps the constructions or works performed by the third party,

he/she shall be bound to pay either the value of materials or a sum of money equivalent to the increase in plot value.

(4) Where a third party performed works or constructions in good faith, the plot owner shall not be entitled to demand their demolition and shall pay either the value of materials used and the cost of works performed or a sum of money equivalent to the increase in plot value.

(5) Where constructions are erected or works are performed partially on constructor's plot and partially on a neighbouring plot, the neighbour may acquire ownership of the entire construction, by paying to the constructor an indemnity, only if at least one half of the land occupied by the construction is situated on his/her land. In such case, the neighbour shall also acquire a superficies over the adjacent land for the period of construction's existence. The indemnity shall cover the value of materials and the cost of work as well as the value of plot use.

(6) A constructor in bad faith shall not be entitled to an indemnity larger than one third of the amount computed according to paragraph (5), unless he/she proves that the person entitled bears partial fault.

Article 330. Movable Accession

(1) Where two movables with different owners combine, each of the owners shall be entitled to claim separation of those movables, unless the other owner would be harmed by it.

(2) If two properties belonging to different owners combined in such a way that their separation is impossible without causing damage or without excessive efforts or expenditures, the new property shall belong to the owner who contributed to a greater extent to its creation, judging from work performed or the value of the initial property, being bound to pay the other owner the price of the property combined with the principal property.

(3) Where an accessory property is worth more than the principal one and has been combined with it without owner's knowledge, the latter may claim indemnity and restitution of the combined accessory property, even if separation could damage the principal one.

(4) Unless otherwise provided under the contract, the right of ownership over a property resulting from the processing of material shall belong to the owner of that material, who shall be bound to pay the value of work performed. Processing shall include writings, drawing, painting, stamping, engraving or any other transformation of surface.

(5) A person in good faith who transformed by his/her work a material that had not belonged to him, shall thus acquire ownership over the resulting property by reimbursing the price of the material to its owner, where the value of the work performed is higher than the value of the material.

(6) Whosoever who has to return the property resulting from processing of the material shall be entitled to retain it until receipt of the amount due to him/her from the new owner.

(7) Where a new property has been created through combination (amalgamation) of several materials belonging to different owners and none of them can be considered as primary, the owner who had not known about such amalgamation may demand separation of the materials, if such separation is possible. Where the amalgamated materials cannot be separated without prejudice, the newly created property shall belong to the owners of the materials proportionally to the quantity, quality and value of each one's material.

(8) Where the material of one of the owners in good faith exceeds the other material by value and quantity, he may claim the property created through amalgamation, by paying the other owner the price of the material, or claim replacement of material with other material of the same kind, quantity, size or quality or claim payment of equivalent value of the material.

Article 331. Right of Acquirer in Good Faith to Movable Property

(1) An acquirer in good faith shall obtain ownership over a movable property even if the person who disposed of it is not its owner. There is no good faith when the acquirer knew or must have known that the person from whom he acquired the property was not its owner. Good faith must subsist until coming into possession inclusively.

(2) An acquirer in good faith shall not obtain ownership over a movable property where it has been stolen, lost or otherwise withdrawn from the owner's possession contrary to his/her will, or

where the acquirer obtained it gratuitously. This rule shall not apply for acquisition of money, securities or property alienated at auctions.

Article 332. Acquisitive Prescription of Immovables

(1) Where a person, without having acquired a right of ownership, possessed in good faith an immovable for a period of 15 years, he/she shall become its owner.

(2) Where an immovable and rights to it are subject to state registration, the right of ownership shall be acquired by virtue of provisions of para.(1) as of the moment of registration.

Article 333. Acquisitive Prescription of Movables

A person who possesses in good faith somebody else's movable as its own for a period of five years shall acquire right of ownership to it.

Article 334. Joining Possessions

In order to invoke acquisitive prescription, the actual possessor may add the duration of his/her own possession to that of the person from whom he/she acquired possession.

Article 335. Possession Necessary for Acquisitive Prescription

(1) Unless otherwise provided by law, only useful possession produces legal effects. Until proven otherwise, possession is presumed to be useful.

(2) Discontinuous, disturbed, covert or precarious possession shall not be deemed useful.

(3) Possession is deemed discontinuous as long as the possessor exercises it with intermittences in relation to the nature of the property.

(4) Possession is deemed disturbed as long as it is acquired or preserved through physical or moral duress that is not produced by another person.

(5) Possession is deemed covert where it is exercised in such a manner that it remains unknown.

(6) Possession is deemed precarious where it is not exercised as from the part of an owner.

(7) Any interested person may rely on discontinuity in relation to the possessor.

(8) Only a person in relation to whom the possession is disturbed or covert may claim these defects.

(9) Any defective possession shall become useful as of the moment that the defect ends.

Article 336. Interruption of Term Necessary for Claiming Acquisitive Prescription

(1) The term prescribed for claiming acquisitive prescription shall not commence, and if commenced shall be suspended for the period of suspension of the statute of limitations of the action for claiming possession.

(2) The running of the term necessary for claiming acquisitive prescription shall be interrupted where an action for claiming possession has been filed against the person who possesses a property as owner or against the direct possessor. In such case, the running of prescription shall be interrupted only in relation to the person that filed the action.

(3) Where the running of statute of limitations has been interrupted, the time elapsed before interruption shall not be taken into account. After interruption, the running of a new term may commence.

Section 2: Termination of Ownership

Article 337. Grounds for Extinction of Ownership

(1) Ownership shall terminate, under law, as a consequence of consumption, accidental loss or destruction of the property, its alienation by virtue of a transaction, relinquishment of the right of ownership, and other cases provided by law.

(2) Nobody can be compelled to forfeit his/her ownership, except in cases provided by law:

a) Seizure for owner's liabilities;

b) Alienation of property that the person cannot own in accordance with the law;

c) Redemption of domestic animals in cases of violation of rules of behaviour in relation to that person;

d) Privatisation of state property;

e) Expropriation for public utility;

f) Requisition;

- g) Confiscation;
- h) Other action provided by law.

Article 338. Relinquishment of Right of Ownership

(1) An owner may at any time relinquish ownership by virtue of a statement with a view to relinquishment or in another manner certifying that the owner relinquished the property, with no intention of keeping ownership of it.

(2) Owner's liabilities in relation to the relinquished property shall cease as of the moment a third party acquired right of ownership over that property.

(3) Relinquishment of right of ownership over immovables shall be made through a statement certified by a notary public and registered in the real estate register.

Article 339. Seizure of Property in Relation to Owner's Liabilities

(1) Alienation of owner's property through procedure of seizure over property with regard to owner's liabilities shall be made solely by virtue of a court judgment, unless otherwise provided by law or contract.

(2) An owner shall forfeit the right of ownership over seized property as of the moment of acquisition of ownership by the entitled person to whom the property is conveyed.

Article 340. Alienation of Property that Cannot Be in Person's Ownership under Legal Provisions

(1) If, on legally provided grounds, a person acquired right of ownership over an property that may not be owned by that person, he/she shall alienate that property within a year from the moment of acquisition of the right of ownership or within another term established by law.

(2) Where the owner does not alienate the property in the manner set out in para.(1), upon the request of local public authorities the court may order alienation of property and transfer proceeds to the former owner, after deduction of alienation outlays, or transfer of property into state's ownership and payment of indemnity to the owner in the amount assessed by court.

(3) Provisions of para.(1) and (2) shall apply in cases where the person obtained ownership of an property for which special authorization is needed, but the granting of which has been refused to the owner.

Article 341. Redemption of Domestic Animals in Cases of Violation of Rules of Behaviour

Where the owner of domestic animals bluntly violates rules of behaviour with regard to those animals, set out by law or by rules of human treatment of animals, any person shall be entitled to demand conveyance of those animals. The price shall be established by parties' agreement or by court judgment.

Article 342. Requisition

(1) In case of natural calamity, epidemics, epizootic or other exceptional circumstances, the owner may be dispossessed of property by virtue of decision of a public authority, under the procedures and terms established by law.

(2) A person whose property has been requisitioned may demand restitution after the exceptional circumstances are over, where such property is still in existence.

(3) A property's price or the price of its use, where it's still in existence and has been returned to the owner thereof, shall be established by parties' mutual agreement or, in default, by court judgement.

Article 343. Confiscation

(1) Confiscation of property is allowed by virtue of a court judgement in cases and under the terms established by law.

(2) Where law so provides, property may be confiscated by virtue of an administrative act. The administrative act for confiscation may be appealed upon in a court of law.

CHAPTER III: CO-OWNERSHIP

Section 1: General Provisions

Article 344. Co-ownership. Grounds for rise

(1) There is co-ownership where a property is jointly owned by two or more co-owners.

(2) Co-ownership arises by operation of law or from transaction.

Article 345. Forms of Co-ownership

(1) Co-ownership may be characterized either by a delimitation of each co-owner's share (divided co-ownership) or without such delimitation (undivided co-ownership).

(2) Where a property is in co-ownership, it shall be presumed that it is divided, until proven otherwise.

(3) Undivided co-owners may apply the status of divided co-ownership to their property.

Section 2: Divided Co-ownership

Article 346. Share in Divided Co-ownership

(1) A co-owner is the exclusive owner of an abstract share of the co-owned property. The shares are presumed equal, until proven otherwise. Where the property has been acquired by transaction, the disproof may be made only based on written documents.

(2) A co-owner who added inseparable improvements to the property at his/her own expense and with the consent of all other co-owners shall be entitled to claim an appropriate amendment of shares or compensation for outlays.

Article 347. Use of Divided Property

(1) Each co-owner is entitled to use the divided property, to the extent to which he's not changing the destination of that property nor brings prejudice to the rights of all other co-owners.

(2) The manner in which such property is to be used shall be set by co-owners' mutual agreement or, in default, by court judgment, based on a fair assessment of the interests of all co-owners.

(3) A co-owner is entitled to demand a part of the co-owned property into possession and use, in accordance with his/her share and, in case of impossibility, to demand from those co-owners who possess and use that property payment of a fair compensation.

(4) A co-owner who uses the co-owned property exclusively, without the consent of other co-owners, may be bound to pay compensation.

Article 348. Fruits Produced by Divided Property

(1) All fruits produced by the divided property pertain to all co-owners in proportion to the share held, unless they established otherwise.

(2) A co-owner who has borne by himself outlays for production or collection of such fruits shall be entitled to compensation for these outlays from all other co-owners in proportion to their shares.

Article 349. Benefits and Charges on Divided Property

Co-owners shall divide benefits and shall bear charges over the divided property in proportion to their shares.

Article 350. Acts for Preservation of Divided Property

Each co-owner is entitled to undertake acts for preservation of divided property without the consent of other co-owners and shall demand compensation for outlays incurred in proportion to their shares.

Article 351. Acts of Disposition regarding Divided Property

(1) All acts of disposition over divided property shall be subject to the consent of all co-owners.

(2) All acts of disposition made in default of such unanimous consent shall be avoidable, where it is proved that the third party is in bad faith. In such a case, the statute of limitations in regard of the action starts running from the date when the co-owner which did not consent became or should have become aware of the existence of grounds for avoidance.

(3) A co-owner may alienate his/her share. However, he/she must observe the right of pre-emption of all other co-owners.

Article 352. Right of Pre-emption

- (1) Where a share in the divided property is sold, save for sale at auctions, all other co-owners shall have a preferential right to purchase such share at the price of sale and under same terms.
- (2) A seller of the share is bound to notify all other co-owners about its intention to sell such share, specifying the price and all other terms of sale. Where all other co-owners relinquish their right of pre-emption or do not exercise it within a month from the day of notification in case of immovables, and within 10 days in case of movables, the seller is entitled to sell his/her share to any person. Where several co-owners express their intention to acquire the share, the seller shall be entitled to choose the buyer.
- (3) Where the share is sold without observance of the right of pre-emption, any co-owner may, within 3 months, file a court action for attribution to him/her of rights and duties of the buyer.
- (4) It shall be prohibited to assign a right of pre-emption.

Article 353. Seizure of Shares in Divided Property

- (1) A co-owner's creditors may exercise seizure over the ideal share of the co-owner from divided property or may demand from a court of law partition of such property. In this case, seizure shall be performed over the part from the property or over the sums of money pertaining to the debtor, as the case may be.
- (2) In case of forced sale of a share, the officer of the court shall give notice to all other co-owners within at least 10 days before the day of the sale. Such co-owners shall have a right of pre-emption to adjudication of share, if an equal price is offered.
- (3) Creditors who have a security in the divided property or creditors, whose claims have arisen in connection with preservation or administration of the such property, shall be entitled to seizure of the divided property or sums resulting from partition.
- (4) All acts for suspension of partition are opposable to creditors, where they have been certified by notary or, as the case may be, the formalities of publicity set by law have been complied with.
- (5) A co-owner's personal creditors may, as well, intervene at their own expense, in the partition requested by the co-owner or by another creditor. They may not, however, impugn a completed partition, unless this occurred in their absence, without having regard to the objections that such creditors made or the partition is fictitious or is made in such a way that creditors cannot submit objections.
- (6) Provisions of para.(5) are also applicable to creditors who have a security in the divided property or to those whose claim has arisen in connection with the preservation or administration of such property.

Article 354. Exclusion of a Co-Owner

- (1) Co-owners may demand in a court of law exclusion of a co-owner who seriously breaches the rights of other co-owners, either by his/her own deed, by the deeds of persons to whom he/she assigned use of the property or of those for whose deeds he/she bears liability.
- (2) In cases provided for in para.(1), such co-owner is bound to alienation of his/her share. Where he/she refuses to comply, its forced sale shall be ordered by court judgment.

Article 355. Ownership over Joint Parts in Multi-Storied Buildings or Apartment Houses

- (1) Where a building contains dwellings or premises with other destination having different owners, each of them shall hold a forced and perpetual right of divided co-ownership over those parts of the building, which, while being designated for the use of the premises, cannot be used otherwise than jointly.
- (2) Relations provided for in para.(1) shall be regulated by law.

Article 356. Divided Co-ownership over Common Enclosures

- (1) Any wall, ditch or other enclosure between two plots within the limits of a locality shall be presumed to be divided co-ownership of the neighbours, unless it follows otherwise from title, from a sign of non-joint character, in accordance with urbanism regulations, or unless the co-ownership became exclusive through acquisitive prescription.
- (2) A share of the rights over joint enclosures shall be deemed an accessory property. Alienation or pledge of such a share shall be made only together with the right over the plot.

Article 357. Termination of Divided Co-ownership through Partition

- (1) Termination of divided co-ownership through partition may be demanded anytime, unless the law, contract or court judgment does not provide otherwise.
- (2) Partition may be demanded even when one of the co-owners has used the property exclusively, save for the case when that co-owner acquired the property by acquisitive prescription, in compliance with the law.
- (3) Partition may operate by parties' mutual agreement or by court judgment.

Article 358. Prohibition of Partition

- (1) Partition is prohibited in cases provided for in Articles 355 and 356, as well as in other cases provided by law.
- (2) In case of joint parts in multi-storied buildings or apartment houses, partition may be effected only where all co-owners agree or where the property in question is not destined for co-ownership anymore.

Article 359. Suspension of Partition

- (1) Contracts regarding partition may not be concluded for a period exceeding 5 years. In case of immovables, such contracts must be concluded by authentic instrument and entered into the real estate register.
- (2) The court may, upon request of any co-owner and on serious grounds, order partition of the property even before the term set in contract.
- (3) The court may order suspension of partition where this is needed to protect the interests of other co-owners. The court may order partition where circumstances taken into account on the date when the judgment was issued have changed since.

Article 360. Partition in Case of Incapable Co-Owner or Co-Owner with Limited Capacity

Where a co-owner is incapable or with limited capacity, the partition may take place by parties' mutual agreement only with the consent of the guardianship authority, as well as of the legal trustee, as the case may be.

Article 361. Order of Partition of Divided Property

- (1) Partition of the divided property shall be made in kind, proportionate to the share held by each co-owner.
- (2) Where the divided property is indivisible or may not be portioned in kind, partition shall be made by:
 - a) attribution of the entire property, in exchange for a compensation, in favour of one or more co-owners, upon their request;
 - b) sale of such property as established by co-owners or, in default, by auction, and distribution of the proceeds between co-owners, proportionate to their shares.
- (3) Where one of the co-owners is attributed a real share that exceeds his/her share in ownership, the other co-owners shall be awarded compensation.
- (4) Partition shall be made as established by law.
- (5) Real shares set by court may be distributed by lot, as the case may be.

Article 362. Extinction of Debts in Case of Partition

- (1) Any of the co-owners may request extinction of debts that arose in connection with the divided property, which are due or shall become due in the course of the year in which partition takes place.
- (2) The amount necessary for extinguishing obligations under para.(1) shall be covered, in the absence of a contrary stipulation, from the proceeds from co-owned property's sale, with a view to partition of the property and shall be borne by co-owners proportionate to their shares.

Article 363. Effects of Partition of Co-owed Property

- (1) Each co-owner shall become the exclusive owner of the property or of the awarded money amount only from the date of partition, except for immovables, with regard to which ownership arises from the date of entry in the real estate register.
- (2) Transactions concluded by a co-owner in regard of the divided property, in compliance with the law, shall remain valid and opposable to the person who has obtained such property as a result of partition.

(3) Securities granted by a co-owner in regard of his/her share shall pass by effect of law on the property or sum of money granted to the co-owner as a result of partition.

(4) A partition that took place before the term stipulated in co-owners' agreement may not be relied upon in relation to the creditor that holds a mortgage over a share, unless the creditor consented to that partition or the debtor did not preserve right of ownership to at least a part of the property.

Article 364. Co-owners' Duty of Guaranty

(1) Co-owners owe each other, within the limits of their shares, guaranty against eviction and hidden defects, while provisions regarding seller's duty to provide guaranty against eviction shall apply accordingly.

(2) Each of the co-owners shall be bound to compensate the co-owner damaged in consequence of eviction or hidden flaw. Where one of the co-owners is declared insolvent, his/her debt shall be borne proportionately by the other co-owners.

(3) Co-owners shall not owe guaranty where the damage is due to the act of another co-owner or where they have been exempted by the deed of partition.

Article 365. Nullity of Partition

(1) A partition shall be avoided on the same grounds as transactions are.

(2) A partition made without the participation of all co-owners is void.

(3) A partition shall be valid even if it does not cover all divided property. In regard of omitted property, an additional partition may take place anytime.

(4) A co-owner, who, while aware of the grounds for nullity, has alienated the attributed property in whole or in part, may not rely on partition's relative nullity.

Section 3: Undivided Co-ownership

Article 366. General Provisions on Undivided Co-ownership

(1) Where the right of ownership belongs concurrently to several persons, but neither of them is a holder of an ideal share from the joint property, the co-ownership is deemed undivided.

(2) The rules regarding divided co-ownership shall apply accordingly to undivided co-ownership, unless otherwise provided in this section.

Article 367. Use of Undivided Property

Each undivided co-owner is entitled to use the undivided property in accordance with its destination, without limiting the rights of the other co-owners, unless the contract provides otherwise.

Article 368. Acts for Preservation and Administration of Undivided Property

Any of the undivided co-owners is presumed to have the consent of all other co-owners for performance of any acts for preservation and administration of the undivided property, unless otherwise provided by law or contract.

Article 369. Acts of Disposal of Undivided Property

(1) Each of the undivided co-owners may dispose of a undivided movable, unless otherwise provided by their mutual agreement.

(2) The conclusion of acts of disposal of undivided immovables requires the written consent of all undivided co-owners.

(3) A transaction disposing of the undivided property concluded with one of the undivided co-owners may be declared void where it is proved that the other party was or should have been aware that there is an agreement limiting the right of disposal, that all the other undivided co-owners do not approve such of transaction, or that the consent for alienation of an immovable has not been sought for.

Article 370. Partition of Undivided Property

Partition of undivided property between co-owners shall be made in proportion to the contribution each of them made upon its acquisition. Until proven otherwise, the contributions of undivided co-owners are deemed equal.

Article 371. Spouses' Undivided Co-ownership

(1) All property acquired by spouses during marriage shall be their undivided co-ownership, unless the law or the contract concluded between them establishes a different legal regime therefor.

(2) Any property acquired by the spouses during marriage shall be presumed to be their undivided property, until proven otherwise.

Article 372. Personal Property of Each Spouse

(1) Property that belonged to each spouse before marriage, as well as property acquired during marriage by virtue of a contract of donation, by inheritance or in any other way with gratuitous title, shall be the exclusive property of the spouse to whom such property have belonged or by whom it have been acquired.

(2) Property for individual use (clothes, footwear, and other similar items), save for jewels and other luxuries, shall be deemed personal property of the spouse who uses them, even if acquired during marriage from spouses' undivided funds.

(3) Property of each spouse may be declared undivided property where it is ascertained that during marriage investments have been made from spouses' undivided funds, which have led to a substantial increase in the value of such property.

Article 373. Determination of Shares in Spouses' Undivided Property in Case of Partition of Property

(1) In case of partition of the spouses' undivided property, the parties shall be deemed equal.

(2) Undivided property of the spouses may be portioned either upon divorce, or during marriage. Partition of co-owned property during marriage does not affect the legal regime of property to be acquired in the future.

CHAPTER IV: PROTECTION OF RIGHT OF OWNERSHIP

Article 374. Claiming Recovery of Property by Owner

(1) The owner is entitled to claim recovery of his/her property from illegitimate possession of other persons.

(2) A possessor may refuse to hand over the property, where he/she or the mediated possessor for which the former exercises possession has a preferential right of possession in relation to the owner. Recovery of the property may be applied in relation to a person who has a superior right, where the latter obtained such property by duress or deceit.

(3) As of the cease of good faith or, in case of a possessor in bad faith, as of acquisition of possession, the possessor shall be liable towards the owner for damage caused due to his/her fault by deterioration, loss or other impossibility to return the property.

(4) The provisions of Articles 307, 310-312 shall apply accordingly to the recovery of owner's property.

(5) Where the possessor acquired possession by arbitrary act or by committing a criminal offence, he/she shall be liable towards the owner under tort law.

Article 375. Owner's Recovery of Property Possessed by an Acquirer in Good Faith

(1) Where a property has been acquired by virtue of an onerous transaction from a person that was not entitled to alienate it, the owner may claim such property's recovery from the acquirer in good faith only when such property had been lost by the owner or by the person to whom he/she has conveyed it, or such propriety had been stolen from either of them, or had gotten out from their possession in any other way, without their consent.

(2) Where the property has been acquired gratuitously from a person who was not entitled to alienate, the owner is entitled to claim recovery of his/her property in all cases.

(3) Money, bearer securities and property obtained at auctions may not be claimed from an acquirer in good faith.

Article 376. Claim to Remove Infringements Other than Deprivation of Possession

- (1) Where the right of the owner is infringed otherwise than by usurpation or illicit deprivation of possession, the owner may claim cease of infringement from the author. he/she may also demand compensation for the damage caused. Compensation may be also claimed where cease or infringement or execution of the claim is impossible.
- (2) Where there are grounds to suppose that further infringements will occur, the owner may file an action on negation.
- (3) Provisions of para.(1) and (2) shall not apply where the owner must allow influence over the property, under legal provisions and rights of other persons.

CHAPTER V: RIGHT OF NEIGHBOURING

Article 377. Duty of Mutual Respect

Besides the duty to observe legally provided rights and interests, owners of neighbouring plots and of other neighbouring immovables are bound to mutual respect. Any plot or immovable property from which certain mutual influences may exert shall be deemed neighbouring.

Article 378. Admissible Neighbouring Influence

(1) The owner of the plot or of another immovable shall not prohibit the influence exerted over his/her property by gas, steam, smell, soot, smoke, noise, heat, vibration or any other similar influence originating in the neighbouring plot, unless this prevents the owner from using his/her property or the breach of his/her right is significant.

(2) Provisions of para.(1) shall also apply in cases where the influence is significant, but is produced through ordinary use of another plot and cannot be removed by economically justified measures. Where the owner is bound to tolerate such influence and it exceeds the ordinary use set in the respective locality and that within the admissible economic limits, the owner may demand from the plot owner that causes the influence an according pecuniary compensation.

Article 379. Inadmissible Encroachment

(1) The owner may demand prohibition of erecting or exploiting certain buildings or installations, with regard to which it is certain that their presence and use triggers inadmissible encroachments on his/her plot.

(2) Where the building or the installations has been erected, with observance of the legally set distance from the border, its demolition or prohibition of exploitation may be demanded only where the inadmissible encroachment has obviously occurred.

Article 380. Request for Removal of Danger of Collapse

Where there is a danger of building's collapse from the neighbouring plot on his/her own plot, the owner may demand from the neighbour to undertake measures necessary for preventing such damage.

Article 381. Water Use

(1) Water flows and underground waters from several plots may not be diverted or manipulated by the owner of any plot, so as to modify the quantity or quality of the water in detriment of the owner of another plot.

(2) The owner of the inferior plot may not prevent in any way the natural flow of the water originating in the superior plot.

(3) Where the water flow from the superior plot caused damage to the inferior plot, its owner may demand court permission to perform works for changing the direction of water flow, supporting all related outlays. In turn, the owner of the superior plot is bound not to perform any works that would prejudice the situation of the inferior plot.

Article 382. Special Rules of Water Use

(1) The owner of the inferior plot may not impede outflow caused by the owner of the superior plot or by other persons, as in the case of water springing from the latter plot, due to underground works undertaken by the owner of the superior plot, waters generated by plot drainage, waters used for home, agricultural or industrial use, but only if such outflow is preceding a flowing into a water flow or into a ditch.

(2) In the case provided by para.(1), the owner of the superior plot is bound to choose the methods and facilities for flowing that would cause minimal damage to the inferior plot, while being bound to pay a just and preliminary compensation to the owner of the latter plot.

(3) The provisions of para.(1) and (2) shall not apply where a building and homestead land or a cemetery is situated on the inferior plot.

Article 383. Collection of Water

The owner that intends to use for irrigation of his/her plot natural or artificial waters, which he/she may actually avail himself of, is entitled to make on the opposite coastal plot useful works for water collection, at his/her own exclusive expense.

Article 384. Water Surplus

(1) The owner that has excessive quantities of water for current needs is bound, in exchange for a just and preliminary compensation, to offer this surplus to the owner that cannot procure water necessary for his/her plot or where this is possible only with incurrance of excessive outlays.

(2) The owner may not be exempt from the obligation set in para.(1), claiming that he/she could attribute to the water surplus another destination than that of satisfaction of current needs. he/she may, however, demand from the owner in need an additional compensation, contingent on proving the real existence of the invoked destination.

Article 385. Preservation of Rights Acquired by Owner of Inferior Plot

(1) The owner may attribute any destination to the spring on his/her territory, contingent on non-infringement of the rights acquired by the owner of the inferior plot.

(2) The owner of the plot on which the spring is located may not divert it, if this would deprive the inhabitants of a locality of water for their current needs.

Article 386. Roof Drainage

The roof must be constructed in such a way that water, snow or ice fall exclusively on owner's territory.

Article 387. Fallen Fruits

Fruits fallen from trees or bushes on the neighboring plot shall be deemed fruits originating from that plot.

Article 388. Roots and Branches from Neighboring Plot

(1) The owner of the plot may cut and retain tree roots and branches reaching to him/her from the neighboring plot. The same rule shall apply with regard to tree and bush branches that droop from the neighboring plot.

(2) The right provided for in para.(1) shall not be granted to the owner where roots and branches do not impede use of his/her plot.

Article 389. Distance for Constructions, Works and Plantations

(1) The owner may place constructions, works or plantations on the plot only contingent on observance of a minimal distance in relation to the borderline, in compliance with the law, urbanism regulations or, in the absence of such rules, in conformity with local customs, but which should not be less than 2 meters from the borderline.

(2) Trees, save for those not exceeding 2 meters, as well as for plantations and green hedges, must be planted at the distance set by law, urbanism regulations or local customs, but not be less than 2 meters from the borderline.

(3) In case of nonobservance of distance provided for in para.(1) and (2), the owner of the neighboring plot is entitled to demand stubbing or cutting down to the established height of trees, plantations and green hedges, at the expense of the owner of the plot on which the respective objects are situated.

Article 390. Transgression of Border of Neighboring Plot by Construction

(1) Where upon erecting a construction, the owner transgressed the limits of his/her plot, which has not been done willfully or by serious fault, the neighbor shall be bound to tolerate breach of border, unless he/she objected until or immediately after transgression.

(2) A neighbor damaged by actions provided for in para.(1) must be compensated through a pecuniary rent, paid annually, in advance.

(3) A person entitled to receive rent may demand anytime from the debtor conveyance of ownership over the constructed portion of the plot, in exchange for payment of its price.

Article 391. Access to Another's Plot

(1) Any owner is bound upon receiving a written or verbal notice to allow the neighbor access to his/her plot for erecting or providing maintenance to a construction, plantation, or performance of other works on the neighboring plot, as the case may be.

(2) The owner bound to allow access to his/her plot is entitled to compensation for damage caused solely through this action, and to restoration of the initial state of the plot.

(3) Where, due to a natural calamity or a force majeure, a property has got on someone other's plot or has been transported to that plot, the owner of the plot must allow searching for and return of the property, inasmuch as he/she did not proceed by himself to the search or did not return it. A property shall continue to belong to the owner, save for the case when he/she relinquishes right of ownership. The owner of the plot may demand removal of property and bringing the plot to its initial condition.

(4) The owner of the plot who erects and maintains constructions, plantations or performs other works on his/her territory is not entitled to put the neighboring plot under risk or to undermine the durability of constructions, works or plantations on that plot.

Article 392. Passage through Another's Property

(1) Where the plot lacks ways of communication with common use facilities, water pipes, electric energy networks, gas, telecommunications and other similar utilities, the owner may demand from neighbors permission to use their plots for installing the necessary communications.

(2) The passage shall be done in such a way as to cause minimal prejudice to the exercise of the right of ownership over the plot. The neighbor whose plot is used for access shall be entitled to a just and preliminary compensation, which, subject to parties' agreement, may be paid as a lump amount.

(3) The compensation owed under para.(2) shall be doubled where the lack of access is due to an act of the owner that claims passage.

Article 393. Installation of Demarcation Balk

(1) The owner of the plot may demand from the owner of the neighboring plot to participate in the installation of a stable demarcation balk or in the restoration of a deteriorated balk.

(2) Demarcation outlays shall be divided between neighbors, unless it follows otherwise from relations between them.

Article 394. Disputes concerning Boundaries

(1) Where due to a dispute it is impossible to determine the real boundary, than factual possession of the neighbors shall be essential to the demarcation process. Each plot shall be annexed half of the disputed portion, where factual possession is not determined.

(2) Where boundary setting in conformity with provisions of para.(1) leads to a result that contravenes to the established facts, and in particular prejudices the set dimensions of the plot, the boundary shall be established by court, upon the request of either party.

TITLE IV: OTHER REAL RIGHTS

CHAPTER I: USUFRUCT

Article 395. Definition of Usufruct

(1) Usufruct is the right of a person (usufructuary) to use a property of another person (bare owner) for a certain or determinable period of time, and to receive its fruits as if he/she were the owner, being bound to preserve the substance of such property. The usufructuary is entitled to possession, but not alienation of the property.

(2) Usufruct may be restricted by exclusion of certain types of use.

(3) Usufruct may be constituted, concomitantly or successively, in favour of one or several persons existent at the time of commencement of usufruct.

Article 396. Institution of Usufruct

(1) Usufruct may be instituted by law or transaction. In regard of immovables rules regarding real estate register shall apply. In cases provided by law, the usufruct may be instituted by court judgment.

(2) Upon institution of usufruct, rules regarding alienation of property constituting the object of usufruct shall apply.

(3) Any non-consumable property, found in civil circulation, movable or immovable, corporeal or incorporeal, including entire property or a part of it, may become object of usufruct.

(4) Usufruct extends over all accessories of the property offered into usufruct, as well as over all that is attached or incorporated into it.

Article 397. Term of Usufruct

(1) Unless a shorter term is set by law or transaction, usufruct shall be deemed established to the most until the death of natural person or liquidation of legal entity.

(2) Usufruct established in favour of a legal entity may not exceed 30 years.

(3) Usufruct ends upon death of the natural person or liquidation of the legal entity, in whose favour the usufruct has been established.

(4) Any transaction by which a perpetual and assignable usufruct is established for case of death or liquidation is null and void.

Article 398. Inalienability of Usufruct

(1) Usufruct may not pass from the usufructuary to another person by transaction or succession.

(2) The usufructuary may lease the movable offered into usufruct to another person, in whole or in part, unless provided otherwise upon establishment of usufruct,.

(3) Where upon establishment of usufruct, the immovable was not in lease or agricultural lease; the usufructuary may not lease such property without the consent of the owner or without court authorization, if this right has not been granted to him/her expressly upon establishment of usufruct.

(4) Upon extinction of usufruct, the bare owner is bound to maintain contracts of lease or agricultural lease concluded according to the established procedure. he/she may, however, reject maintenance, where:

a) term of the contract of lease or agricultural lease exceeds, without his/her consent, the usual term according to local usages;

b) the commercial premises have been leased for a term exceeding 5 years;

c) the agricultural enterprise has been leased for a term exceeding 12 months;

d) the agricultural land plot has been leased for a term exceeding 6 months;

e) the contract of lease or agricultural lease contains unusual clauses, which are excessive for the bare owner.

(5) The bare owner loses his/her right to reject maintenance of contract where the lessee or the agricultural lessee has set a reasonable term, within which the bare owner should have declared maintenance or rejection to maintain the contract, and the owner omitted to do this within the term set.

Article 399. Determination of Property's Condition

(1) The usufructuary shall take over the property in the condition it is in at that very moment.

(2) Upon establishment of usufruct over an aggregate of property, the usufructuary and the bare owner are bound to offer mutual assistance regarding the inventory drawing up.

(3) The inventory shall specify the date of its drawing up and shall be signed by both parties. Upon request of either party, the signatures shall be certified by notary.

(4) Each party is entitled to request that the inventory be performed by a competent body.

(5) A party who demands inventory performance under para.(4) or notary certification of signature, shall bear expenditures thus incurred.

Article 400. Usufruct Price, Charges and Outlays

- (1) In the absence of an express stipulation of the onerous character of the usufruct, it shall be deemed gratuitous.
- (2) Expenditures and charges on the property shall incur on the bare owner, save for cases provided by law or contract.
- (3) A usufructuary shall be held liable for payment obligations (taxes, duties) due to the state for the object of usufruct.

Article 401. Usufructuary Right to Fruits

- (1) The usufructuary shall be entitled to all fruits that the object of usufruct produces, unless it is stipulated otherwise.
- (2) Fruits that have not been collected upon rise of the right of usufruct shall belong to the usufructuary, while those that have not been collected upon expiry of usufruct duration shall belong to the bare owner, unless the transaction that established the usufruct does not provide otherwise. Income shall be deemed collected on a day-by-day basis and shall pertain to the usufructuary in proportion to the duration of the usufruct. These provisions shall apply to the rent from agricultural lease, rent on lease of immovables, dividends and interest payments obtained.

Article 402. Right to Dispose of Consumable Property

Where the usufruct also comprises consumable property, the usufructuary is entitled to dispose of such property, with the obligation to return property of the same quality, quantity and value or, if this is impossible, to return its equivalent value on the date of usufruct termination.

Article 403. Payment of Matured Claims

- (1) Where the usufruct covers a claim that matures within the term of the usufruct, the payment shall be made to the usufructuary against issuance of a notice of receipt.
- (2) Upon termination of usufruct, all that has been received as payment shall be conveyed to the bare owner.

Article 404. Right to Vote

- (1) The right to vote granted by a share or another security, by a share in co-ownership or by any other property shall belong to the usufructuary.
- (2) The right to vote shall belong to the bare owner where it results in the modification of the substance of the principal property, as is the registered capital or the property held in co-ownership, or in change of destination of the respective property or liquidation of the legal entity.

Article 405. Creditors' Rights

- (1) Usufructuary creditors may seize the rights of the usufructuary, without prejudice to the rights of the bare owner.
- (2) The creditors of the bare owner may seize his/her rights, without prejudice to the rights of the usufructuary.

Article 406. Usufructuary Right to Use Trees

- (1) A usufructuary may not cut trees growing on the land plot charged with usufruct, save for the need of repair, maintenance or exploitation of land plot. he/she may dispose of the trees that fell or dried up naturally.
- (2) A usufructuary is bound to replace, in conformity with local usages or habits of the bare owner, trees that have been destroyed.

Article 407. Usufructuary Right to Forest Trees Designated for Hewing Down

- (1) Where the usufruct covers forests designated by their owner for periodical hewing down, the usufructuary is bound to keep the order and amount of hewing, according to the rules set by law, by bare owner or by local usages, without the right to claim any compensation for parts left uncut during the usufruct.
- (2) The trees that are withdrawn from the nursery forest shall not become part of the usufruct. The usufructuary undertakes to comply with legal provisions and local usages in what regards their replacement.
- (3) A usufructuary may, while conforming to legal provisions and local usages, exploit parts of high forests that have been designated for regular hewing, either in the case when such hewing is

made periodically on a set area or when the hewing is done in regard of a certain number of selected trees from the entire area of the plot. In other cases, the usufructuary may not cut high trees. he/she may, however, use while performing repairs to which he/she is bound, trees that have fallen accidentally or even cut out useful trees, being, however, bound to prove, in the presence of the owner, the need to do this.

Article 408. Right over Quarries

(1) In compliance with the legal provisions, a usufructuary shall be entitled to use, similarly to the bare owner, quarries under exploitation upon establishment of the right of usufruct.

(2) A usufructuary does not have any right over unopened quarries.

Article 409. Wear and Tear of Object of Usufruct

Where the usufruct covers property that, without being consumables, are subject to wear and tear as a consequence of their use, the usufructuary shall use them as a good owner, according to their destination. he/she shall be bound to return them in the condition in which they were upon the date of usufruct termination.

Article 410. Duty of Notification

(1) Where the property is deteriorated, destroyed or where repair, improvement or measures to prevent certain dangers are needed, the usufructuary is bound to inform the bare owner immediately.

(2) The usufructuary is bound to notify the owner immediately of any illegal acts concerning the plot and of any usurpation of the right of ownership, subject to payment of compensation in case of failure.

Article 411. Duty to Maintain Property's Destination

While exercising his/her rights, the usufructuary is bound to maintain the destination conferred to the property by the bare owner.

Article 412. Obligation to Perform Repairs

(1) The usufructuary is bound to perform repairs for maintenance of the property.

(2) Where the usufructuary incurs in connection with the property outlays that he/she was not bound to, the obligation of the bare owner to reimburse such expenditures shall be determined based on the rules concerning management of affairs.

(3) The bare owner is charged with overhaul repairs, without being bound to it.

(4) Major repair shall be charged on the usufructuary when such necessity is due to non-performance of maintenance repairs.

(5) The usufructuary is bound to notify the bare owner about the need to carry out major repairs.

(6) Where the bare owner does not timely perform overhaul, the usufructuary may undertake overhaul at his/her own expense, the bare owner being bound to compensate for the costs incurred upon termination of usufruct.

Article 413. Liberation from Duty to Reconstruct

The usufructuary and the bare owner are not bound to reconstruct what has deteriorated due to decay or accident.

Article 414. Payment of Insurance Premiums

Where the property is insured, the insurance premiums for the period of usufruct shall be paid by the usufructuary.

Article 415. Modification or Termination of Encumbered Right

The right encumbered with usufruct may be modified or extinguished by transaction only with the consent of the usufructuary.

Article 416. Right of Disposal and Exercise of Actions for Protection

The bare owner is entitled to alienate the property, to charge it with encumbrances and exercise all actions for protection of the right of ownership.

Article 417. Duty of Bare Owner to Guarantee Rights of Usufructuary

The bare owner is bound to refrain from any transaction or deed, which would hinder or breach usufructuary free and complete exercise of his/her right, to guarantee the usufructuary against

eviction, and to compensate the usufructuary for damage, where the owner diminished the value of the usufruct due to his/her own fault.

Article 418. Payment of Duties Related to Property Charged with Usufruct

(1) Where the usufruct has universal character or is universal in title and the usufructuary defrays debts relating to the property or portion of property charged, the bare owner shall be bound to return, upon termination of usufruct, advance payments, without accrual of interest.

(2) Where the usufructuary does not pay for the debts provided for in para.(1), the bare owner may choose either to pay such debts or sell a sufficient part of the property charged with usufruct. Where the bare owner pays for those debts, the usufructuary shall owe interest for the entire duration of the usufruct.

(3) Where payment of debts is not made as provided by para.(1) and (2), the creditors may impose seizure on property given into usufruct.

Article 419. Discovery of Treasure

The right of the usufructuary does not extend over the rights of the bare owner concerning the treasure discovered within the property.

Article 420. Termination of Usufruct

(1) Usufruct is extinguished by expiry of the term for which it has been established, by coincidence of the quality of owner and usufructuary in one person, by relinquishment by usufructuary of his/her right, by usufructuary death or liquidation, as the case may be.

(2) Usufruct also terminates where the court decided upon rescission or nullity of transaction by which the person who established the usufruct acquired title to respective property.

Article 421. Termination of Usufruct upon Request of Bare Owner

Usufruct may terminate upon request of the bare owner, where the usufructuary abuses of the property, deteriorates it or leaves it to decay.

Article 422. Termination of Usufruct in Case of Property Destruction

(1) Usufruct shall terminate where the property has been destroyed entirely due to an accident. If the property is destroyed but partially, the usufruct continues in regard of the remaining part.

(2) Usufruct shall continue to exist in respect of the insurance amount where it is not used for property's repair.

Article 423. Effect of Usufruct Termination

(1) Upon termination of usufruct, the usufructuary is bound to return the property held by virtue of usufruct, in the according condition, to the bare owner.

(2) In case of destruction or deterioration of property due to the fault of the usufructuary, he/she shall be bound to compensate the owner for the damage.

(3) In case of immovables, termination of usufruct must be entered in the register.

CHAPTER II: RIGHT OF USE AND RIGHT OF HABITATION

Article 424. General Provisions on Right of Use and Right of Habitation

(1) Use is a real right over a property of another person, by virtue of which the user may use the property and collect the fruits necessary for his/her own needs and those of his/her family.

(2) The holder of the right of habitation is entitled to reside in the dwelling premises of another person, together with his/her spouse and children, even if he/she was not married or did not have children upon the date of instituting the habitation.

(3) Use and habitation are established based on a transaction or on legal provisions. Rules regarding real estate register are applicable in case immovables.

(4) The act by which the use is established may limit or extend the right of use. The user may not claim more fruits than are needed for satisfying his/her needs and those of his/her family, unless the act provides otherwise.

Article 425. Exercise of Right of Use and of Right of Habitation

(1) The right of use and habitation may not be assigned, while the property that is the object of those rights may not be offered either in ordinary or agricultural lease.

(2) The user or the holder of the right of habitation shall bear outlays incurred for cultivation or maintenance, in proportion to the part of the property he/she uses.

Article 426. Right to Use Common Facilities

The user or the holder of the right of habitation with regard to a part of the property only is entitled to use facilities designated for common use.

Article 427. Application of Provisions on Usufruct

The provisions on usufruct shall apply accordingly to use and habitation.

CHAPTER III: SERVITUDE

Article 428. General Provisions on Servitude

(1) Servitude is an encumbrance on an immovable (subservient plot) for the use or utility of the immovable of another owner (dominant plot). The utility may consist in the enhancement of the convenience of the dominant plot or may derive from its economic destination.

(2) The obligation to perform a certain action may be attached to servitude and imposed on the owner of the subservient plot. This obligation shall be accessory to the servitude and may not be set otherwise than in favour or with a view to the exploitation of the immovable.

Article 429. Terms of Servitude

(1) Upon exercise of servitude, a person entitled is bound to have regard of the interests of the subservient plot owner.

(2) The owner of the dominant plot may be bound to pay a periodic reward (compensation) to the owner of the subservient plot.

(3) The change of the owner of the dominant or subservient plot, as well as partition of the plots, shall not prejudice the right of servitude.

(4) Servitude may be instituted with a view to a future need of the dominant plot.

(5) Servitude instituted over a building that is to be constructed yet or over a plot that is yet to be acquired shall arise only upon construction or acquisition.

(6) A plot charged with usufruct or superficies shall be charged with servitude only with the consent of the usufructuary or of the holder of superficies.

Article 430. Classification of Servitudes

(1) Apparent servitudes are those recognizable through external signs, while non-apparent servitudes are those that are not marked by such signs.

(2) Permanent servitudes are those the exercise of which is continuous, without the need of person's act, while discontinuous servitudes are those, which are only exercisable by person's act.

(3) Positive servitudes are those that entitle the owner of the dominant land to undertake directly certain acts of use on the subservient plot, while negative servitudes are those, which impose on the owner of the subservient plot certain restrictions in the exercise of his/her right of ownership.

Article 431. Institution of Servitude

(1) Servitude may be established through the destination set by the owner, through transactions and through acquisitive prescription.

(2) The transaction establishing the servitude shall be certified by notary.

(3) Servitude established by transaction shall become opposable after entry into the real estate register.

Article 432. Institution of Servitude by Destination Set by Owner

Servitude established through owner-set destination shall be confirmed by a document of the plot owner, which, in view of a potential partition of the plot, shall immediately establish the nature, aim and imposition of servitude on a part of the plot in favour of other parties.

Article 433. Acquisition of Servitudes through Acquisitive Prescription

(1) Permanent and apparent servitudes, as well as positive and non-apparent ones, may arise through acquisitive prescription, in compliance with the law.

(2) Material acts corresponding to discontinuous servitudes shall be presumed exercised with the simple consent of the owner of the subservient plot. The owner of the dominant plot may obtain application of acquisitive prescription, by proving the contrary.

(3) Non-apparent and negative servitudes may not be acquired through usucapion.

Article 434. Exercise of Servitude

(1) The charge, which the servitude imposes on the subservient plot, consists in owner's obligation to allow performance of certain actions on, over or beneath his/her plot. The servitude may also consist in owner's obligation to refrain from certain actions in favour of the dominant plot owner.

(2) Servitude covers all that is necessary for its exercise.

(3) Where the servitude has been exercised voluntarily and without any objections for a period of 3 years, then, in case of certain disputes between owners, this order of exercise may serve as decisive grounds for solving the dispute.

(4) The owner of the subservient land is bound to refrain from any act that would restrict or hinder the exercise of the established right. Therefore, the condition of the place or transfer of placement of servitude exercise cannot be changed.

(5) The owner of the subservient plot may set the part of the plot for exercise of servitude, other than that provided for in para.(3), but only if such transfer does not prejudice the owner of the dominant plot. Outlays pertaining to the transfer shall be borne by the owner of the subservient plot.

(6) The right of servitude belonging to the owner of the dominant plot shall be exercised in such a way as to create as few difficulties as possible to the owner of the subservient owner.

Article 435. Abandonment of Subservient Plot

In all cases where, under contract, outlays for exercise and preservation of servitudes incur on the owner of the subservient plot, he/she shall be liberated from his/her duties by abandoning in favour of the dominant plot owner the part of the subservient plot necessary for the exercise of servitude.

Article 436. Rights of Dominant Plot Owner

(1) The owner of the dominant plot is entitled to make use of the servitude, to perform on the subservient plot any work necessary for servitude exercise, to preserve the right of servitude, unless the contract provides otherwise.

(2) Save for a contrary provision, the owner of the dominant plot may take all measures and may undertake, at his/her own expense, all works for the exercise and preservation of the servitude. Outlays incurred due to these works shall pertain to both owners, in proportion to the advantages obtained by them, inasmuch as the works performed for the exercise of the servitude are necessary and are useful for the subservient plot as well.

(3) The owner of the dominant plot may remove all constructions and plantations that he/she has placed on the subservient plot, in case of the need to restore its normal condition for exploitation, and shall be bound to do this upon the request of the owner of subservient plot.

Article 437. Duties of Dominant Plot Owner

(1) The dominant plot owner is bound to maintain constructions and plantations placed on the subservient plot, inasmuch as he/she ensures by this observance of interests of the subservient plot.

(2) The dominant plot owner is bound to compensate for damage caused to the owner of the subservient plot.

(3) Where the right of servitude is set in favour of two or more owners of dominant plots, the duty of maintenance of constructions and plantations placed on the subservient plot and of compensation for damage caused to the owner of that plot, shall be borne by each dominant plot owner, in proportion to his/her benefits, unless the law or the act for establishment of the servitude provide otherwise.

Article 438. Rights over Constructions and Plantations

The owner of the subservient plot does not have any rights over constructions and plantations placed on his/her plot by the owner of the dominant plot.

Article 439. Concurrence of Several Rights

Where the servitude over a plot exists concomitantly with another servitude or another real right of use over the immovable, and these rights cannot be exercised at the same time, in whole or in part, while having the same degree of priority, any person is entitled to demand establishment of a certain order of exercise that would be fair and benefit all interested persons.

Article 440. Grounds for Termination of Servitude

Servitude terminates through exclusion from the real estate register, in case of:

- a) Consolidation, when both plots come into the ownership of one person;
- b) Relinquishment by owner of the dominant plot;
- c) Expiry of term;
- d) Redemption;
- e) Impossibility of exercise;
- f) Non-use for a period of 10 years;
- g) Disappearance of any utility of servitude;
- h) Expropriation of subservient plot, where the servitude contradicts the public utility, for which the expropriated plot is designated.

Article 441. Computation of Duration of Non-use

(1) The term provided for in Article 440 let.(f) starts running from the date of the last act of exercise of discontinuous servitudes or from the date of an act contrary to the exercise of permanent servitudes.

(2) The exercise of the servitude by a co-owner or by a usufructuary shall cause interruption of term in relation to the other co-owners or in relation to the bare owner.

Article 442. Redemption of Servitude of Passage

(1) The servitude of passage may be redeemed by the owner of the subservient plot, if there is an obvious disproportion between the advantages it brings to the owner of the dominant plot and the inconveniences or depreciation caused to the owner of the subservient plot.

(2) In case of divergences between parties, the court may issue a decision substituting the consent of the dominant plot owner. Upon setting the redemption price, the court shall take into account the duration of servitude and the change in value of the two plots.

CHAPTER IV: SUPERFICIES

Article 443. Definition of Superficies

(1) Superficies is an immovable real right to use someone's plot with a view to construct and exploit a construction, over and beneath that plot, or to exploit an already existing building. This right is alienable; it may be assigned by succession and may be the object of a contract of lease.

(2) Unless otherwise provided, the superficies covers only the use of the part of the plot occupied by the building or on which the building is to be constructed, as well as the part of the plot that is not built up, but is necessary for normal exploitation of the building, according to its nature or destination.

(3) The extent of the superficies to use the charged plot shall be set by law or contract. Unless the contract provides otherwise, the plot shall be charged with the servitude necessary to exercise the superficies. The servitude terminates upon termination of superficies.

(4) Rules concerning ownership over immovables shall apply accordingly to the superficies, unless the law provides otherwise.

(5) The building is an essential part of the superficies.

(6) Superficies may not be established under a subsequent condition.

(7) Superficies may not be limited to a part of the building.

Article 444. Establishment of Superficies

(1) Superficies arises by virtue of a transaction or legal provision, being opposable to third parties from the moment of entry into the real estate register.

(2) Unless another term has been set, the superficies shall be deemed established for a period of 99 years.

(3) Superficies may not be established under a suspensive condition.

Article 445. Superficies in Case of Demolition or Destruction of Building

Superficies shall not terminate by demolition or destruction of building.

Article 446. Ranking of Superficies

Superficies shall be entered in the real estate register only in the first rank of precedence. The rank cannot be modified.

Article 447. Exercise of Superficies

A superfiary may dispose freely of his/her right. In the case of an existent building, the superficies may be alienated or mortgaged only together with the building. In case of alienation of building by the holder of superficies, the owner of the plot shall have a right of pre-emption.

Article 448. Duty of Superfiary Right to Pay Rent

(1) Unless the transaction provides otherwise, the superfiary shall owe an amount equal to the market rent, paid in monthly instalments, having regard of the nature of the plot, zone of its placement, the destination of the building, as well as any other criteria for determining the price of the use. The rent shall be set on the date of establishment of superficies.

(2) The rent may be adjusted upon the request of either party, where economic conditions render non-adjustment unfair. The adjustment shall take place having regard of the economic conditions and the principle of fairness.

(3) Where the superfiary does not pay the rent for a period of 3 years, the owner of the plot is entitled to demand sale of superficies by auction. The owner of the plot may participate in the auction.

(4) Where the superficies belongs to several persons, they shall be jointly and severally liable for rent payment in relation to the owner.

Article 449. Termination of Superficies

Superficies shall terminate:

- a) Upon expiry of term;
- b) By confusion, where the plot and the building become property of the same person;
- c) In other cases established by law.

Article 450. Termination of Superficies upon Request of Plot Owner

Where the holder of the superficies did not erect the building within the term specified in the transaction concerning establishment of superficies or if he/she breaches the obligation for preservation of construction, the owner of the plot is entitled to demand termination of the superficies.

Article 451. Effects of Termination of Superficies

(1) Upon termination of superficies, the construction situated on the plot shall pass into the ownership of the plot owner.

(2) The plot owner shall be bound to pay to the holder of the superficies an according compensation for the building. The compensation shall not be deemed according, where it does not cover at least two thirds of the market value of the building.

(3) The owner of the plot may liberate himself from the payment of compensation, by extending the superficies, before its expiry, up to the estimated life of the building.

(4) A holder of the superficies is not entitled to move the structure or its component parts after the extinction of the superficies.

Article 452. Security for Compensation

(1) The superfiary has a right of retention over the building until payment of compensation.

(2) The claim for compensation is secured by the plot instead of the superficies and by the rank of the superficies.

(3) Where, upon its termination, the superficies is charged with a mortgage, the mortgage creditors have a right of pledge on the compensation.

Article 453. Subrogation in Contracts in Force

Upon termination of superficies, the plot owner shall replace the holder of superficies in contracts in force of lease and agricultural lease.

TITLE V: REAL ESTATE REGISTER

Article 496. Destination of Real Estate Register

(1) The real estate register contains description of immovables and specifies real rights pertaining to such property.

(2) Rights of claim, facts and legal relations pertaining to immovables entered in the register may be registered in cases provided by law.

(3) The real estate register is open for examination by any interested person.

(4) The procedure of establishment and keeping of the register of immovable property shall be set by law.

Article 497. Presumption of Authenticity and Completeness of Information from Real Estate Register

(1) It is presumed that information entered in the real estate register is authentic and complete, until the first disproof.

(2) The content of the register is deemed authentic in favour of the person who acquired a right from another person by means of a transaction, if the right has been registered in the name of that person. This provision shall not apply where there is a note impugning authenticity or where the acquirer had knowledge of entry's inaccuracy.

Article 498. Types of Entries

(1) Entries are of three types: definitive registration, provisional registration and note.

(2) Definitive and provisional registration pertains to real rights, while the note is made in regard of rights of claims, facts and legal relations pertaining to the immovables entered in the register.

(3) The provisional registration and the note are made only in cases and under terms provided by law.

Article 499. Acquisition of Real Rights Subject to Registration

(1) Real rights to immovables subject to registration under the law shall be acquired both between parties and in relation to third parties only after registration in the real estate register of the establishment or transfer of those rights by virtue of parties' agreement.

(2) Real rights shall be lost or extinguished only if their exclusion has been entered in the real estate register with the consent of the holder. The consent is not necessary where the right is extinguished by lapse of term specified in the entry or by death or cease of holder's existence.

(3) Where the right to be excluded is encumbered in favour of a third party, the exclusion shall be made, while maintaining the right of the latter.

(4) An irrevocable court decision or, in cases provided by law, an administrative act shall replace the agreement or the consent, respectively.

Article 500. Consecution of Rights Entered in Real Estate Register

(1) Consecution of rights entered in the real register of immovables shall be determined in conformity with the consecution of their registration. The date of application submittal shall be deemed as the date of registration.

(2) The consecution can be modified later. With a view to such modification, the consent of the persons that change their consecution and registration of modification in the register are needed.

(3) In case of registration of a right, the owner may stipulate the condition of consecution of his/her registration. This condition must be also registered.

Article 501. Provisional Registration in Real Estate Register

Provisional registration in the real estate register is required if:

a) the acquired real right is under a suspensive or subsequent condition;

b) a party is bound to transfer, establish or extinguish a real right or the person administering the property of another person is bound to grant a mortgage security, by virtue of a court judgment that is not yet irrevocable;

c) the debtor has conveyed into deposit the amount for which the mortgage has been established.

Article 502. Effects of Provisional Registration

(1) Provisional registration triggers acquisition, modification or extinction of a real right as of the date of registration of the application, contingent on and to the extent of its substantiation.

(2) The substantiation of a provisional registration shall be made with the consent of the person to whom the registration pertains or by virtue of an irrevocable court judgment.

(3) The substantiation of the exclusion of the right of mortgage shall be based on an irrevocable court judgment for validation.

(4) The substantiation of a provisional registration extends over all entries contingent on its substantiation. Failure to substantiate a provisional registration shall trigger, upon the request of the interested person, exclusion of that registration and of all entries contingent on its substantiation.

Article 503. Public Access to Information

(1) Any person, without being required to substantiate a certain interest, may study information contained in the real estate register, as well as additional documents, as provided by law.

(2) Certified excerpts and authenticated copies from the real estate register shall be issued in accordance with the law.

Article 504. Rectification of Entries in Real Estate Register

(1) Where an entry in the real estate register does not correspond to the existent legal situation, rectification of entry may be demanded.

(2) Rectification shall mean exclusion, correction or specification of any operation susceptible of being entered in the register.

Article 505. Right to Demand Rectification

(1) Any interested person may demand rectification of a definitive or provisional registration, if:

a) the entry or the act based on which the entry was ordered was not valid;

b) the registered right has been wrongly qualified;

c) the conditions for existence of a registered right no longer exist cumulatively or the effects of the transaction based on which the entry was made have ceased;

d) there are other grounds provided by law.

(2) In the absence of holder's consent, the rectification shall be made only based on an irrevocable court judgment.

Article 506. Application of Statute of Limitations on Action for Rectification

(1) Contingent on non-expiry of the period of limitation concerning action on the merits of the case, the action for rectification shall not be subject to statute of limitations in relation to the direct acquirer in bad faith and to the subsequent acquirer in bad faith that registered the rights in their name.

(2) With regard to third parties that acquired in good faith a real right through donation or bequest, the action for rectification may not be filed upon the lapse of ten years as of the day of registration of their application for entry into the register, save for the case when the right to commence action on merits has extinguished earlier.

(3) An action for rectification may be also commenced against subsequent acquirers in good faith and under onerous title, that have registered a real right in their name, but only if the action is based on provisions of Article 505 para.(1) let.a) and b). The term shall constitute 3 years from the date of registration of the application for entry formulated by the direct acquirer of the right subject to rectification, save for the case when the right to commence action on merits has extinguished earlier.

(4) A person acquiring the real right by relying on the content of the register, shall be deemed in good faith, where upon the date of right's acquisition the register did not contain notes about

actions contesting the substance of the right or where no direct divergences between the real estate register and the real legal situation infer from acquirer's title.

Article 507. Impossibility to Rely on Judgment for Rectification

(1) A court judgment admitting rectification of an entry shall not prejudice the rights registered in favour of the persons, in regard of whom the action has been dismissed.

(2) Where the action for rectification has been entered in the register, the court judgment shall be executed ex officio, even against those that acquired any right after the entry.

Article 508. Opposability of Rights

(1) Rights of claim, facts or legal relations in connection with immovables entered in the register become opposable against third parties only by entry.

(2) The following acts are subject to entry in the register:

a) Establishment of a court interdiction and revocation of this measure;

b) Lease and assignment of fruits for more than 3 years;

c) Prohibition to alienate or charge a registered right;

d) Preliminary contract;

e) Right of pre-emption arising from a transaction;

f) Intention to alienate or mortgage;

g) Change of mortgage rank of precedence, attachment of mortgage claim and pledge of mortgage claim;

h) Attachment, enforcement over immovable and its fruits;

i) Action for final registration and action for rectification;

j) Action for protection of real rights entered in the real estate register, actions for cancellation of transaction for nullity, rescission or other cause of invalidity, as well as any other actions pertaining to rights of claim, facts and legal relations in connection with registered immovables;

k) Other cases provided by law.

Article 509. Agreement on Rectification of Entries

(1) Where a person is registered as holder of a right in the real estate register without actually being a holder or not being holder of that right anymore, the person whose right or whose situation is prejudiced by the respective entry is entitled to demand consent on rectification from the person whose right shall be prejudiced by rectification.

(2) With a view to provisional protection, an entry shall be made with regard to usurpation of authenticity of entry in the register.

(3) An entry provided for in para.(2) shall be made based on a court order or the consent between the person, whose right is prejudiced by rectification of the entry in the register. In order for a court to issue an order, it is not mandatory to prove existence of a danger with regard to the right of the person that filed the appeal.

Article 510. Correction of Errors

Material errors admitted upon registration of entries, other than those constituting cases for rectification, may be corrected upon request or ex officio.

Article 511. Non-Application of Provisions concerning Suspension and Restoration of Omitted Period of Limitation

Provisions concerning suspension and restoration of omitted period of limitation shall not be applicable to the statute of limitations regarding action for definitive registration and action for rectification.

BOOK THREE: OBLIGATIONS

TITLE I: OF OBLIGATIONS IN GENERAL

CHAPTER I: OF GENERAL PROVISIONS ON OBLIGATIONS

Article 512. General Provisions on Obligations

(1) Under an obligation relation, the creditor is entitled to claim performance from the debtor, and the debtor is bound to effect it. A performance consists in conveyance, a certain action or debtor's refraining from acting.

(2) An obligation may be pure and simple or subject of modalities.

(3) A performance must be possible and determinate or determinable, and that is neither forbidden by law, nor contrary to public order and good morals.

Article 513. Good Faith and Due Diligence

(1) Both the debtor and the creditor shall act in good faith and due diligence at the time the obligation is created, during its existence and upon extinction.

(2) Clauses derogating from provisions of para.(1) are void.

Article 514. Grounds for Rise of Obligation

Obligations arise from contract, illicit conduct (tort) and from any other act or deed liable to establish the same.

Article 515. Rise of Obligation from Contract Negotiation

(1) An obligation may arise by initiation and carrying out negotiations for concluding contract.

(2) A negotiating party may claim the other party compensation for costs incurred due to the reasonable reliance upon contract's conclusion, which has not been concluded due to the fault of the latter.

Article 516. Right to Information

(1) A right to information may arise from an obligation, without express stipulation. Information provision includes the duty to furnish relevant documents.

(2) Such right to information appears especially in cases where information is important for determining obligation substance and the other party can supply such information without any infringement upon his rights.

(3) A solicitor of information must compensate the person liable for expenses incurred on providing the information. The latter may request guaranties.

Article 517. Natural Obligation

(1) A natural obligation is one whose enforcement cannot be claimed.

(2) Obligations are natural where:

a) law or juridical act do not provide for enforcement;

b) a person has towards another a moral obligation of such nature that, although not subject to enforcement, its performance must, under the general opinion, be deemed as performance owed to such person.

(3) Rules concerning obligation apply to natural obligations, unless it follows from the text or the spirit of the law that certain rules are not applicable to unenforceable obligations.

(4) A natural obligation may turn into a perfect civil obligation by virtue of the mutual agreement of its debtor and creditor.

CHAPTER II: PLURALITY OF SUBJECTS AND OBJECTS WITHIN AN OBLIGATION

Section 1: Divisible and Indivisible Obligations

Article 518. Divisible Obligation with Several Debtors

(1) An obligation is divisible between two or more debtors where they are obligated to the creditor for the same thing but in such a way that each debtor may only be compelled to perform the obligation separately and only up to his share of the debt.

(2) Debtors are liable in equal shares, unless it follows otherwise from law, contract or the nature of the obligation.

Article 519. Divisible Obligation with Several Creditors

(1) An obligation is divisible between two or more creditors where they are entitled to the same performance by the debtor but in such a way that each creditor may only demand his share of the claim.

(2) Creditors are entitled to equal shares, unless it follows otherwise from law, contract or the nature of the obligation.

Article 520. Presumption of Divisibility

An obligation shall be divisible *ipso jure*, unless it is expressly stipulated that it is indivisible or unless the object of the obligation, owing to its nature, is indivisible.

Article 521. Effect of Indivisibility

(1) An indivisible obligation is not susceptible of division, either between the creditors or the debtors or between their heirs.

(2) Each of the debtors or of his heirs may separately be compelled to perform the whole obligation and, conversely, each of the creditors or of his heirs may exact the performance of the whole obligation, even though the obligation is not solidary.

(3) A stipulation of solidarity does not make an obligation indivisible.

(4) A divisible obligation binding only one debtor and one creditor may be performed between them only as if it were indivisible, but it remains divisible between the heirs.

Section 2: Solidarity between Creditors

Article 522. Solidary Claims

Where two or more creditors are entitled to exact the whole performance of the obligation from the debtor and to give a full acquittance for it, their claim shall be deemed solidary.

Article 523. When Solidary Claims Arise

Solidary claims are not presumed, but rise by virtue of juridical act, by law or when the performance is indivisible.

Article 524. Performance of Obligation in Favor of Any Creditor

A debtor has the option of performing the obligation in favour of any of the solidary creditors, provided he has not been sued by any of them.

Article 525. Effects of Performance in Favor of One of the Creditors

Performance of an obligation in favour of one of the solidary creditors releases the debtor towards the other creditors.

Article 526. Release of Debt by One of the Solidary Creditors

A release from the obligation granted by one of the solidary creditors releases the debtor, but only for the portion of that creditor. The same rule applies to all cases in which the obligation is extinguished otherwise than by payment thereof.

Article 527. No Set-up of Defenses Related to Another Creditor

A debtor may not set up against one of the solidary creditors defenses based on debtor's relations with another solidary creditor, to which the first creditor is not a party.

Article 528. Duties of Solidary Creditor who Received Performance towards Other Creditors

(1) A solidary creditor who has received complete performance is bound to share it with the other co-creditors, unless he proves that the obligation was agreed only in his favour.

(2) In between themselves, solidary creditors shall be entitled to equal shares, unless otherwise agreed.

Article 529. Representation of Solidary Creditors

A solidary creditor shall act as an agent for all co-creditors with regard to all acts aiming at preservation of obligation.

Section 3: Solidarity between Debtors

Article 530. Solidary Obligations

An obligation is solidary between the debtors where they are obligated to the creditor for the same thing in such a way that each of them may be compelled separately to perform the whole obligation and where the creditor may claim performance from each of debtor.

Article 531. When Solidary Obligations Arise

Solidarity between debtors is not presumed; it exists only where it is expressly stipulated by juridical act, by law or the performance is indivisible.

Article 532. Solidary Obligations Subject to Modalities

Solidary debtors may be bound differently: some –purely and simply, others – by obligations under condition, others – with a term.

Article 533. Creditor's Right to Demand Performance from Any Solidary Debtor

A creditor may claim payment from any one of the co-debtors at his option, in whole or in part. Until complete payment, all debtors remain bound.

Article 534. Defences of a Solidary Debtor against Creditor

A solidary debtor who is sued by his creditor may set up all the defences against him that are personal to him or that are common to all the co-debtors.

Article 535. Duty of Solidary Debtors to Compensate for Damage

(1) Where the owed property perished due to the fault of one or several solidary debtors, the other debtors shall not be exonerated from the obligation to pay property's price, but shall not be liable for other damage.

(2) Any damage caused by delay shall be compensated only by the debtors in delay.

Article 536. Effect of Performance or Set-off of Solidary Obligation

Obligation performance by one of the solidary debtors shall release all other debtors. The same applies to the set-off made by one debtor.

Article 537. Reduction of Solidary Obligation

If the same person embodies at the same time qualities of solidary creditor and debtor, the debt pertaining to the remaining debtors shall be reduced by the part of that solidary debtor.

Article 538. Effects of Receipt of Partial Performance

(1) A creditor who receives separately and without reserve the share of one of the solidary debtors and specifies in the acquittance that it applies to that share renounces solidarity or his rights in favour of that debtor alone.

(2) Creditor's renunciation of solidarity in favour of a debtor shall not be presumed where the former receives from the debtor an amount equal to the share which the debtor owes him, unless the acceptance receipt states that this amount is received on account of the share of that debtor.

Article 539. No Set up of Defenses against Solidary Debtors

Facts relating only to one of the solidary debtors are effective only with respect to him, unless it appears otherwise from the content of the obligation.

Article 540. Renunciation of Solidarity in Relation to One of the Debtors

A creditor who renounces solidarity in favour of one of the debtors retains his solidary remedy against the other debtors for the whole debt, subject to deduction of the of the debtor who has been released from solidarity.

Article 541. Filing of Action against a Solidary Debtor

(1) A creditor who sues a solidary debtor for his share loses his solidary remedy against him, the release of that debtor from solidarity shall not be presumed, unless the debtor acquiesces in the demand or a definitive judgment admitting the action was issued.

(2) The fact of bringing an action against one of solidary debtors does not bar creditor's right to bring actions against any other solidary debtor.

Article 542. Effect of Delay by the Creditor or Solidary Debtor

(1) Delay by the creditor towards one of the solidary debtors may be relied upon by other solidary debtors.

(2) Effects of delay by one of the solidary debtors shall not be relied upon against the other solidary debtors.

Article 543. Obligations of Heirs of Solidary Debtors

Where one of the solidary debtors has several heirs, these heirs shall be bound to effect the performance in proportion to their shares in the inheritance. This rule shall not apply where the obligation is indivisible.

Article 544. Recourse action in Case of Obligation Performance by One of Solidary Debtors

(1) A solidary debtor who performed the obligation is entitled to file a recourse action against the other solidary debtors in regard of their shares in the obligation.

(2) Where it is impossible to determine shares of solidary debtors, they shall be bound between themselves in equal shares.

Article 545. Compensation to a Solidary Debtor

Where one of the solidary debtors obtained a benefit from a solidary obligation, the solidary co-debtor that did not obtain benefits may request, if he performed the obligation, reimbursement of what he has paid, without deducting his share in the obligation.

Article 546. Effect of Insolvency of a Solidary Debtor

Where the rendering may not be obtained from one of the solidary debtors for reasons of his insolvency, the share in the performance owed by him shall be borne in equal shares by the other debtors, including by the one released from solidarity by the creditor, unless the law or the contract provides otherwise.

Article 547. Defenses Set Up against a Co-Debtor

A solidary debtor sued for reimbursement by the co-debtor who has performed the obligation may raise any common defences that have not been set up by the co-debtor against the creditor.

Article 548. Suspension, Discontinuation or Expiry of Period of Limitation in Respect to Solidary Debtors

Suspension, discontinuation or expiry of period of limitation in relation to one of the solidary debtors is ineffective as against the other debtors.

Article 549. Representation of Solidary Co-Debtors

A solidary debtor acts as agent for co-debtors in respect to obligation extinction or reduction.

Section 4: Alternative Obligations and Facultative Obligations

Article 550. Alternative Obligation

An alternative obligation is one which has two principal performances as its object, the performance of either of which releases the debtor for the whole.

Article 551. Right to Chose the Performance

(1) The choice of the performance belongs to the debtor, unless it has been expressly granted to the creditor.

(2) Where the party who has the choice of the performance fails to exercise it within the additional time allotted to him by an appropriate notice, the choice of the performance passes to the other party.

(3) The choice shall be made by declaration to the other party or by its effect. The chosen performance shall be deemed to have been owed from the outset.

Article 552. No Partial Performance

A debtor may neither perform nor be compelled to perform part of one performance and part of the other.

Article 553. Effect of Impossibility to Perform where Debtor Is Entitled to Choose

(1) Where the debtor has the option and one of the performances becomes impossible to perform, he shall perform the one that remains.

(2) If, in the same case, both performances become impossible to perform and the impossibility of performing either of them is due to the fault of the debtor, he is liable to the creditor to the extent of the value of the last performances remaining.

Article 554. Effect of Impossibility to Perform where Creditor Is Entitled to Choose

(1) Where the creditor has the option, he shall, if one of the performances becomes impossible to perform, accept the remaining performances unless the impossibility of performing it is due to the fault of the debtor.

(2) Where the impossibility of performing is due to the fault of the debtor, the creditor has the right to exact specific performance of the remaining performances or reparation, by equivalence, for the damage resulting from the non-effect of the performance that has become impossible.

(3) If the performances become impossible to perform and the impossibility of performing them is due to the fault of the debtor, the creditor may exact reparation, by equivalence, for the damage resulting from the non-effect of one or another of the performances.

Article 555. Facultative Obligation

(1) A facultative obligation is an obligation which has only one principal performance as its object but from which the debtor may release himself by performing another performance.

(2) A debtor is released if the principal performance, through no fault on his part, becomes impossible to perform.

CHAPTER III: ASSIGNMENT OF CLAIMS AND ASSUMPTION OF DEBTS

Section 1: Assignment of Claims

Article 556. Assignment of claims in general

(1) A transmissible and enforceable claim may be assigned by the creditor (assignor) to a third party (assignee), by virtue of a contract. As of the conclusion of such contract, the assignor shall be replaced by the assignee in respect to the rights that stem from the claim.

(2) An assignment of claim may not prejudice debtor's rights, nor render the obligation of the latter more onerous.

(3) The assignor is bound to deliver to the assignee all documents concerning the claim and to provide information necessary for its enforcement.

(4) Claims regarding alimony payment, compensation for damage caused to life and health, as well as claims connected to the personality of the creditor are non-assignable.

(5) An assignment of claim shall be made in the form required for the juridical act under which such claim raised.

Article 557. Debtor's Consent

A holder of the claim may assign it to a third party without debtor's consent, where this does not contravene to the substance of the obligation, to parties' mutual agreement or to law. An agreement with the debtor whereby a claim is non-assignable may be relied upon only if the debtor has a legitimate interest to this respect.

Article 558. Amount of Rights Transferred to Assignee

(1) A claim is transferred to the assignee as is at of the moment of transfer.

(2) All guaranties and other accessory rights are transferred to the assignee along with the claim.

Article 559. Securing Claim Validity

(1) An assignor is liable towards the assignee for validity of the claim and its securities, but shall not be responsible for debtor's non-performance, except for cases when the assignor warrants the assignee for debtor's performance.

(2) In case of assignment of claim stemming from securities at order, the assignor shall be also held liable for debtor's performance.

Article 560. Defences Raised to Assignee by Debtor

A debtor is entitled to raise to the assignee all defences, which he could have raised to the assignor at the moment of notice of assignment.

Article 561. Effect of Performances

A debtor may set up against the assignee the performance made to the assignor after the assignment, as well as any juridical act concluded after the assignment between the debtor and the assignor concerning the assigned claim, if the debtor was not aware of the existence of assignment at the moment of such performance or conclusion of such juridical act.

Article 562. Priority in Case of Multiple Assignments

Where a claim is assigned several times by the same holder, the earliest assignee shall be deemed creditor of the obligation.

Article 563. Deed concerning Amount of Debt

Where the debtor has drawn up a deed regarding the amount of debt, the assignee may set up the deed against the debtor, if, at the date of assignment, the former was not and should not have been aware that the deed did not represent the facts.

Article 564. Notice of Assignment

(1) Where the assignor notifies the debtor about the assignment of claim or submits to him a deed regarding the assignment, the debtor may set up the assignment against the assignor, even when it did not take place or when it proved to be void.

(2) Such notice of assignment may be retracted only with the consent of the person designated as the new creditor.

Article 565. Assignment of Other Rights

Rules on assignment of claims apply accordingly to assignment of other kinds of rights.

Article 566. Transfer of Claims Otherwise than by Parties' Will

This section shall apply accordingly where a claim is assigned by virtue of law, court judgment or decision of a public authority.

Section 2: Assumption of Debt

Article 567. Assumption of Debt by Agreement with Creditor

(1) A debt may be assumed by a third party by agreement with the creditor. In such a case, the third party replaces the debtor.

(2) Such initial debtor is entitled to reject such agreement and perform the obligation himself.

Article 568. Assumption of Debt by Agreement with Debtor

Where the assumption of debt was agreed upon between the third party and the debtor, transfer validity is subject to ratification by the creditor.

Article 569. Form of Debt Assumption

An assumption of debt must take the form required for the juridical act under which the debt has arisen.

Article 570. Defenses Set up by New Debtor

A new debtor may raise against the creditor all defences arising from the legal relationship between the creditor and the former debtor, but may not set off a claim belonging to the former debtor.

Article 571. Extinction of Securities

Where a debt is assigned, the security rights granted on the claim are terminated to the extent that the one who granted such rights does not approve of their maintenance.

CHAPTER IV: PERFORMANCE OF OBLIGATIONS

Section 1: General Provisions on Obligation Performance

Article 572. General Conditions for Obligation Performance

- (1) Every performance presupposes an obligation.
- (2) Obligations must be performed appropriately, in good faith, at the agreed place, and in due time.

Article 573. Place of Performance

Unless the place of performance is agreed upon or derives from the nature of such obligation, the performance shall be offered at:

- a) creditor's domicile or registered office as of the moment of obligation rise – for pecuniary obligations;
- b) such place where property is located as of the moment of obligation rise – for obligations to convey individual (certain) property;
- c) such place where the debtor carries out the business related to the obligation or, in the absence of such a place, debtor's domicile or registered office – for all other obligations.

Article 574. Change of Creditor's or Debtor's Domicile, Registered Office, Place of Business

- (1) If the debtor or the creditor changed his domicile, registered office or place of business before performance of obligation and notified the other party about this, the obligation shall be performed at the new domicile, registered office or place of business.
- (2) Any additional costs and risks due to change of domicile, registered office or place of business shall be borne by the party who effected such change.

Article 575. Term of Performance

- (1) If the term of performance has not been specified or does not derive from the nature of such obligation, the creditor may demand performance anytime, while the debtor may forthwith provide performance. If the duty to perform immediately does not follow from law, contract or the nature of such obligation, the debtor shall be bound to perform such obligation within 7 days as of the moment of creditor's demand.
- (2) If the term has been specified, it shall be deemed that the creditor may not demand performance ahead of the fixed time. However, the debtor is entitled to early performance, if the

creditor has no good reason to reject such performance. If the creditor rejects early performance, he must immediately notify the debtor about this and take all measures necessary for avoiding damage to the debtor.

Article 576. Creditor's Right to Demand Early Performance

Even if there is a term of performance fixed in favour of the debtor, the creditor may forthwith demand such performance, if the debtor has become insolvent or diminished the value of the set security, or could not produce such security at all, as well as in other cases provided by law.

Article 577. Debtor's Right to Adjourn Performance

A debtor is entitled to adjourn obligation performance in the case and to the extent that he cannot determine in good faith to whom it should be performed.

Article 578. Performance of Conditional Obligations

Where effects of a juridical act depend on fulfilment of a condition, the obligation shall become due on the day of condition fulfilment.

Article 579. Persons Entitled to Receive Performance

(1) A debtor must perform the obligation towards the creditor or the person authorized by the latter or to the person authorized by virtue of law or court judgment.

(2) Where performance has been offered to an unauthorized person, the obligation shall be deemed performed if the creditor confirmed it or benefited of that performance in any other way.

Article 580. Performance towards an Incapable Creditor

Where the creditor is incapable, performance offered to him personally is invalid, unless the debtor proves that it benefited the creditor.

Article 581. Obligation Performance by Third Party

(1) Unless it follows from the law or from the nature of the obligation that the debtor is bound to perform the obligation personally, the obligation may be performed by a third party. In such cases, the creditor is bound to accept performance tendered by a third party instead of the debtor. Such tender of performance made by a third party must be done in the interest of the debtor and not only merely to change creditors.

(2) A creditor may refuse performance tendered by a third party if the debtor objects to it.

Article 582. Satisfaction of Creditor's Claims by Third Party

If the creditor undertakes enforcement over a property that belongs to the debtor, anyone, who is at risk of forfeiture of certain rights over such property, is entitled to satisfy the creditor without debtor's consent. By such act, the third party shall replace the creditor.

Article 583. Money debts

- (1) A pecuniary obligation is to be expressed in national currency. Parties may agree on pecuniary obligations in foreign currency to the extent that law does not prohibit this.
- (2) If a pecuniary obligation expressed in foreign currency must be performed in the national territory, performance may be tendered in national currency, unless payment in foreign currency is an express term of the contract. The Moldova National Bank exchange rate as of the moment of obligation performance shall be taken into account.

Article 584. Performance in Case of Modification of Exchange Rate

(1) Where the exchange rate of the payment currency changed in relation to the account currency before the pecuniary obligation became due, the debtor shall be bound to make the payment according to the exchange rate as of the date of performance, unless otherwise agreed. In the event of a monetary reform, the exchange rate as of the date of monetary reform shall apply.

(2) The party in delay bears the risk of exchange rate modification of the payment currency.

Article 585. Rate of Interest

When, according to law or contract, the obligation bears interest, interest shall be calculated at the Moldova National Bank refinancing rate, unless the law or the contract provides otherwise.

Article 586. Appropriation of Performance

(1) Where a debtor has to perform several obligations of the same nature and the performance tendered does not suffice to discharge all of the obligations, such obligation chosen by the debtor at the time of performance is to be extinguished first. If such a debtor failed to make such a specification, the debt with the earliest maturity date has precedence.

(2) If several claims become due at the same time, the claim which is the most burdensome for the debtor is the first to be settled. If the claims are equally burdensome, the least secured one is the first to be settled.

(3) If neither of the criteria proposed at para.(1) and (2) is applicable, the performance is appropriated proportionately to all obligations.

(4) In the case of a monetary obligation, a payment by the debtor is to be appropriated, first, to court expenses, secondly, to interest, and thirdly, to principal.

Article 587. Obligation Performance by Instalments

(1) Unless it follows otherwise from law, contract or the nature of the obligation, a debtor may perform the obligation in instalments only subject to creditor's consent.

(2) If there is a dispute regarding a part of the obligation, the creditor may not reject performance of the incontentious part tendered by the debtor, save for the case when due to non-performance or inadequate performance of the contentious part of the obligation, the creditor lost interest in the entire performance.

Article 588. Rejection of Another Performance

A creditor is not bound to accept performance other than the owed one. This rule applies even if the tendered performance is of a greater value.

Article 589. Standard of Quality

If the contract does not specify the quality, a debtor must tender performance of at least average quality.

Article 590. Performance in Case of Generic Property

Where the property owed is generic (determinate as to its kind), a debtor shall be liable to the extent to which performance with such property is still possible, even if the non-performance is not due to his fault.

Article 591. Contract of Consumer Loan

(1) A contract for the delivery of goods and a loan contract shall constitute a single (interrelated) juridical act if the loan serves to finance the other contract and both contracts form an economic unit. An economic unit is to be assumed in particular if the giver of the loan uses the services of the seller in preparation for or for the conclusion of the consumer loan contract.

(2) Under a consumer loan contract, a debtor may refuse reimbursement of credit, if defences originating in the onerous contract related to the loan contract entitle him to refuse performance of obligation towards the seller.

Article 592. Performance Costs

Performance costs shall be borne by the debtor, unless the law or the contract provide otherwise.

Section 2: Default by Creditor

Article 593. General Provisions on Default by Creditor

(1) A creditor is in default if he rejects without legal grounds due performance offered to him.

(2) If performance of the obligation requires an action from his part, the creditor is in default where he does not undertake the required action, although the debtor tenders performance.

(3) A debtor shall not be in default to the extent to which the creditor is in default.

Article 594. Temporary Impossibility to Receive Performance

Where the term of performance is not stipulated or the debtor is entitled to early performance, the creditor shall not be deemed in default if he is deprived of the possibility to accept the tendered performance for a period of 7 days, save for the case when the debtor notified him beforehand about the performance.

Article 595. Creditor's Duty to Make Compensation

The creditor must compensate for damage caused to the debtor in consequence of default in accepting performance.

Article 596. Debtor's Responsibility in Case of Default by Creditor

In the event of creditor's default, the debtor shall be liable for non-performance only in case of willful conduct or gross negligence.

Article 597. Effects of Default by Creditor

(1) Irrespective of his culpability for default, the creditor:

- a) is bound to compensate the debtor for extra costs incurred on preservation of the object of contract and performance tendering;
 - b) bears the risk of accidental deterioration or loss of the property;
 - c) may not receive interest on monetary obligation.
- (2) Where the debtor is under the obligation to convey property's fruits or to compensate for their value, this obligation shall not extend on fruits obtained during creditor's default.

Section 3: Protection of Right to Performance of Obligation

Article 598. Creditor's Right to Conserve its Claim

A creditor, who has a serious and legitimate interest, may undertake all measures to preserve of his rights.

Article 599. Oblique Action

(1) A creditor whose claim is certain, liquid, and matured may exercise the rights and actions belonging to the debtor, in the debtors name, where the debtor refuses or neglects to exercise them to the prejudice of the creditor.

(2) A creditor may not exercise rights and actions which are strictly personal to the debtor.

(3) Such claim must be liquid and matured the latest at the moment of examination of the action.

Article 600. Defenses Raised against Creditor who Brought Oblique Action

The person against whom an oblique action is brought may set up against the creditor all the defences he could have set up against his own creditor.

Article 601. Effects of Oblique Action

Property recovered by the creditor under an oblique action falls into the patrimony of the debtor and benefits all his creditors.

CHAPTER V: EFFECTS OF NON-PERFORMANCE OF OBLIGATION

Article 602. Liability for Non-Performance of Obligation

(1) Where the debtor fails to perform his obligation, he is liable to compensate the creditor for damage caused thereby, unless the debtor proves that such failure is not due to his fault.

(2) A non-performance comprises any breach of obligation, including defective or belated performance.

(3) Reparation of damage caused by delay or other defective performance of the obligation does not release the debtor from its specific performance, save for cases when, due to objective circumstances, the creditor loses interest in that performance.

(4) Creditor's right to claim compensation in lieu of performance shall be exercised pursuant to Article 609. The creditor may demand compensation for delay in performance if the additional requirements under Article 617 are satisfied. In the case of a synallagmatic contract, the creditor

may claim compensation for non-performance only after rescission of contract pursuant to Article 737.

Article 603. Debtor's Fault

(1) A debtor shall be liable only for deliberate or negligent conduct, unless the law or contract provides otherwise or it follows otherwise from the nature of the relationship.

(2) Any stipulation releasing the debtor beforehand from liability in case of deliberate conduct or gross negligence shall be void.

Article 604. Responsibility for Acts of Legal Representative and Agent

The debtor is liable for the acts of his legal representative, and those of persons to whom he has entrusted the performance of the contract, as if those were his own culpable acts, unless the law provides for liability of the third party. Provisions of Article 603 para.(2) shall not apply.

Article 605. Responsibility in Case of Impossibility of Property's Purchase

Where the debtor must purchase the property due, he shall be liable for impossibility of purchase even if this is no fault of his, unless the law or the contract provide otherwise.

Article 606. Force majeure

(1) A debtor's non-performance of obligation is excused if it is due to an event of force majeure, and such debtor could not have been aware at the time such obligation raised about the occurrence of or effects due to such an event, or the debtor could not have avoided or overcome the event of force majeure or its consequences.

(2) Where the event of force majeure is only temporary the excuse it grants has effect only for the period during which the impediment exists. Where the event of force majeure is only temporary it may be relied upon only for the period during which it influences such obligation's performance.

(3) If the obligation may not be performed due to an event of force majeure, must give to the creditor notice of the event and of its effects on its ability to perform. If the creditor did not receive such notice within a reasonable time after the debtor knew or ought to have known of the event of force majeure, the latter shall be held liable for any damage resulting from the non-receipt of such notice.

(4) The provisions of this article do not prevent the creditor from demanding rescission of contract, performance of obligation or payment of interest.

Article 607. Restoration of Initial State (Restitutio ad integrum)

(1) The person bound to compensate for damage must restore the situation that would have existed if the event that caused the damage had not taken place.

(2) If, after a bodily injury or other health injury, the work capacity disappears or diminishes or additional needs appear, the injured person must be compensated through payment of a monthly pecuniary allowance. The amount of the allowance is established based on the predictable evolution of the earnings of the injured person, according to reasonable expectations.

(3) The injured person is entitled to claim in advance compensation for medical treatment costs. The same applies in case of the need of professional retraining.

(4) Instead of the allowance, the injured person may claim lump sum compensation, provided that there is a good reason for this.

Article 608. Impossibility of Specific Performance

If restoration of the initial state as provided by Article 607 para.(1) is impossible or its costs are disproportionately high, the creditor shall be compensated in money.

Article 609. Compensation in Lieu of Performance

- (1) A creditor may claim compensation in lieu of performance only if he previously established to the debtor a reasonable period of time for performance. Where such period of time has not been established or it is unreasonably length, a reasonable term shall be applicable.
- (2) There is no need for warning, where it is obvious that it cannot be performed, especially if the term provided at Article 617 para.(4) has expired and the obligation has not been performed or if there are special circumstances that justify immediate exercise of the right to compensation, having regard of the interests of both parties.
- (3) If the debtor has performed only in part, the creditor may demand compensation in lieu of full performance only if he has no interest in performance in part. Article 738 shall apply accordingly in respect to restitution of performance.
- (4) The claim for performance is excluded once the creditor has demanded compensation in lieu of performance.
- (5) Compensation shall be accorded in the form of a lump sum. Compensation under the form of periodical payments may be accorded contingent on the nature of damage. Periodic payment compensation shall be indexed contingent on the inflation rate.

Article 610. Scope of Compensation

- (1) Damages due by debtor for non-performance shall cover both creditor's suffered loss as well as the profit which he has been deprived of.
- (2) Deprived profit is the profit that could have been obtained under normal circumstances and contingent on the proper conduct of the author of damage.
- (3) Only damage that represents the immediate (direct) consequence of non-performance is subject to reparation.
- (4) Compensation shall not cover damage, which, as expected from debtor's experience, could not be reasonably foreseen under an objective assessment.
- (5) If non-performance is caused by deliberate conduct, the debtor shall be also liable for the unforeseeable damage.

Article 611. Determination of Damage Extent

Upon determining the extent of the damage, account shall be taken of the interest the creditor had in adequate performance of obligation. The time and the place established for obligation performance shall be determinant for this assessment.

Article 612. Fault of Person Entitled to Compensation

- (1) If the person entitled to compensation or reparation contributed with fault to the occurrence of damage or to the rise of another obligation for compensation, the existence and extent of the obligation for compensation or reparation shall depend on the circumstances, and especially on the extent to which the damage was caused by either of the parties.
- (2) Para.(1) shall also apply when the fault of the damaged persons consists only in that he failed to prevent or to diminish the damage.

Article 613. Reimbursement of Savings in Case of Exoneration from Liability

Where the debtor proves that non-performance is due to his fault, the debtor shall reimburse to the creditor all savings due to non-performance.

Article 614. Surrender of Substitute

(1) Where the debtor exercises his right to refuse performance of obligation and obtains a substitute or a substitute claim for the object owed, the creditor may demand surrender of what has been received as substitute or an assignment of the substitute claim.

(2) If the creditor may demand compensation in lieu of performance, then, if he uses the right laid down in para. (1), the compensation is reduced by the value of the substitute or substitute claim he has obtained.

Article 615. Assignment of Claim for Damage Compensation

A person liable to compensate for the damage caused by loss of a property shall be obliged to compensate only in exchange for assignment of the claim, which the injured person, as owner or other legitimate possessor of the property, holds against a third party.

Article 616. Compensation for Extra-patrimonial Damage

(1) Compensation in money may be claimed for extra-patrimonial damage in cases expressly provided by law.

(2) In case of bodily injury or other damage to health, as well as in case of illegal deprivation of liberty, the injured person may also claim compensation in money for extra-patrimonial damage, established under an assessment pursuant to the principles of equity.

Article 617. Delay by the Debtor

(1) If, after notice from the creditor to perform, such notice having been given after performance became due, the debtor fails to perform, that notice puts him in default.

(2) Notice to perform is unnecessary, if:

a) a time for performance is determined according to the calendar;

b) an event must precede performance and an appropriate time for the performance is fixed in such a way that it can be calculated according to the calendar from the date of the event;

c) the parties expressly agreed that the debtor shall be deemed in default, without observance of any formalities, upon expiry of the term within which he should have performed the obligation;

d) the obligation, owing to its nature, may only be performed within a fixed term, and the debtor failed to perform within such a term;

e) the debtor of a recurring obligation repeatedly refuses or neglects to effect performance;

f) the obligation to refrain from an act is not being complied with;

g) it is obvious that such notice will be useless;

h) having regard to each party's interests, good reasons justify the occurrence of default with immediate effect;

i) the debtor has declared in writing that he refuses to perform the obligation.

(3) In the cases mentioned at para.(2) let.a) and b), any agreement regarding establishment of a term that would seriously affect one of the parties shall be void.

(4) The debtor of a claim for remuneration is put in default at the latest if he fails to perform within 30 days after the due date and receipt of an invoice or equivalent payment statement; this applies to an debtor who is a consumer only if a specific reference to those consequences has been made in the invoice or payment statement.

(5) The debtor is not put in default for as long as performance is not made because of a circumstance for which he is not responsible.

Article 618. Liability during a period of default

During a period of default the debtor is liable for any negligence, even if his liability is limited under law or contract. he remains liable for performance even in the event of fortuitous events, unless the damage would have occurred even if performance had been made on time.

Article 619. Default Interest

- (1) Monetary obligations shall bear interest during default. The rate of default interest is 5% above the interest rate laid down in Article 585, unless the law or the contract provide otherwise. Proof of smaller damage is allowed.
- (2) In the case of juridical acts to which a consumer is not a party, the interest rate shall be 9% above the interest rate laid down in Article 585, unless the law or the contract provide otherwise. Proof of smaller damage is not allowed.
- (3) The creditor may claim higher interest on a different legal basis. The right to claim additional loss is not excluded.
- (4) Default interest shall not be applied to interest amounts.

Article 620. Breach of Obligation to Act

Where a debtor fails perform an obligation to act, the creditor may perform it by himself or to entrust performance to a third party, while the costs shall be borne by the debtor or compensation shall be claimed on him, unless it follows otherwise from law, contract or the nature of the obligation.

Article 621. Breach of Obligation to Refrain an Act

- (1) Where the debtor breaches the obligation to refrain from an act, he shall pay a compensation for the mere fact of failure.
- (2) The creditor may demand demolition of all that has been done with the breach of the obligation to refrain from an act or authorization to demolish it by himself, while the costs shall be borne by the debtor.

Article 622. Non-Performance of Obligation to Convey Property

- (1) Where the debtor does not fulfill the obligation to convey a property, the creditor may demand that such property be taken from the debtor and transmitted to him or to demand payment of compensation.
- (2) Creditor's right to claim conveyance of the property ceases where the property has already been conveyed to a third party based on a similar right. In the event that the property has not yet been conveyed, the right of preference belongs to the creditor whose claim arose earlier, whilst if it is impossible to establish this, the right of preference shall belong to the creditor who filed suit first.

Article 623. Adjustment of Contract to Altered Circumstances

- (1) If circumstances upon which a contract was based have materially changed after conclusion of the contract and if the parties would not have concluded the contract or would have done so upon different terms if they had foreseen that change, adjustment of the contract may be claimed

in so far as, having regard to all the circumstances of the specific case, in particular the contractual or legal allocation of risk, it cannot reasonably be expected that a party should continue to be bound by the contract in its unaltered form.

(2) Firstly, the parties are bound to enter into negotiations with a view to adjusting the contract.

(3) The entitled party shall request adjustment of contract without delay, being under the obligation to indicate grounds for adjustment. The adjustment request shall be void if the party expressly assumed the risk of change in circumstances.

(4) A mere notice of request for contract adjustment shall not serve as grounds to refuse performance of obligation.

(5) If adjustment of the contract is not possible or cannot reasonably be imposed on one party, the disadvantaged party may rescind the contract. In the case of a contract with recurring performance, the right to terminate for good reasons is replaced by termination of contract as laid down in Article 748.

CHAPTER VI: MEANS TO SECURE OBLIGATION PERFORMANCE

Section 1: Penalty Clause

Article 624. General Provisions on Penalty Clause

(1) A penalty clause (penalty) is a contractual term by which the parties assess the anticipated damages by stipulating that if the debtor fails to perform his obligation, the latter shall be bound to pay to the creditor a sum of money or another property.

(2) Only a valid claim may be secured by penalty.

(3) The penalty may be established in fixed amount or as a share in the value of the obligation secured thereby or in its unperformed part.

(4) The parties may agree on a penalty that exceeds damage.

(5) The debtor is not bound to pay penalty where non-performance is not of his fault.

Article 625. Form of Penalty Clause

(1) A penalty clause shall be made in writing.

(2) Failure to observe such requirement concerning written form shall render the penalty clause void.

Article 626. Right to Claim Additional Compensation

(1) The creditor may not claim both performance of obligation and payment of penalty, unless penalties are also established for the case of defective performance, in particular for delay in performance.

(2) The creditor may claim reparation of damage in the part that has not been covered by the penalty (inclusive penalty clause). Where law or contract so provides, the creditor may claim either compensation or payment of penalty (alternative penalty clause), claim reparation of damage in addition to the penalty (punitive penalty clause), or payment of the penalty only (exclusive contractual penalty).

(3) Where the creditor accepted performance, he may claim penalty only if this right was expressly specified upon acceptance of performance.

Article 627. Penalty Clause in Case of Indivisible Obligations

Where an obligation with a penalty clause is indivisible and its nonperformance is due to the fault of only one of the co-debtors, the penalty may be exacted in full against him or against each of the co-debtors for his share. In the latter case, each of the co-debtors has a remedy against the co-debtor who caused the penalty to be incurred.

Article 628. Contractual Penalty in Case of Divisible Obligation

- (1) Where an obligation with a penalty clause is divisible, the penalty also is divisible and is incurred only by that debtor who fails to perform the obligation, and only for that part for which he is liable.
- (2) The provision of para.(1) does not apply where the obligation is solidary, nor where the penal clause was stipulated to prevent partial payment and one of the co-debtors has prevented the performance of the obligation for the whole. In this case, that co-debtor is liable for the whole penalty and the others are liable for their respective shares only. In the latter case, each co-debtor has a remedy against the co-debtor who caused the penalty to be incurred.

Article 629. Legal Penalty

Penalty established by law may not be excluded or reduced by parties' agreement.

Article 630. Reduction of Contractual Penalty

- (1) In exceptional cases, taking into account all circumstances, the court may order reduction of a disproportionately high penalty. Where such penalty is to be reduced, regard shall be given not only to the patrimonial interests of the creditor, but also to other legally protected interests of his/her.
- (2) A penalty already paid may not be reduced.

S e c t i o n 2: Earnest

Article 631. General Provisions on Earnest

- (1) Earnest is a sum of money or another property, given by one party to a contract to the other party to certify that the contract has been entered into and to secure performance thereof. In case of doubt, the sum paid shall be considered advance payment.
- (2) The agreement regarding an earnest shall be made in writing.

Article 632. Earnest set-off against Payment

The earnest shall be taken into account at obligation performance, and in default, it shall be reimbursed.

Article 633. Retention or Reimbursement of Earnest

- (1) If the non-performance of a contract is the fault of the party which gave the earnest, the other party shall retain such earnest. If the holder of the earnest is responsible for nonperformance of contract, he is bound to pay twofold such earnest.
- (2) Without prejudice to the provisions of para.(1), the party liable for nonperformance of contract must compensate the other party for damage that is not covered by earnest payments, unless otherwise agreed.

Section 3: Debtor's Warranty

Article 634. Essence

Debtor's warranty is deemed to be an obligation whereby the debtor binds himself to perform an unconditional act or an act going beyond the subject matter of the contract.

Article 635. Validity of Warranty

Acceptance of warranty is deemed valid if it does not contradict legal provisions and does not impose too onerous charges on the debtor.

Article 636. Form of Warranty

A warranty shall be effective only when made in writing.

Section 4: Retention

Article 637. General Provisions on Retention

- (1) He who is bound to deliver or return a property may retain it, in cases provided by law, as long as the creditor does not compensate for the necessary and useful costs, incurred by the debtor in relation to that property, and for the damage that the property has caused.
- (2) Retention may also secure a claim, which although not linked directly to the property under question, is based on an obligation between entrepreneurs.
- (3) The right of retention ceases where the creditor offers a real security deemed sufficient by court, or where the sum claimed has been deposited.
- (4) Provisions of para.(1) and (2) shall apply, unless otherwise agreed.

Article 638. Exclusion of Right of Retention

- (1) The right of retention may not be exercised if the possession of the property resulted from an illicit act, is abusive or illegal or if the property is unseizable.
- (2) The right of retention may not be invoked by a possessor in bad faith, save for cases expressly provided by law.

Article 639. Set up of Right of Retention

- (1) The right of retention may be set up against any third party and no formality to this respect is required.
- (2) In any case, the right of retention may not be set up against creditors, who have started an enforcement procedure against the debtor.
- (3) Deprivation of possession contrary to the will of the possessor does not extinguish the right of retention. The party who is the holder of this right may claim the property, subject to the period of limitation provisions.

Article 640. Duty to Preserve property and to Collect Fruits

The party exercising the right of retention must preserve the property with the diligence of a good owner. The party shall collect the fruits, being under the obligation to include them on account of his claim.

Article 641. Termination of Right of Retention

The right of retention terminates where the property comes into the possession of the creditor or of the holder of the right, unless the party retaining the property does not obtain such property once again under the same legal ground.

CHAPTER VII: EXTINCTION OF OBLIGATIONS

Article 642. Effects of Obligation Extinction

(1) Parties' legal relationship terminates where and to the extent to which the obligation relative to such relationship extinguishes.

(2) If the obligation is extinguished, the debtor is not bound to pay interest and penalty or to compensate for damage.

Section 1: Extinction of Obligations by Performance

Article 643. Effects of Extinction

(1) An obligation shall be deemed extinguished by performance, where performance has been rendered in due fashion.

(2) An obligation shall extinguish where the creditor accepts another performance in lieu of the owed one (giving in payment). In such case, the debtor is liable for defects of performance as prescribed by the rules regarding seller's liability.

(3) If performance has been accepted, the burden of proof regarding nonperformance shall be borne on the creditor.

(4) Where the principal obligation is extinguished, personal guaranty, pledge and other accessory rights shall terminate to the extent that justified interests of third parties do not subsist.

Article 644. Right to Receive Acceptance Receipt and Original Document

(1) The debtor, who performed the obligation, may demand acceptance receipt and the original document of indebtedness, on which the claim is based. Where it is impossible to demand acceptance from the creditor, the debtor shall prove the payment with any means of proof.

(2) Where the return of the original document is impossible, the debtor is entitled to demand from the creditor a certified acknowledgement of obligation extinction. In such case, all costs shall be borne by the creditor.

(3) Where the creditor refuses to issue acceptance and to return the original document, the debtor may refuse performance. In such case, the creditor shall be deemed in default.

(4) Where the creditor issued acceptance of principal debt payment, it is presumed that interest and expenditures have been paid for as well.

Section 2: Extinction of Obligation by Deposit

Article 645. General Provisions on Deposit

- (1) Where the creditor is in default or the debtor, for reasons he is not responsible of, is not aware of creditor's identity or domicile, the debtor may deposit the money, securities or other documents, as well as jewelry, with a bank or a notary.
- (2) If property that has to be deposited is delivered with the post office, it shall be considered deposited as of such delivery.
- (3) Conveyance into deposit extinguishes the obligation even in cases where the property or its equivalent cannot be transferred to the creditor any more.
- (4) As of the deposit, the risks pass on to the creditor, and the debtor is not bound to pay interest or penalties or to compensate for damage.

Article 646. Simultaneous Performance of Obligations

Where debtor's performance is subject to a simultaneous performance from the creditor, the debtor is entitled to subject the release of the deposited property to such performance from that creditor.

Article 647. Place of Deposit

- (1) The debtor must deposit the property at the place of obligation performance. If the debtor deposited the property in another place, the debtor is liable for damage thus caused.
- (2) The debtor is under the obligation to notify the creditor immediately about the registered deposit, except for cases when performance of this duty is impossible. The debtor must compensate for damage caused to the creditor by omitting to notify him about the registered deposit.

Article 648. Debtor's Right to Demand Return of Deposited Property

- (1) The debtor may demand return of the deposited property.
- (2) The return of the deposited property is not allowed, if:
 - a) the debtor has expressly waived the right to demand return, when depositing the property;
 - b) the creditor has submitted declaration of acceptance to the institution where the property is deposited;
 - c) a final court judgment has been presented with the institution where the property is deposited, acknowledging the legality of such deposit;
 - d) an insolvency suit has been commenced against the debtor.
- (3) Where the deposited property is returned to the debtor, the deposit shall cease retrospectively (is deemed never to have existed).

Article 649. Costs of Deposit

Costs of deposit shall be borne by the creditor, except for cases when the debtor has taken over the deposited property.

Article 650. Termination of Deposit upon Expiry of Period of Limitation

Upon the expiry of three years as of the moment when the creditor became or should have become aware about the deposit, creditor's right to claim the property shall terminate. In such a case, the debtor is entitled to demand the property even if he waived this right.

Section 3: Extinction of Obligation by Set-Off

Article 651. General Provisions on Set-Off

- (1) Set-off consists in mutual extinction of an obligation and an opposed claim, which are both certain, liquid, of the same nature and have both become mature.
- (2) A period of grace granted for payment of one of the debts does not prevent compensation.
- (3) Set-off is also possible when the claims have not matured yet, but the holders of the claims agree to it.
- (4) Set-off is effected by declaration to the other party. A conditional declaration shall be void.

Article 652. Set-Off of Non-Equivalent Claims

Where the claims subject to set-off are not equivalent, only the claim that is entirely covered shall be extinguished.

Article 653. Set-off of Public Claims

Claims held by the state or territorial-administrative units, except for fiscal claims, may be extinguished by set-off only if the obligation must be performed towards the budget which is to fulfill the claim of the solicitor of set-off.

Article 654. Set-off of Claims with Different Places of Performance

Where claims subject to set-off have different places of performance, the solicitor of set-off shall be bound to compensate for damage caused to the other party due to the fact that he cannot receive performance or perform the obligation in the specified place.

Article 655. Set-off of Several Claims

Where one party has several claims fit for set-off, the solicitor of set-off may establish the claims that will be subject to set-off. If the claims subject to set-off are not indicated in the set-off request or if the other party objects without delay, rules of imputation of payment apply.

Article 656. Set-off in Case of Assignment of Claim or Assumption of Debt

- (1) In case of assignment of claim, the debtor is may to set up against the new creditor his claim against the previous creditor, if either maturity of this claim occurred before receiving notice of assignment, the date of maturity is not specified or performance may be demanded anytime.
- (2) In case of assumption of debt, the debtor may not raise claims belonging to the previous debtor.

Article 657. Set-Off of Solidary Obligations

- (1) One of the solidary debtors may not set up compensation for what the creditor owes to his co-debtor, except for the share of that co-debtor in the solidary debt.
- (2) A debtor, whether solidary or not, may not set up compensation against one of the solidary creditors for what a co-creditor owes him, except for the share of that co-creditor in the solidary debt.

Article 658. Set-Off in Case of Suretyship

A surety may set up compensation for what the creditor owes to the principal debtor, but the principal debtor may not set up compensation for what the creditor owes to the surety.

Article 659. No Set-Off

(1) It shall be prohibited to set-off claims:

- a) for which the period of limitation has expired. This rule shall not apply where the period of limitation expired after the date when the respective claim could have been subject to set-off;
- b) concerning compensation for damage caused by health injury or death;
- c) concerning alimony;
- d) concerning lifelong maintenance;
- e) where the object of performance is an unseizable property;
- f) where the obligation arose from a deliberate illegal act;
- g) in other cases provided by law.

(2) Set-off is prohibited where it has been excluded by contract.

S e c t i o n 4: Other Grounds for Extinction of Obligations

Article 660. Merger

An obligation is extinguished where the qualities of creditor and debtor are united in the same person (merger). In some cases, when merger terminates so shall its effects.

Article 661. Effect of Merger on Suretyship

Merger of the qualities of creditor and debtor in the same person avails the sureties. The principal obligation shall not be extinguished by merger of the qualities of surety and creditor in the same person.

Article 662. Release

(1) An obligation shall be extinguished if the creditor, by virtue of an agreement with the debtor, shall free him from the performance of its obligation (release). Release is complete, unless it is expressly stipulated to be partial.

(2) An obligation may be also extinguished under a contract whereby the creditor acknowledges the obligation as non-existent.

(3) A release of the principal debtor shall release the surety as well.

(4) Express waiver of a security for an obligation does not give rise to a presumption of release of the secured debt.

(5) Release granted to one of the sureties releases the other sureties as well.

(6) Release shall be prohibited where it prejudices third parties' claims against the creditor.

Article 663. Forced Impossibility to Perform

- (1) An obligation shall be extinguished where its performance is impossible, if such impossibility is due to a circumstance that for which the debtor is not responsible.
- (2) The burden of proof of such impossibility to perform is on the debtor.
- (3) A debtor released by impossibility of performance may not exact performance of the correlative obligation of the creditor; if the performance has already been rendered, restitution of all received is owed, unless the debtor proves that performance became impossible due to creditor's fault.
- (4) Where the debtor has performed part of his obligation, the creditor remains bound to perform his own obligation to the extent of his enrichment.

Article 664. Death of a Natural Person or Wind-up of a Legal Person

- (1) Debtor's death extinguishes the obligation where the performance is impossible without his personal participation or if it is linked in any another way to debtor's personality.
- (2) Creditor's death extinguishes the obligation if performance was personally intended for the creditor or if it is linked in another way to creditor's personality.
- (3) An obligation shall be extinguished by wind-up of a legal person (either debtor or creditor), unless the obligation or claim of the legal person is transferred under law to another person.

Article 665. Novation

- (1) An obligation is extinguished where both parties came to an agreement to replace it with another obligation (novation).
- (2) Intention to replace an obligation with another one must be expressly stipulated.
- (3) Extinction of the principal obligation by novation shall also extinguish accessory obligations, unless otherwise expressly agreed.

TITLE II: OF CONTRACTS IN GENERAL

CHAPTER II: GENERAL PROVISIONS ON CONTRACT AND CONTENT OF CONTRACT

Article 666. General Provisions on Contract

- (1) A contract is the agreement of wills between two or more persons whereby legal relationships are established, amended or extinguished.
- (2) Rules of juridical acts apply to contracts.
- (3) A contract may be negotiated or of adhesion, synallagmatic or unilateral (generates obligations for only one of the parties), commutative or aleatory, with instantaneous performance or of recurring performance; they may also be consumer contracts.

Article 667. Freedom of Contract

- (1) Contracting parties are free to conclude contracts and to determine their content insofar as they are not contrary to mandatory legal rules. If, with a view to protect the priority interests of the society or of a person, the validity of a contract depends on authorization from a state authority, such limitations and conditions must be regulated by law.
- (2) It shall be prohibited to force somebody to conclude a contract, save for cases when the obligation to conclude a contract is laid down in this Code, by law or if it arises from a voluntarily assumed obligation.

(3) Parties may conclude contracts that are not provided by law (unnamed contracts), as well as contracts containing elements of different contracts regulated by law (complex contracts).

Article 668. Binding Force of Contract

- (1) A contract validly formed binds the parties who have entered into it not only as to what they have expressed in it but also as to what is incident to it according to its nature from law, usage or equity.
- (2) A contract is effective only between its parties, unless the law provides otherwise. A contract is also effective against the universal heirs and heirs with universal title, unless it follows otherwise from law, contract or the nature of the obligation.
- (3) A contract may be amended or rescinded only pursuant to its terms or by its parties' mutual agreement, unless the law provides otherwise.

Article 669. Obligation to Conclude a Contract

- (1) Where one of the parties holds a dominant position on the market, it shall be under the obligation to conclude a contract pertaining to that sector. It cannot impose to the other party disproportionate contractual terms, without good reasons.
- (2) The conclusion of a contract may not be refused without good reasons to persons, who obtain or use property or services for non-commercial purposes, as well as to persons, who intend to satisfy an existential need, where the other party acts in view of exercising its profession or carries out entrepreneurial activity.

Article 670. Impossibility of Performance

The contract the performance of which is impossible shall be void.

Article 671. Compensation for Damage in Case of Impossibility of Performance

- (1) The party, who was or should have been aware of impossibility of performance upon conclusion of contract, shall be bound towards the other party, who considered the contract valid in good faith, to compensate for damage caused, in an amount not greater than the income the party would have received if the contract were valid.
- (2) Provisions of para.(1) also apply where performance is impossible only in part and the contract is valid in regard of the other party, or one of several alternative performances is impossible.

Article 672. Temporary Impossibility

- (1) The impossibility of performance shall not render the contract void, where the impossibility may be removed and the contract is concluded for the case when performance becomes possible.
- (2) Where an impossible performance is provided for under a condition precedent or a term precedent, the contract shall be valid if impossibility were removed before the fulfillment of the condition or expiry of term.

Article 673. Contract on Existent Patrimony

A contract by which one party binds himself to transfer his entire present patrimony or a fractional part of his present patrimony or to charge it with a usufruct must be authenticated by a notary.

Article 674. Contract on Future Patrimony

A contract whereby one party binds himself to transfer his entire future patrimony or a fractional part of his future patrimony or to charge them it a usufruct is void.

Article 675. Contract concerning Legacy of Living Party

- (1) A contract relating to the estate of a living third person is void. The same applies to a contract relating to the compulsory portion or a legacy from the estate of a living third person.
- (2) Para.(4) does not apply to a contract concluded between future legal heirs relating to the legal portion of one of them. Such a contract must be authenticated by a notary.

Article 676. Determination of Performance by Contracting Party or by Third Party

- (1) If the performance is to be determined by one of the contracting parties or a third party, it is to be presumed, in case of doubt, that the determination is to be made in an equitably.
- (2) The determination is made by declaration to the other party.
- (3) Where determination of performance must be effected by several third parties, their unanimous consent is required. If a sum must be determined from several named sums, the average sum shall be taken into account.
- (4) Where a determination is equitable, the court shall decide. The same applies where determination is delayed or refused.

Article 677. Determination of the Counter-Performance

If the extent of the counter-performance is not determined, the determination, in case of doubt, is to be made by the party who is entitled to demand the counter-performance. Article 676 para.(4) applies accordingly.

Article 678. Application of Provisions on Contract to Other Obligations

Without prejudice to other regulations, the provisions regarding contractual obligations shall apply to other patrimonial obligations as well, if this is possible taking into account the nature of the obligation.

CHAPTER II: CONCLUSION OF CONTRACT

Article 679. Agreement on Essential Terms of Contract

- (1) A contract is concluded when the parties have reached an agreement on all of its essential terms.
- (2) Are deemed essential those contractual terms, which are considered as such by law, which stem from the nature of the contract, or on which agreement must be reached upon the request of either of the parties.
- (3) A contract may bind to make another contract. The form required for such a contract applies to the pre-contract.

Article 680. Form of Contract

If law requires a particular form to be respected as a mandatory condition of its formation or the parties require the contract to take such form, such contract shall be concluded only after the requirement of such form has been fulfilled.

Article 681. Offer

- (1) An offer to contract is a proposal, addressed to one or more persons, which contains all the essential elements of the proposed contract and indicates the intention of the offeror to be bound in case of acceptance.
- (2) An offer becomes effective only when it reaches the offeree before it is revoked.
- (3) A proposal to an undetermined range of persons (public offer) is to be considered merely as an invitation to make offers, unless it contains the express intention to be bound by acceptance.
- (4) An offer must be firm, unambiguous, serious and complete.

Article 682. Validity of Offer

- (1) The validity of offer is irrespective of the form in which it was made.
- (2) An offer is valid, void or avoidable under the rules applicable to the juridical act.

Article 683. Revocation of an Offer

- (1) An offer may be revoked unless it states a fixed time for its acceptance or it is irrevocable on other grounds.
- (2) An offer, even if it is irrevocable, may be revoked if revocation reaches the offeree to the latest at the same time as the offer.
- (3) The offer received by its offeree may not be revoked within the time fixed for its acceptance or, if not time is fixed, or is unreasonable short, within the term required for the offeree to express acceptance and for the reply to reach the offeror, due account being taken on the circumstances of the transaction, any practices which the parties established between themselves, and usages.

Article 684. Irrevocable Offer

A stipulation by which a party undertakes to enter a contract with another party upon the request of the latter shall be an irrevocable offer.

Article 685. Validity in Case of Death or Loss of Active Capacity

An offer shall not become invalid by the death or loss of active capacity of one party nor by deprivation of one party of the right to conclude contracts as a result of conveyance of its patrimony in the management of another person.

Article 686. Lapse of Offer

An offer lapses if it has not been accepted or it has been rejected.

Article 687. Acceptance

- (1) A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. An acceptance becomes effective when it reaches the offeror.
- (2) If, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, without notice to the offeror, the acceptance is effective at the moment the act is performed.

Article 688. Acceptance of Offer without Term

- (1) An offer made to a present person may be accepted only immediately. This rule also applies where the offer is made from person to person (instantly) through telecommunication means.
- (2) An offer made to an absent person may be accepted only until the offeror is entitled to expect receipt of acceptance under normal circumstances, taking into account the communication means employed by the offeror.

Article 689. Acceptance of Timed Offer

Where the offeror fixed a term for acceptance, it may be stated only within such term.

Article 690. Commencement of Term Running for Offer Acceptance

A period of time for acceptance fixed by the offeror in a telegram or a letter begins to run as of the telegram is handed in for dispatch or as of the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by means of instantaneous communication, begins to run as of the offer reaches the offeree.

Article 691. Late or Altered Acceptance

- (1) A late acceptance is a new offer.
- (2) An acceptance made with alteration of offer's terms is a rejection of the offer and constitutes a counter-offer
- (3) A reply to an offer whereby an offer is accepted, but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance, unless the offeror rejects it without undue delay. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.

Article 692. Validity of Late Acceptance

- (1) A late acceptance is nonetheless effective as an acceptance if without delay the offeror informs the offeree that he treats it as such.
- (2) If a late acceptance shows that it has been sent in such circumstances that it was sent in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror informs the offeree that it considers its offer as having lapsed.

Article 693. Altered Acceptance in Commercial Relations

When an altered or broadened acceptance is submitted in commercial relations, the contract is deemed concluded when the offeree was entitled to rely on offeror's assent and the latter does not forthwith notify its refusal.

Article 694. Tacit Acceptance

- (1) Silence or inactivity does not in itself amount to acceptance, unless otherwise provided by law, or derived from practices established between the parties and from usages.

(2) If an entrepreneur, whose activity consists in sale of certain goods, receives an offer regarding those goods from a person with whom he has commercial relations, he is bound to respond to that offer without delay, as his silence may be deemed acceptance. Even if the entrepreneur rejects the offer, he is bound to ensure temporary preservation of the goods sent by the offeror, at the expense of the latter, to the extent that the former is able to bear the necessary costs and does not suffer any disadvantages.

Article 695. Revocation of Acceptance

An acceptance may be revoked if the revocation notice reaches the offeror before or at the same time as the acceptance.

Article 696. Entrepreneurs Written Confirmation

If entrepreneurs have concluded a contract but have not embodied it in a final document, and one within a reasonable delay sends the other a writing which purports to be a confirmation of the contract but which contains additional or different terms, such terms will become part of the contract unless the terms materially alter the terms of the contract, or the addressee objects to them without delay.

Article 697. Doorstep transactions

- (1) The contract between a consumer and a person who acts in exercise of a profession, concluded under circumstances specific to doorstep sale activity, shall be effective only if the consumer does not revoke it in writing within a week, save for cases when the contract is performed immediately by both parties.
- (2) Provisions of para.(1) also apply to consumer contracts concluded on credit and to insurance contracts.
- (3) The revocation term laid down in para.(1) and (2) begins to run only as of consumer's written notification about his right of revocation.

Article 698. Conclusion of Contract at Auction

At the auction, the contract shall be concluded by adjudication. The offer expires at the moment a super-offer is issued or the auction ends without adjudication.

Article 699. Moment and Place of Contract Conclusion

- (1) A contract is concluded when the offeror receives the acceptance.
- (2) Where a contract does not specify the place of its conclusion, it shall be deemed concluded at offeror's domicile or registered office.

Article 700. Acknowledgement of Obligation

- (1) In order for a contract by which an obligation is acknowledged to be valid the declaration of acknowledgement must be done in writing.
- (2) Where notary certification is required for the arising of the obligation subject to acknowledgement, the declaration of acknowledgement must be done in the same form.
- (3) Where the obligation is acknowledged based on a settlement or set-off, compliance with the required form is not mandatory.

Article 701. Duty of Confidentiality

(1) If confidential information is given by one party in the course of negotiations, the other party is under a duty not to disclose that information or use it for its own purposes whether or not a contract is subsequently concluded.

(2) he who breaches the duty of confidentiality is bound to compensate for the damage caused. The remedy for breach of this duty may include compensation from the benefit received by the other party.

Article 702. Merger Clause and Written Modification Only Clause

(1) If a written contract provides that the writing embodies all the terms of the contract, may not be contested nor supplemented by proof of prior statements or agreements. However, such statements or agreement may be used to interpret the writing.

(2) A contract in writing which contains a provision requiring any modification or rescission by agreement to be in writing may not be otherwise modified or rescinded by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct.

Article 703. Non-Fulfillment of Promise to Conclude a Contract

A contract made in violation of a promise to contract may be set up against the beneficiary of the promise, but without affecting his remedy for damages against the promisor and the person having contracted in bad faith with the promisor.

CHAPTER III: SYNALLAGMATIC CONTRACT

Article 704. General Provisions on synallagmatic Contract

(1) A contract is synallagmatic where each of the parties undertakes obligations, so that one party's obligation is correlative to the obligation of the other.

(2) The provisions of this Chapter also apply to other legal relations with a view to reciprocal performance of obligations, to the extent to which these provisions do not contradict the nature of those relations.

Article 705. Suspension of Performance Due under a Synallagmatic Contract

(1) Unless the contract, law or the nature of the obligation requires him to perform first, a person bound by a synallagmatic contract may refuse to perform his part until the other party effects counter-performance. If performance is to be made to several persons, the part due to one of them can be refused until the entire counter-performance has been effected.

(2) If one party has partially performed, counter-performance may not be refused if, under the circumstances, in particular on account of the relative insignificance of the part not performed, the refusal would be unfair.

Article 706. Defence of Insecurity under a Synallagmatic Contract

(1) A person bound by a synallagmatic contract to perform first may refuse to perform his part if after conclusion of the contract it becomes apparent that his claim for counter-performance is endangered by the other party's lack of ability to perform. The right to refuse to perform ceases if counter-performance is effected or security provided for it.

(2) The person required to perform first may specify a reasonable period within which the other party must, at his option, gradually effect counter-performance or provide security concurrently with performance. If the period expires to no avail the person required to perform first may terminate the contract.

Article 707. Impossibility to Perform Where Neither Party is Responsible

- (1) If performance under a synallagmatic contract becomes impossible and neither party is responsible, the party bound to render the impossible performance loses the claim for counter-performance. Where impossibility is partial, the counter-performance shall diminish accordingly.
- (2) Where the other party demands the surrender of a substitute obtained for the object in respect of which the obligation is due or assignment of substitute claim, he remains bound to effect counter-performance, which is reduced in so far as the value of the substitute or of the claim for compensation is less than the value of the performance due.
- (3) Where counter-performance is effected although not due under para.(1) and (2), whatever is effected may be reclaimed under the rules concerning unjust enrichment.

Article 708. Impossibility to Perform Where the Creditor is Responsible

Where performance of obligation of one party under synallagmatic contract becomes impossible due to the fault of the other party, the latter shall be bound to render his counter-performance. However, it shall be deducted from such counter-performance whatever the former party saves as a result of release from performance or fails in bad faith to obtain.

Article 709. Nonperformance of Obligations under Synallagmatic Contract

- (1) If under a synallagmatic contract a party fails to effect performance or performs defectively, the other party may rescind the contract, if he has fixed, to no avail, an additional period of time for performance or remedy, but only where, such party should have been aware, based on the additional period, about the imminence of rescission. Where the term is not fixed or it is unreasonably short, a reasonable term is deemed to have been fixed.
- (2) If the type of non-performance is such that, it is not feasible to fix a period for performance, a warning notice replaces it.
- (3) If the debtor has performed in part, the creditor may rescind the entire contract only if he has no interest in partial performance.
- (4) The creditor may rescind the contract before performance becomes due if it is obvious that the preconditions for rescission will be satisfied.

Article 710. No Need to Fix an Additional Period

- (1) Notwithstanding Article 709, an additional period of time does not have to be fixed, nor warning notice give if:
- a) the debtor seriously and definitely refuses to perform;
 - b) the debtor fails to perform by a date specified in the contract and, in the contract, the creditor has linked the continuation of his interest in performance to the punctuality of that performance;
 - c) special circumstances exist which, after each party's interests have been weighed, justify immediate termination.
 - d) the term provided at Article 617 para.(4) expired and performance was not effected.
- (2) Where warning notice is not necessary or the uselessness an additional period of time is obvious, the creditor may rescind the contract immediately.

Article 711. No Right to Rescind a Synallagmatic Contract

- (1) A synallagmatic contract may not be rescinded if:
- a) the breach of obligation is insignificant;
 - b) an obligation as laid down in Article 512 is not performed, while maintenance of contract may be required from the creditor;
 - c) the creditor is solely or overwhelmingly responsible for non-performance, or if the debtor is not responsible for non-performance and this occurs at a time when the creditor is in default through non-acceptance;
 - d) the debtor already has, or will set up, after rescission, a defence against the claim.

CHAPTER VI: STANDARD CONTRACT TERMS

Article 712. General Provisions on Standard Contract Terms

- (1) Standard contract terms are all contractual terms pre-established for a multitude of contracts which one party to the contract (the user) presents to the other party upon the conclusion of the contract. It is irrelevant whether the provisions appear as a separate part of a contract or are included in the contractual document itself, how many they are and what form the contract takes.
- (2) Contractual terms do not constitute standard contract terms where they have been individually negotiated between the parties.
- (3) Standard business terms are incorporated into the contract only if, during the conclusion of the contract, the user expressly draws the other party's attention to them, or otherwise gives the other party, in a reasonable manner that also appropriately takes account of any physical handicap of the other party, the possibility of gaining knowledge of their content, and if the other party agrees that they are to apply.
- (4) For certain types of contracts, law may provide for incorporation of standard contract terms notwithstanding the requirements laid down in para. (3).
- (5) Subject to observance of the requirements laid down in para. (3), the parties may agree in advance that particular standard contract terms will apply to a particular type of contract.

Article 713. Inclusion of Standard Contractual Clauses in Special Cases

For certain types of contracts, law may provide for incorporation of standard contract terms notwithstanding the requirements laid down in Article 712 para. (3).

Article 714. Precedence of Individually Negotiated Terms

Individually negotiated terms take precedence over standard contract terms.

Article 715. Surprising Clauses

Provisions in standard contract terms which in the circumstances, in particular in view of the outward appearance of the contract, are so unusual that the contractual partner of the user could not be expected to have reckoned with them, do not form part of the contract.

Article 716. Non-Mandatory Character of Unfair Standard Contract Terms

(1) A standard contract term is invalid if, contrary to the requirement of good faith, they place the contractual partner of the user at a disproportionate detriment. For these purposes, regard shall be given to the content of contract, circumstances under which the term was incorporated into the contract, mutual interests and other circumstances.

(2) In case of doubt, a disproportionate detriment is presumed, if the term:

a) cannot be reconciled with essential basic principles of the legislative rule from which it deviates.

b) restricts essential rights or duties resulting from the nature of the contract so that there is a risk that the purpose of the contract will not be achieved.

c) is not clear.

(3) Assessment of the unfair nature of the terms shall relate neither to the definition of the main subject matter of the contract nor to the adequacy of the price and remuneration, on the one hand, as against the services or goods supplied in exchange, on the other, in so far as these terms are in plain intelligible language.

Article 717. Legal Consequences of Non-incorporation or Voidness

(1) If all or some standard contract terms have not become part of the contract or are invalid, the remainder of the contract continues to be valid.

(2) Where provisions have not become part of the contract or are void, the content of the contract is determined by the legal provisions.

(3) The contract is void if one party would suffer unreasonable hardship if he were bound by the contract even after the amendment provided for in para.(2).

Article 718. Terms whose Validity Depends on an Appraisal

In standard contract terms the following terms, in particular, are void:

a) a provision by which the user reserves the right to an unreasonably long or inadequately specified period for acceptance or rejection of an offer or for performance; this does not include reservation of the right to perform only after expiry of the period for revocation or return;

b) a provision by which the user, in derogation from legal provisions, reserves the right to an unreasonably long or inadequately specified additional period within which to perform;

c) the stipulation of a right for the user to free himself, without an objectively justified reason specified in the contract, of his duty to perform; this does not apply to a contract with recurring performance;

d) the stipulation of the user's right to alter or depart from the promised performance, unless, taking into account the user's interests, the stipulation to alter or depart from performance is reasonable for the other party;

e) a provision whereby a declaration of the user's contractual partner is deemed or not deemed to have been made by him if he does or fails to do a particular act, unless he is allowed a reasonable period within which to make an express declaration and the user undertakes to draw to his attention at the beginning of the period the particular significance of his conduct;

f) a provision which provides that a declaration by the user of particular importance is deemed to have been received by the other party;

g) a provision by which, in the event that one of the parties to the contract revokes or rescinds the contract, the user can demand unreasonably high remuneration for the utilisation or use of a property or a right or for performance made, or unreasonably high reimbursement of expenditure;

h) a stipulation, provided as exception from let.c), of the user's right to free himself of his obligation to perform the contract if the object of the performance is not available, unless the

user agrees to inform the other party immediately of the unavailability, and immediately to refund counter-performance by that party.

Article 719. Terms whose Invalidity is not Subject to any Appraisal

In case of standard contractual clauses and without prejudice to the provisions excluding the possibility of derogating from legal norms, to the detriment of the consumer, are void:

- a) a provision which provides for an increase in the remuneration for goods or services that are to be supplied within 4 months of the conclusion of the contract; this does not apply to goods or services supplied in the course of a recurring obligation;
- b) a provision by which the right under Article 705 of the contractual partner of the user to refuse to perform is excluded or restricted, or a right of retention of the contractual partner of the user, in so far as it arises from the same contractual relationship, is excluded or restricted, in particular by making it subject to recognition by the user of the existence of defects;
- c) a provision by which the contractual partner of the user is deprived of the right to set off a claim which is undisputed and matured;
- d) a provision by which the user is relieved of the legal requirement to give notice to the other party to perform or to fix a period for performance or supplementary performance by him;
- e) stipulation of a lump-sum claim by the user for damages or for compensation for reduction in value, if the lump sum in the cases in question exceeds the damage expected in the normal course of events or the reduction in value which normally occurs, or the other party is not given the express right to prove that damage or reduction in value has not occurred or is materially lower than the lump sum agreed;
- f) a provision by which the user is entitled to receive payment of a penalty in the event of non-acceptance or late acceptance of performance, delay in payment or in the event that the other party withdraws from the contract;
- g) exclusion of liability arising out of death, injury to body or health or by gross negligence;
- h) the clause by which, in case of liability for non-performance of the main obligation of the user:
 - contracting partner's right to terminate the contract is excluded or limited;
 - contracting partner's right to claim compensation in lieu of performance is excluded or limited in contradiction with let. g).

The provisions of this letter shall not apply to means of transport and tariff conditions mentioned at let.g) if the passenger is not put in disadvantage;

- i) a provision by which, in contracts for the supply of goods or for work:
 - claims against the user on account of a defect as a whole or with regard to individual elements of it are excluded entirely, restricted to the assignment of claims against third parties, or which make the pursuit of legal proceedings against third parties a condition precedent;
 - claims against the user are restricted, entirely or with regard to individual elements, to a right to supplementary performance, unless the other party is given an express right to claim a price reduction if supplementary performance is unsuccessful or, except where the defects liability is in respect of building work, to choose to terminate the contract;
 - the user's obligation to bear the expenditure necessary for supplementary performance, in particular the costs of transportation, labour and materials, is excluded or restricted;
 - the user makes supplementary performance conditional on the prior payment of the entire price or a considerable part of it, having regard to the defect, an unreasonably high proportion thereof;
 - the user fixes a period within which the other party must give notice of hidden defects which is shorter than the period permitted under the following subparagraph;
 - the period of limitation is reduced to less than a year for rights arising from property's defects or period of limitation provided for in Article 269 is reduced, or period of limitation shorter than those mentioned for the right of termination is reduced, without reduction of term;

j) in a contractual relationship concerning the periodic delivery of goods or the periodic supply of services or work by which,

- a contract duration which binds the other party for more than two years,
- a tacit extension of the contractual relationship which binds the other party for a period of more than one year in each particular case, or
- to the detriment of the other party, a period of notice to terminate the contract which is more than three months prior to the expiration of the contract period;

The provisions of this letter do not apply to contracts for delivery of purchased goods, insurance contracts and contracts between the holder of copyrights and user commercial partnerships and companies;

k) a provision whereby in sales contracts, contracts for the supply of services or contracts for work a third party assumes or may assume the rights and obligations of the user under the contract, unless the provision

- specifies the third party by name;
- gives the other party the right to terminate the contract;

l) a provision by which the user imposes on an agent who concludes the contract for the other party:

- the agent's own liability or surety obligation without having made an express and separate declaration in that regard,
- where the agent lacks authority, liability which exceeds that under Article 250;

m) a provision by which the user alters the burden of proof to the detriment of the other party in particular by:

- imposing the burden in respect of circumstances which fall within the scope of the user's responsibility;
- requiring the other party to acknowledge particular facts. This provision does not apply to acknowledgments of receipt which are separately signed or bear a separate, qualified electronic signature;

n) a provision by which notices or declarations to be given to the user or third parties are subject to a stricter requirement than the need for writing or to special requirements with regard to receipt.

Article 720. Scope of Application

(1) Provisions of Article 712 para.(1) and (2), as well as provisions of Articles 718 and 719 do not apply to standard contract terms which are proffered to an entrepreneur, a legal person of public interest or a special patrimony governed by public law.

(2) Provisions of Article 716 para.(1) and (2) shall apply in cases provided in para.(1) of this article, to the extent that this results in the voidance of contractual provisions referred to in Articles 718 and 719. In such a case, due regard must be had to the customs and practices applying in business transactions.

(3) Articles 718 and 719 do not apply to contracts, a party to which are enterprises delivering electricity, gas, district heating and water and which regard purveyance of separate users with electric energy, gas, thermal energy and water from the supply grid, unless the conditions of supply derogate, to the detriment of the consumer, from the conditions fixed by the state body for regulation in the field of electric energy, gas, thermal energy and water. This provision shall also apply to contracts for the disposal of sewage.

(4) In the case of contracts between an entrepreneur and a consumer the rules in this Chapter apply subject to the following provisions:

- a) standard contract terms are deemed to have been proffered by the entrepreneur, unless the consumer introduced them into the contract;

b) Articles 715-719 apply to reformulated conditions of contract even if they are intended for use only once and in so far as, because they are pre-established, the consumer could not influence their content.

c) when deciding whether there has been disproportionate detriment under Article 716 para.(1) and (2) the circumstances surrounding the conclusion of the contract must also be taken into account.

(5) This chapter does not apply in the field of labour law, law of succession, family law and company law.

CHAPTER V: CONTRACT FOR BENEFIT OF THIRD PARTY

Article 721. Contract for Benefit of Third Party

(1) The parties to a contract may agree that the debtor (promisor) provides performance not to the creditor (stipulator), but to a third party (beneficiary), specified or not specified in the contract, that obtains the right to directly claim performance to his own benefit.

(2) A beneficiary need not exist nor be determinate when the stipulation is made; he need only be determinable at that time and exist when the promisor is to perform the obligation for his benefit.

(3) The stipulation may be revoked or altered as long as the beneficiary has not advised the stipulator or the promisor of his will to accept it. Neither stipulator's heirs nor his creditors may revoke or alter the stipulation.

Article 722. Demand of Performance

In case of a contract for the benefit of a third party, both the creditor and the beneficiary may to demand performance, unless the law or the contract provide otherwise, or unless it appears otherwise from the nature of the obligation.

Article 723. Performance in Avail of Stipulator

In case of revocation of stipulation, of beneficiary's waiver from the right conferred by the stipulation, and where the stipulation to the benefit of a third party is not effective as against the beneficiary, the stipulator may demand performance for his own avail, unless it follows otherwise from contract or the nature of the obligation.

Article 724. Defenses Raised against Beneficiary

A promisor may set up against the beneficiary such defences that are on the contract from which beneficiary's right arose, and not the defences based on other relationships between the promisor and the stipulator.

CHAPTER VI: INTERPRETATION OF CONTRACT

Article 725. Principles of Contract Interpretation

(1) A contract shall be interpreted under the principle of good-faith.

(2) The common intention of the parties rather than adherence to the literal meaning of the words shall be sought in interpreting a contract.

Article 726. Factors Influencing Interpretation of Contract

In interpreting a contract, the nature of the contract, the circumstances in which it was formed, the interpretation which has already been given to it by the parties or which it may have received under their conduct before and after its formation, and usage, are all taken into account.

Article 727. Non-Stipulated Effects of Contract

A contract gives rise not only to effects expressed in it but also to what is incident to it according to its nature from law, usage or equity.

Article 728. Coordinated Interpretation of Clauses

Contractual clauses shall be interpreted in the context of contract as a whole.

Article 729. Interpretation of Polysemous Clauses and Terms

- (1) A clause is given a meaning that gives it some effect rather than one that gives it no effect.
- (2) Words susceptible of two meanings shall be given the meaning that best conforms to the nature of the contract.

Article 730. Contractual Clauses and Inserted Examples

Where the parties include into the contract an example for facilitating the understanding of certain clauses, the extent of the obligation shall not be confined to the example only.

Article 731. Limitation of Interpretation of Contractual Clauses

The clauses of a contract cover only the subject matter of the contract, however general the terms used.

Article 732. Interpretation of Contract to the Benefit of Disadvantaged Party

- (1) Unclear standard contract terms are interpreted against the user.
- (2) In case of doubt, a contract is interpreted in favour of the person who contracted the obligation and against the person who stipulated it. In all cases, it is interpreted in favour of the adhering party or the consumer.

CHAPTER VII: RESCISSION, TERMINATION AND REVOCATION OF CONTRACT

Section 1: General Provisions on Rescission, Termination and Revocation of Contract

Article 733. Grounds for Rescission, Termination or Revocation

A contract may not be rescinded, terminated or revoked otherwise than under law or by parties' mutual agreement.

Article 734. Rescission Clause

- (1) Parties to a contract may expressly reserve the right to rescind it.
- (2) A contract to rescind shall be concluded in the form required for such rescinded contract, unless the law, the contract or usages provide otherwise.

Article 735. Rescission in Case of Essential Breach

- (1) A party may rescind the contract if the other party's non-performance is fundamental.
- (2) In order to determine whether there is fundamental non-performance, regard must be given in particular to the following circumstances:
 - a) the non-performance substantially deprives the creditor of what he was entitled to expect under the contract, unless the debtor did not foresee and could not reasonably have foreseen that result;
 - b) strict compliance with the obligation is of the essence of the contract;
 - c) the non-performance is intentional or grossly negligent;
 - d) the non-performance gives the creditor reason to believe that he cannot rely on the debtor's future performance of the contract.

Article 736. Securing Adequate Performance

A party who, under the circumstances, reasonably believes that there will be a fundamental non-performance by the other party may demand adequate surety of due performance and meanwhile may withhold its counter-performance for such period. Where this surety is not provided within a reasonable time, the party demanding it may rescind the contract.

Article 737. Exercise of Rescission

- (1) Rescission is effected by written declaration to the other party.
- (2) Where performance is effected with delay or otherwise fails to correspond to the terms of the contract, the creditor's right of rescission shall lapse, if he fails to give notice to the other party within a reasonable period of time as of the date when he became or should have become aware of the tender or effect of such defective performance.

Article 738. Effects of Rescission

- (1) Where the right to rescind is exercised, the contract ceases and the parties are released from the duty to perform, while any performance received is to be returned, as are benefits derived from such performance.
 - (2) The debtor must pay a money compensation rather than effect a return, where:
 - a) the return or surrender is impossible because of the nature of what has been acquired;
 - b) he has consumed, transferred, encumbered, processed or transformed the object received;
 - c) the object received has deteriorated or has been destroyed; any deterioration resulting from the proper use of the object for its intended purpose is, however, disregarded.
 - (3) If the contract specifies a counter-performance, such counter-performance is to replace money compensation.
 - (4) There is no obligation to compensation with money:
 - a) if the defect which gives the right to rescission became apparent only during the processing or transformation of the property,
 - b) in so far as the creditor is responsible for the deterioration or destruction of property,

- c) in so far as the damage would also have occurred in the creditor's hands,
 - d) if, in the case of a right of rescission under law, the deterioration or destruction has occurred in the hands of the person entitled even though he has taken the care which a good owner takes in his own affairs. Any enrichment must be given up.
- (5) After rescission, the creditor may demand compensation for damage caused by breach of contract, save for cases where the cause is not due to debtor's fault.
- (6) Rescission does not affect any provision of the contract for the settlement of disputes or any other provision which is to operate even after rescission.

Article 739. Lost Benefit and Compensation for Damage

- (1) If, contrary to the rules of proper management, the debtor has failed to derive benefits even though it would have been possible to do so, he must compensate the creditor for their value. However, the debtor must display with regard to the benefits only the standard of care which he usually takes in his own affairs.
- (2) If the debtor returns the property, compensates the creditor for value, or if his duty to compensate for value is excluded pursuant to Article 738 para.(4) let.a)-c), he must be reimbursed for necessary expenditure. Other expenditure is to be reimbursed in as much as the creditor is enriched by it.

Article 740. Concurrent Performance

The obligations of the parties arising out of rescission are to be performed concurrently.

Article 741. Term for Contract Rescission

If a period has not been agreed for exercise of a contractual right of rescission, the other party may fix a reasonable period within which the party entitled to rescind must exercise that right. If resolution is not declared before the end of that period, the creditor may rescind contract only upon the expiration to no avail of a reasonable additional term, established by him, or after a warning notice to no avail.

Article 742. Rescission in Case of Plurality of Parties

- (1) If one or the other party to the contract consists of more than one person, the right to rescind can be exercised only by all and against all persons.
- (2) If the right to rescission expires for one of the persons entitled, it also expires for the others.

Article 743. Set-off after Failure to Perform

Termination for failure to perform an obligation is ineffective if the debtor could free himself from the commitment by means of a set-off and declares a set-off immediately after the rescission.

Article 744. Forfeiture clause

If a contract has been concluded with the reservation that the debtor will forfeit his rights under the contract if he does not fulfil his obligation, the creditor is entitled to rescind the contract if that case arises.

Article 745. Rescission on Payment of a Forfeit

If a right to rescission on payment of a forfeit has been reserved, rescission is ineffective if the forfeit is not paid before or when the declaration is made and the other party immediately rejects the declaration on this ground. The declaration is nevertheless effective if the forfeit is paid without delay after the rejection.

Article 746. Creditor's Right to Reduction of Correlative Obligation

- (1) Where the creditor may not demand rescission of the contract, he shall be entitled to a proportionate reduction of the correlative obligation.
- (2) A proportionate reduction of the correlative obligation shall be determined taking into account all relevant circumstances.
- (3) Where the correlative obligation may not be reduced, the creditor is entitled to compensation for damage only.

Article 747. Termination of Contract

- (1) Termination is effective only for the future. May be terminated only contracts with recurring performance.
- (2) Articles 734, 735, 737, 741-746 apply accordingly to termination of such a contract.

Article 748. Termination of Contract with Recurring Performance for Good Reasons

- (1) Where the reason for termination is the breach of a contractual obligation, termination is admissible only after the expiry, to no avail, of an additional period for remedy or after a warning notice to no avail. Articles 709-711 apply accordingly.
- (2) Contracts with recurring performance may be terminated by either party for good reasons, without observing such additional period or warning notice. There is a good reason where, taking into account all circumstances of the case and the interests of both parties, the continuation of contractual relations up until the expiry of the additional period or warning notice may not be demanded from neither of them.
- (3) The party entitled may terminate the contract only within a reasonable period, after he became or should have become aware of the reason for termination.
- (4) If, after termination, the effected performances aren't of any interest to the party entitled to terminate, that party may extend the effects of termination over those performances. In case of restitution of effected performances, Articles 731 and 738 apply accordingly.

Section 2: Right of Revocation and Return in Consumer Contracts

Article 749. Right of Revocation in Consumer Contracts

- (1) If a consumer is granted a right of revocation under this Code or another law, he is no longer bound by his declaration of intention to conclude the contract with an entrepreneur if he has revoked it in good time.
- (2) The revocation does not have to state any grounds. It must be declared in textual form, another durable information bearer, or by return of the property within 2 weeks.
- (3) The period laid down in para.(2) begins when the consumer has been informed on a durable information bearer by a clearly formulated notice of his right of revocation. The means of communication used shall also state the name and address of the person to whom revocation is to be declared and refer to the beginning of the period and the rules in para (2).

Article 750. Right of Return in Consumer Contracts

(1) To the extent expressly allowed by law, the right of revocation may, where the contract is concluded on the basis of a catalogue, be replaced in the contract by an unrestricted right of return, if:

- a) the catalogue contains a clearly presented notice concerning the right of return;
- b) the consumer could peruse the contract in detail in the absence of the entrepreneur;
- c) the right of return is granted to the consumer on a durable information bearer.

(2) Where a right of return exists, revocation may be declared only by return of property within the fixed period.

Article 751. Legal Consequences of Revocation and Return

(1) Unless otherwise agreed, the provisions on termination apply accordingly to the right of revocation and return. The period laid down in Article 617 para.(4) begins upon the consumer's declaration of revocation or return.

(2) The consumer is bound to return the property on entrepreneur's risks and costs.

(3) In the case provided at Article 738 para.(2) let.c), the consumer shall be also liable for deteriorations caused through use of the property, if his attention has previously been drawn to this legal consequences and to means of avoiding them possibilities. Provisions of Article 738 para.(2) let.c) shall apply only in the case when the consumer has not been properly informed of such consequences and means or his right of revocation, and he could not have been aware of it in another way.

(4) More extensive claims do not exist.

Article 752. Communication of Information and Statements

(1) Information and statements shall be submitted to the consumer on a durable information bearer, if they were submitted under the form of a document or in another legible form that allows him to reproduce the information exactly, within a period in accordance with the requirements of the juridical act.

(2) Para.(1) applies accordingly to consumer's statements towards the entrepreneur.

TITLE III: PARTICULAR KINDS OF OBLIGATIONS

CHAPTER I: SALE

Section 1: General Provisions on Sales

Article 753. Contract of Sale

(1) Under a contract of sale, a party (seller) is bound to deliver to the other party (buyer) a property in ownership, and the latter undertakes to take delivery of such property and pay the agreed price.

(2) The seller undertakes to hand over, along with the property, legally provided documents regarding the property, unless otherwise agreed.

(3) Where a contract of sale fails to specify a price, the parties may agree upon the way it is to be determined.

Article 754. Costs of Sale of a Movable

(1) Costs of delivery of a movable, in particular costs of measuring and packing, are borne by the seller; costs in taking delivery and transporting the property to a place other than the place where the contract of sale was concluded are borne by the buyer, unless otherwise agreed.

(2) Where the contract of sale of a movable must be certified at the notary and registered, the buyer shall bear the costs of notary certification, registration in the relevant public register and conveyance of ownership.

Article 755. Costs of Sale of an Immovable

The buyer of a land plot or other immovable shall bear the costs of preparation, notary certification and registration of the contract of sale in the real estate register, as well as those of receiving the necessary documents.

Article 756. Price

(1) The price of the property shall be expressed in money.

(2) Where a contract has been concluded between entrepreneurs, but does not expressly fix or does not implicitly determine the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such property sold under comparable circumstances in the trade concerned. Where there are no similar contracts, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price practiced on the date of property's delivery.

(3) If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.

Article 757. Term for Delivery

(1) The seller must deliver the property:

- a) if a date is fixed by or determinable from the contract, on that date;
- b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date;
- c) in any other case, within a reasonable time after the conclusion of the contract.

(2) The contract of sale is deemed concluded with a clause of punctual performance on the fixed date, if it follows clearly from the contract that upon breach of this term the buyer will lose interest in contract performance.

(3) Where there is a contract with clause of punctual performance on the fixed date, the seller may perform before or after the fixed period only subject to buyer's assent.

Article 758. Obligation to Deliver

(1) If the seller, in accordance with the contract, hands the property over to a carrier and if the property is not clearly identified to the contract by markings on the property, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the property.

(2) If the seller is bound to arrange for carriage of the property, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.

(3) If the seller is not bound to effect insurance in respect of the carriage of the property, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

Article 759. Risk of Property's Forced Loss or Deterioration

(1) The risk of property's forced loss or deterioration is passed to the buyer when the seller performed his contractual obligations to place the property at buyer's disposal, unless otherwise agreed.

(2) If the contract of sale involves carriage of the property and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first carrier. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. Where the buyer has given to the seller instructions in respect to the manner of transportation and the seller failed to observe them without good reason, he shall be bound to compensate for damage caused thereby.

(3) The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract, unless otherwise agreed.

(4) Where the contract is concluded after hand over of property, the risks that are known or could not have been unknown to the seller upon conclusion of contract, remain binding on the seller.

(5) In case of sale of generic property, the risks shall not be transferred on the buyer until it is clearly identified to the contract.

Article 760. When Property is Deemed Delivered

(1) The obligation to deliver the property shall be deemed performed when:

a) the property was delivered to the seller or to the person specified by him;

b) the property was placed at buyer's disposal or to the person specified by him, if the property must be delivered at its place of location. The property shall be deemed placed at buyer's disposal of the buyer if it is identified by markings or otherwise and is prepared for hand over at the fixed date, and the buyer is notified about this pursuant to the contract.

(2) Where seller's obligation to make transportation of property or to hand over the property to buyer's place of business does not derive from the contract, seller's obligation to deliver the property shall be deemed performed on the date of handing over the property to the carrier or to the post office for the purpose transportation to the buyer, unless otherwise agreed.

Article 761. Taking Delivery

(1) The buyer is bound to undertake all the acts that, according to usages, are necessary on his behalf in order to enable delivery and taking delivery of the property, unless the law or the contract provide otherwise.

(2) Where the buyer fails or refuses to take delivery, in breach of legal or contractual provisions, the seller may refuse the performance of the contract.

Article 762. Sale of Property to Several Persons

If the seller has sold the same property to several persons, preference is to be given to the buyer who took possession of the property, and if the property was delivered to none of them - to the one who was the first to conclude the contract.

Article 763. Defects as to Quality

- (1) The seller must deliver the property in a state that is free from defects as to quality.
- (2) The property is free from defects as to quality if, upon the passing of the risk, the thing is in the agreed quality. If the quality has not been agreed, the property is free from defects as to quality:
 - a) if it is fit for the use specified in the contract;
 - b) if it is fit for the normal use and its quality is such as is usual in property of the same kind and can be expected by the buyer owing to its nature. Such quality also includes features which the buyer may expect by virtue of public statements concerning the thing's features that are made by the seller, the producer or persons assisting him, in particular in advertisements or in connection with labelling, unless it could not influence the decision to purchase the property.
- (3) There is a defect as to quality also where the agreed assembly of the thing has not been properly performed by the seller or persons employed by him, as well as when the property is intended to be assembled by the buyer and the assembly instructions are defective.
- (4) Delivery by the seller of only a part of the property, a different property or of a lesser amount of the property than the agreed one is equivalent to a defect as to quality, except where such defect does not have substantial influence on the use of the property.

Article 764. Defects of Title

The seller must deliver the property in a state that is free from defects of title (free from rights of third parties), unless the buyer assented to the contract in awareness of such rights of third parties over the property. Entry in the real estate register of a right that does not exist is equivalent to a defect of title.

Article 765. Duty to Check Property's Quality and Taking Over of Property with Defects

- (1) The buyer has no rights in respect of a defect if he is aware of such defect upon conclusion of the contract.
- (2) If, owing to gross negligence on his part, the buyer is unaware of a defect, he may assert rights in respect of that defect only if the seller fraudulently concealed the defect or guaranteed the quality of the property.
- (3) If the buyer is an entrepreneur, he must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances, and, if defects are discovered, must give notice to the seller without delay.
- (4) The buyer loses the right to rely on a defect if he does not give notice to the seller within a reasonable time after he has discovered it or ought to have discovered it, and its nature. The seller may not rely on the provisions of this paragraph, if he has fraudulently concealed the defect.
- (5) The seller may not rely on an agreement excluding or restricting the buyer's rights in respect of defects if the seller fraudulently concealed the defect or if he has guaranteed the quality of the property.
- (6) Where the seller is bound by law or contract to check the quality of the property, the seller must submit to the buyer proof of such quality check.

Article 766. Duty of Seller in Eviction

- (1) Where a third party, based on his right over the property, which arose before the conclusion of the contract of sale, files an eviction suit against the buyer, the latter is bound to engage the seller as co-defendant and may set up against the third party all defences that he could have set up against the seller.
- (2) Buyer's failure to engage the seller as co-defendant releases the latter from liability, if he proves that his engagement would have prevented buyer's eviction.

Article 767. Seller's Liability in Case of Buyer's Eviction

In case of buyer's eviction based on the rights of a third party over the property, which appeared before the conclusion of the contract of sale, the seller shall compensate for the damage caused to the buyer. These provisions shall not apply where the buyer assented on buying a property charged with the rights of a third party pursuant to Article 764.

Article 768. Remedy

- (1) Where the property has defects, the seller may demand its remedy, by repair or delivery of substitute property.
- (2) The seller shall bear useful repair costs, in particular the costs of transportation, delivery, execution of works and procurement of materials.
- (3) The seller may refuse repair if this engages unreasonably high costs.
- (4) Where instead of repair, the seller delivers a substitute free from defects, the seller may demand from the buyer restitution of the defective property under the rules applicable to termination of contract.

Article 769. Special Provisions on Rescission and Reparation of Damage

Besides cases provided by Article 617, there is no need to establish a term where the seller refused to remedy or where a kind of remedy failed or may not be imposed on the buyer. A remedy shall fail, after a second attempt that failed, if it does not follow otherwise from the type of the property or of the defect or from seller's conduct.

Article 770. Effects of Impossibility to Return Property

- (1) If the buyer cannot return the property to the seller in the state it was received, the former shall be deprived of the right to declare rescission of contract or to demand from the seller the handing over of replacement property, unless the impossibility of returning the property is due to seller's action or inaction or to property's uselessness, if their deterioration is due to non-observance of hand over conditions (including packaging) or if the property has been used before discovering its deficiency.
- (2) The loss by the buyer of the right to declare rescission of contract or to demand from the seller handing over of replacement property does not prejudice his right to employ other legal remedies provided by law or contract.

Article 771. Demand to Reduce Price

Instead of contract rescission or defect removal by the seller, the buyer may demand reduction in price in an amount equivalent to the damage removal costs. This article refers to the price established at the moment of contract conclusion.

Article 772. Guaranty for property's Properties

- (1) Where the seller, producer or a third party gives guaranty for properties of a property, the buyer shall benefit of the rights of guaranty under the terms specified in the declaration of guaranty and in the relevant advertising in relation to the one giving guaranty, without prejudice to other rights provided by law.
- (2) To the extent that a guaranty has been issued, it is presumed that rights arise in relation to a defect appeared within the period of guaranty.

(3) The guaranty term starts to run as of property's handing over by the seller, unless otherwise agreed.

(4) The guaranty is also applicable on accessories, for the duration of the guaranty fixed for the principal property, unless otherwise agreed.

Article 773. Serviceable Life

(1) The law, standards and other mandatory provisions may fix periods of time for the validity of property's quality, upon the expiry of which the property is no longer susceptible of use (serviceable life).

(2) The seller is bound to convey the property, for which serviceable life is set, so that the buyer can use it in conformity with its destination before the expiry of such period of time.

Article 774. property' Quantity

(1) The seller is bound to convey the good in the quantity stipulated in the contract of sale.

(2) The buyer is entitled to refuse acceptance of the property if the seller offers it in smaller quantity than agreed. Where the buyer accepts receipt of the property in a smaller quantity, the buyer shall pay proportionately in relation to the contractual price.

(3) Where the seller offers a quantity greater than that provided by contract, the seller is entitled to accept receipt of the property in such a quantity, bound to pay proportionately in relation to the contractual price or to receive only the quantity provided by contract, while the excess shall be returned to the seller, on account of the latter.

(4) Where the quantity of the property or its method of determination is not specified, the contract is void.

Article 775. Property' Assortment

The seller is bound to convey the property in the assortment (correlation of models, varieties, sizes, colours and other features) stipulated by contract. Absent such stipulation, the seller may deliver property in the assortment that corresponds to buyer's needs, if the seller was aware of these needs at the moment of contract conclusion or may refuse fulfillment of contract.

Article 776. Effect of Non-Compliance with Assortment Clause

(1) Where the property is delivered in an assortment that does not correspond to the contract, the buyer is entitled to refuse their acceptance and payment of price, and if the price has already been paid, to demand its reimbursement.

(2) Where, together with the property in the agreed assortment, other property is delivered, the buyer may refuse acceptance of the property not stipulated in the contract, or may accept all property. In the case he accepts the property not stipulated in the contract, the buyer shall pay for their value at the price agreed with the seller.

Article 777. Completeness of property' Assortment

(1) The seller is bound to deliver the property to the buyer, in accordance with the contract of sale and with complete assortment.

(2) Where the completeness of the assortment is not established, the seller is bound to deliver to the buyer property with completeness of assortment determined by business circuit usages or by other traditional requirements.

Article 778. Set of property

- (1) Where the seller is bound to deliver to the buyer a complete set of property, the obligation shall be deemed performed on the date of delivery of all objects of the set.
- (2) Where the contract does not stipulate the delivery of a certain set of property, and it does not follow otherwise from the essence of the contract, the seller shall be bound to deliver concomitantly all objects included in the set.
- (3) In case of incomplete delivery of property, the buyer is entitled to demand replenishment of property within a reasonable time or reduction of the purchase price.
- (4) Where the seller did not fulfill the requirements shown at para.(3) within a reasonable time, the seller may demand replacement of incomplete property with complete ones or may not fulfill the contract and demand restitution of sums paid for the property.

Article 779. Package

- (1) Unless it follows otherwise from the contract or the substance of the obligation, the seller is bound to deliver packaged property to the buyer, except for property that, by their nature, does not require packaging. Where the contract does not set package requirements, the property must be packed up as usual for property of this type. Absent such a usage, the property must be packed up to ensure its integrity during storage and transportation, usual for such type of property.
- (2) Where the property that must be packed up is delivered to the buyer without package or in deficient package, the buyer is entitled to demand from the seller packing of the property, unless it follows otherwise from the substance of the obligation or the nature of the property.
- (3) Instead of the requirements towards the seller provided at para.(2), the buyer may forward other claims that follow from delivery of a deficient property.

Article 780. Obligation to Preserve Sold property

- (1) Where the buyer is in default regarding receipt of the delivered property or does not pay the price, if the delivery of the property and the payment of price must be done simultaneously, the seller, if possessing or controlling the property, must take measures, reasonable under the given circumstances, to preserve the property. The seller is entitled to retain the property until the buyer reimburses his reasonable Costs.
- (2) Where the buyer accepted the property, but wishes to return it, for grounded reasons, the buyer shall be bound to take reasonable measures for preserving the property. he may retain the property until the seller reimburses the necessary Costs.
- (3) The party bound to take measures for preserving the property may deposit it at a third party, on account of the other contractual party, unless this results in disproportionate costs.
- (4) The party bound to take measures for preservation of the property has a right of retention until it will be paid preservation recompense.

Article 781. Right to Alienate property

- (1) Conditioned by other party's notification of his intentions, the party bound to preserve the property is entitled to sell it at a suitable price, if the other party excessively delays its receipt or the payment of preservation costs.
- (2) Where the property is under threat of perishing or rapid spoilage (deterioration) and if preservation will cause unreasonable costs, the party bound to preserve may sell the property.
- (3) The party that sold the property shall transfer to the other party the amount obtained, while being entitled to retain reasonable costs for preservation and sale.

Article 782. Buyer's Right to Demand Obligations' Performance in Kind

With regard to unique property, that individualized in relation to the given contract or other property that the buyer may not acquire from other persons or such attempts have no effect, the buyer is entitled to demand fulfillment in kind of contractual obligations, if such a demand is justified in relation to the parties and to the protection of buyer's rights.

Article 783. Term for Liability of Seller for property's Defects

(1) After discovering property's defects that have not been declared by the seller before sale, the buyer is entitled to submit claims to the seller immediately, but not later than the term established by contract.

(2) If the contract fails to fix any period, claims may be submitted not later than six months after property's delivery, and in respect to immovables – not later than one year.

(3) If it is impossible to establish the day of delivery of the property that must be registered or if the property was delivered to the buyer before conclusion of contract, the term for submitting claims shall be calculated from the day of property's registration as prescribed.

Article 784. Term for Submitting Claims with Regard to Deficient property with Warranty Period

(1) Where a warranty period is established with regard to a property, the claims for discovered defects may be submitted within this period.

(2) Where the property with warranty period had been conveyed into buyer's possession before conclusion of contract and the date of delivery may not be determined, the term for submitting claims shall be calculated from the date of contract conclusion. If the property has been subject to transportation, the term shall be calculated from the date of shipment to buyer's address.

(3) Where the contract fixes for accessories shorter warranty periods than those fixed for the principal property, the buyer is entitled to submit claims regarding defects of accessories within the warranty period of the principal property.

(4) Where the contract fixes for accessories longer warranty periods than those fixed for the principal property, the buyer is entitled to submit claims regarding defects of accessories within their warranty period.

Article 785. Period of Limitation for Action on property's Defects

Action for property's defects may be filed within a year from the date of submittal of claims. Where no claims have been submitted or the date of their submittal cannot be determined, action may be filed within a year as of expiry of periods laid down in Articles 783 and 784.

Section 2: Repurchase

Article 786. General Provisions on Repurchase

If the seller has, in the contract of sale, reserved a right of repurchase, the repurchase is effected when the seller declares to the buyer that he is exercising that right. The declaration need not be in the form laid down for the contract of sale.

Article 787. Legal Status of Accessories

The reseller must convey to the one exercising the right of repurchase the property together with its accessories.

Article 788. Price of Repurchase

The price for which the sale was made is also the price of repurchase.

The reseller may demand reimbursement of the expenditure he has incurred in respect of the purchased property prior to repurchase in so far as the value of the object is increased by the expenditure. He may remove accessories which he has attached to the thing to be returned.

Article 789. Compensation for Damage Caused before Repurchase

(1) If, before the exercise of the right of repurchase, the reseller has caused through his fault the deterioration or destruction of the purchased property or the impossibility of surrendering it on account of some other reason, he is liable for the damage resulting therefrom.

(2) If the property has deteriorated without fault of the reseller or if it has only immaterially altered, the re-purchaser may not demand reduction of the purchase price.

Article 790. Effects of Disposing of Property before its Repurchase

If the buyer has disposed of the purchased object before the exercise of the right of repurchase, he is bound to remove third-party rights established by the disposition. A disposition by way of judicial execution or execution of an attachment order or by an insolvency administrator is equivalent to a disposition by the original purchaser.

Article 791. Term for Repurchase

The right of repurchase may be exercised only until the expiry of the term provided for in the contract, which in the case of land, may not exceed 10 years and, in the case of other property – 5 years. These terms may not be extended.

Section 3: Option

Article 792. Option

The parties may agree that the buyer shall have the unilateral right to purchase a thing until a certain moment (option of purchase), or that the seller shall be entitled to sell the thing to the buyer under the same conditions (option of sale). The provisions concerning contracts of sale also apply to contracts of option, unless otherwise agreed.

Section 4: Right of Pre-emption

Article 793. Purchase Based on Right of Pre-emption

(1) A person who has a right of pre-emption may exercise that right as soon as the person bound by it has concluded with a third party a contract of sale.

- (2) Where several persons have a right of pre-emption together, this right may be exercised only jointly, unless the law or the contract provide otherwise.
- (3) The right of pre-emption is not transferable and may not be transmitted by inheritance, unless the contract between the bound person and the holder of the right of pre-emption provides otherwise.

Article 794. Notification about Intention to Sell

The person bound must notify the person entitled to pre-emption about his intention to sell and the terms of sale. Notification by the third party takes the place of notification by the person bound.

Article 795. Exercise of Right of Pre-emption

- (1) The right of pre-emption is exercised by declaration made to the person bound.
- (2) After receiving notice regarding the intention to sell, the right of pre-emption may be exercised within a month in case of land plots and within 10 days in case of other property, unless otherwise agreed.
- (3) Upon the exercise of the right of pre-emption a sale is made, between the person entitled and the person bound, on the terms agreed with the third party by the person bound.
- (4) The person bound may demand that the right of pre-emption extends over all property that cannot be separated from the relevant property, without causing disadvantages.
- (5) If the contract allows the third party time to pay the purchase price, the person entitled to pre-emption may claim the benefit of the deferment only if he gives security for the deferred amount.
- (6) If a land plot is the subject matter of the pre-emption, no security need be provided in so far as the creation of a mortgage to cover the deferred amount has been agreed or a debt secured by a mortgage on the land plot exists and has been accepted as payment of the purchase price.

Article 796. Ineffective Agreements

An agreement between the person bound and the third party whereby the sale is made conditional on the non-exercise of the right of pre-emption or the person bound reserves a right of rescission in the event of the exercise of the right of pre-emption is void.

Article 797. Collateral Performance

- (1) If the third party has bound himself in the contract to effect a collateral performance which the person entitled to pre-emption is unable to perform, the person entitled to pre-emption must pay the value of the collateral performance instead of effecting it.
- (2) If the collateral performance cannot be estimated in money, the right of pre-emption cannot be exercised; the agreement to effect a collateral performance is, however, of no account if its purpose was to hinder the exercise of the right of pre-emption.

Section 5: Sale on Approval or Inspection

Article 798. Conclusion of a Contract of Sale Approval or Inspection

- (1) In a sale on approval or on inspection, approval of the object is at the buyer's discretion. In case of doubt, the sale is concluded subject to the condition precedent of approval.
- (2) The seller is bound to permit the buyer to examine the object.

(3) The buyer shall be liable for preservation of the object until the condition provided for in para. (1) comes about.

Article 799. Term for Consent

(1) An object purchased on approval or inspection may be approved only during the period agreed or, if no such period has been agreed, only before the expiry of a reasonable period fixed by the seller for the buyer.

(2) If the thing was handed over to the buyer for approval or inspection, and such agreed period expired or, if no such period has been agreed, such reasonable period needed for an assessment of object's characteristics expired, silence on the part of the buyer is considered approval.

Section 6: Sale of Litigious Rights

Article 800. Contentious Right

A right is litigious when it is uncertain, contested or contestable by the debtor, whether an action is pending or there is reason to presume that it will become necessary.

Article 801. No Purchase of Litigious Rights

No judge, advocate, notary, prosecutors, and court bailiffs may purchase litigious rights, on pain of absolute nullity of the sale.

Article 802. Debtor's Right to Release Himself from Obligation

(1) Where litigious rights are sold, the person from whom they are claimed is fully released by paying to the buyer the sale price, the costs related to the sale and interest on the price computed from the day on which the buyer paid it.

(2) This right laid down in para.(1) may not be exercised where the sale is made to a creditor in payment of what is due to him, to a co-owner or a coheir of the rights sold or where the sale is done between entrepreneurs. Nor may it be exercised where a court has rendered a judgment affirming the rights sold or where the rights have been established and the case is ready for judgment.

Section 7: Sale of Consumer Goods

Article 803. Reversal of the Burden of Proof

Where a consumer buys a movable from an entrepreneur (purchase of consumer goods) and discovers a defect in that property within six months from transfer of risk, it shall be presumed that the defect appeared at the moment of risk transfer, unless the presumption is incompatible with the nature of the property or of the defect.

Article 804. Special Provisions on Sureties

(1) In case of sale of consumer goods, the surety in the sense of Article 772 must be formulated clearly and precisely. The surety must contain:

a) reference to consumer's legal rights and to the fact that those rights will not be limited by the surety;

b) all information necessary to benefit of the surety, and especially duration and space applicability of surety protection, name and address of the person granting the surety.

(2) The consumer may demand that a surety declaration on a durable information bearer be offered to him.

(3) The effects of the surety obligation shall not be affected where one of the requirements laid down in para.(1) and (2) is not complied with.

Article 805. Public Offer of Goods

Displaying labeled goods in the shop-window, offering the menu, advertising the good, describing it in catalogues and other proposals addressed to an unlimited range of persons, shall be deemed public offer for conclusion of a contract of sale of consumer goods, regardless of whether the price of the good and other essential terms for conclusion of contract are specified.

Article 806. Sale of property by Using Vending Machines

(1) Where a vending machine are used for selling the good, its owner must inform the buyer, by displaying on the machine (or in another place) the name of the seller, contact information, good's denomination and price, instructions regarding actions that must be undertaken by the buyer in order to pay and receive the good.

(2) The contract of sale by means of vending machine shall be deemed concluded at the moment of performing the necessary actions for receiving the good.

(3) Where the machine is used for changing coins, currency, ticket procurement, rules on sale of consumer goods shall apply, unless it follows otherwise from the substance of the obligation.

Article 807. Price of Consumer Goods

The price and other essential terms of the contract of sale of consumer goods shall be fixed equally for all buyers.

Article 808. Exchange of Consumer Good

(1) Within 14 days as of receipt of such non-food good and unless the seller established a longer term, the buyer may exchange such good at the place of purchase or in another place fixed by the seller, for a similar good of another size, form, dimensions, model, colour or suite etc. subject to recalculation where there is a price difference.

(2) Where there is no good to effect the exchange, the buyer may return the good, while the seller is bound to reimburse the amount paid.

(3) Buyer's request to exchange the good or to return it shall be fulfilled if the good has not been used, has not lost its consumer characteristics and if there is proof that the good was purchased from the respective seller.

(4) Goods that cannot be exchanged or returned by virtue of this article shall be listed by law or other regulatory acts.

Section 8: Sale by Auction

Article 809. Modality of Sale by Auction

- (1) Sale by auction may be voluntary and compulsory.
- (2) Compulsory sale is subject to the rules envisioned by this section.

Article 810. Setting of Price and of Other Terms

The seller may fix the price or other terms of sale. This stipulation may not be raised against the winner of auction, if it has not been notified to the present persons before receipt of offers.

Article 811. Right to Non-Disclosure of Identity

The seller is entitled not to disclose his identity at the auction, but, if his identity is not disclosed to the winner of auction, the adjudicator shall be personally liable for all obligations of the seller.

Article 812. No Withdraw of Offer

The offeror may not withdraw his offer.

Article 813. Moment of Sale

The sale is concluded by adjudicating the property by the adjudicator to the last offeror. The registration of the name of the winner of auction and of his offer in adjudicator's register shall serve as proof of sale, but absent such entry, the witness testimony is allowed.

Article 814. Drawing up of Contract for Sale of an Immovable

The seller and the winner of auction of an immovable must draw up the contract of sale within 10 days from the request of the other party.

Article 815. Effects of non-payment of the price by the winner of auction

(1) Where the winner of auction does not pay the price as prescribed by contract, the adjudicator is entitled, without prejudice to seller's remedies, to resell the property at the next auction, in conformity with the usages and only after notification of the winner of auction.

(2) The winner of auction may not participate again in the auction and is bound to pay the difference between the price on which the property was sold to him and the price on which the property was resold, if the latter is lower, while not being entitled to claim the surplus. In case of compulsory sale, he will also be liable towards the seller for the person in whose interest the property was attached and towards the creditor, who obtained a court judgement, for interest, costs and damage caused by nonperformance.

Article 816. Right of Winner of Auction to Claim Damages

(1) The winner of auction, whose right of ownership over a property acquired by auction is affected by an attachment exercised by seller's creditor, may claim from the seller the reimbursement of the price paid, related interest and costs from the creditor to whom the property has been transmitted.

(2) The winner of auction may claim from the creditor, in whose interest the attachment has been established, reparation of damage caused by irregularities in attachment or sale.

Section 9: Sale of Enterprise as Unitary Patrimonial Complex

Article 817. Contract of Sale of Enterprise

(1) By virtue of contract of sale of an enterprise, the seller undertakes to convey into the ownership of the buyer the enterprise as a unitary patrimonial complex, except for inalienable rights and obligations.

(2) The right to firm name, trademarks and other means of individualization of enterprise and of its products, works and services, as well as the right to use such means of individualization that belong to it based on license shall be transferred to the buyer, unless otherwise agreed.

Article 818. Registration of Contract of Enterprise Sale

The contract of sale enterprise as a unitary patrimonial complex shall be concluded by notary certification and registration at the State Registration Chamber.

Article 819. Evaluation of Enterprise Patrimony

(1) Enterprise composition and value shall be determined based on the inventory sheet, drafted in accordance with the rules of inventory.

(2) Before signing the contract, the parties must draw up and examine the inventory sheet, the accounting balance, the conclusion of an independent auditor on the composition and value of the enterprise, the list of seller's debts included into the composition of the enterprise with indication of creditors, the nature of the debt, its amount and term for obligation performance.

(3) All property included in enterprise composition, rights and obligations registered in the documents indicated at para.(1) and (2) must be conveyed to the buyer, unless otherwise provided by contract or Article 817.

Article 820. Creditors' Rights

(1) Before handing over the enterprise to the buyer, seller's creditors must be notified about the fact that the enterprise has been sold by one of the parties.

(2) The buyer shall be liable jointly and severally with the seller, limited to the property that has been conveyed to him, for seller's debts incurred before the sale of the enterprise.

(3) Buyer's liability provided at para.(2) may not be excluded or limited by agreement with the seller.

Article 821. Handing Over of Enterprise

(1) Hand over of enterprise to the buyer shall be done based on the deed of hand over, which shall include data regarding conveyed property, the fact that creditors have been notified, and defects of the enterprise.

(2) The costs for preparation of enterprise for its hand over, including costs for drawing up the deed of hand over, shall be borne by the seller, unless otherwise agreed.

(3) It shall be deemed that the enterprise is conveyed to the buyer as of the signature of the deed of hand over by both parties. From this moment, risks of accidental loss or deterioration of the enterprise pass to the buyer.

Article 822. Transfer of Right of Ownership

(1) Unless otherwise agreed, the right of ownership over the enterprise shall be transferred to the buyer on the date of enterprise hand over, subject to immediate registration.

(2) Where the enterprise is sold under reservation of ownership, the buyer is entitled, before acquiring the right of ownership, to dispose of the property and extra-patrimonial rights included in the composition of the conveyed enterprise, to the extent that this is necessary for the purpose for which it has been purchased.

CHAPTER II: EXCHANGE

Article 823. Contract of exchange

(1) The parties to a contract of exchange are bound with mutual transfer of ownership over a property.

(2) Each party to the contract of exchange is deemed to be the seller of the property, which he exchanges, and the buyer of the property, which he receives in exchange.

Article 824. Rules Applied to Exchange

The appropriate provisions relating to the contract of sale apply to the contract of exchange.

Article 825. Compensation for Difference in Value

(1) Where the property exchanged is unequal in value, the difference may be compensated in money, by agreement of the parties.

(2) The compensation may not exceed the value of the property.

Article 826. Right to Refuse Hand Over of Property

The party that proves that the other party is not the owner of the property is entitled, even after receipt of the property, to refuse performance he undertook. In such case, the party may be bound to return only what he received under contract.

CHAPTER III: DONATION

Article 827. Contract of Donation

(1) By contract of donation, a party (donor) undertakes to increase, gratuitously and on account of his own patrimony, the patrimony of the other party (donee).

(2) The contract of donation by which the donor undertakes to transfer in the future his entire actual patrimony or a fraction of it, without specifying the property that must be conveyed, shall be void.

(3) The contract of donation that stipulates donee's obligation to pay for debts or to fulfill tasks that did not exist at the moment of contract conclusion shall be void, if the nature and extent of debts or tasks is not provided for in the contract.

(4) The contract that provides for hand over of the property after donor's death shall be void.

Article 828. Conclusion of Contract of Donation

(1) The contract of donation is deemed concluded as of the moment of handing over the property.

(2) Where a movable is conveyed without consent of the other party, the conveyer may fix a reasonable period of time, within which the other party must declare acceptance or refusal to accept the property. Upon expiry of such period, the contract is deemed concluded, if the other party did not declare refusal to accept donation. In case of refusal, the donor is entitled to claim restitution of the property under the rules on unjust enrichment.

Article 829. Form of Contract of Donation

Where the object of donation is a property, for the sale (alienation) of which a certain form of contract is established, the observance of that form is obligatory for the contract of donation.

Article 830. Promise of Donation

(1) In order to produce effects, a contract that contains the promise to convey a property in the future requires notary certification. Non-compliance with form requirements does not affect validity of donation if the promise is fulfilled, save for contracts regarding property the alienation of which requires notary certification.

(2) The donor is entitled to refuse fulfillment of promise to convey a property, if, taking into account his other obligations, it is impossible for him to fulfill the promise without prejudice to his own adequate maintenance or to his legal obligation to provide maintenance to other persons. The donee may not claim damages.

Article 831. Contract of Donation under Form of Periodic Payments

Where the contract of donation stipulates the obligation regarding material maintenance under the form of periodic payments, this obligation shall cease upon donor's death, unless otherwise agreed.

Article 832. Impermissibility of Donation

Save for insignificant donations meant to fulfill moral obligations, there shall be prohibited donations:

- a) on behalf of incompetent persons;
- b) towards owners, managers or employees of medical, educational, social insurance and similar institutions from the person that is interned in such an institution or from the spouse or relatives of that person to the fourth degree inclusively. This rule shall not apply in relations between relatives up to the fourth degree inclusively;
- c) in relations between legal profit-making entities.

Article 833. Donation in Case of Diseases Presumed Lethal

The contract of donation concluded during donor's disease presumed to be lethal, followed by his recovery, may be declared void upon donor's request.

Article 834. Conditioned donation

(1) The parties may agree that the donation is to become effective contingent on the fulfillment of a task or accomplishment of a goal. The goal may also serve to the common good. Only the surplus over costs for task fulfillment or goal accomplishment shall constitute donation.

(2) Besides the donor, task fulfillment may be requested by any person in whose interest the task has been agreed upon.

(3) Where the donee fails to fulfill the task, the donor may revoke donation.

Article 835. Revocation of Donation Due to Ingratitude

(1) A donation may be revoked if the donee attempted to kill the donor or a close relative of the latter, if the donee is guilty of other illicit deed towards the donor or his close relative, which reflects gross ingratitude, or if the donee refuses without good reasons to offer to the donor the owed maintenance.

(2) If the donation has been revoked, the donor may demand return of the gift.

(3) The donation may be revoked within one year from the time when the reason entitling the donor to revocation became known.

(4) The action for revocation of donation may not be filed against the heirs of the donee, and neither by the heirs of the donor against the donee, unless the donor died before the expiry of the term shown in para.(3).

Article 836. Rescission of Contract of Donation in Case of Need

(1) Where, after performance of donation, the donor is no longer able to ensure himself an adequate maintenance and to fulfill legal maintenance obligations towards third parties, he may demand from the donee return of donated property that is still in the possession of the latter.

(2) The demand of return is impermissible when the donor caused the state of need by willful conduct or by gross negligence.

Article 837. Absence of Obligation to Pay Interest

The donor in default is not bound to pay interest.

Article 838. Donor's Liability for Defect in Donated Property

If a donor fraudulently conceals a defect in the donated property, he is bound to compensate for the damage caused thereby.

CHAPTER IV: ALIENATION OF PROPERTY CONTINGENT ON LIFELONG MAINTENANCE

Article 839. Contract of property Alienation Contingent on Lifelong Maintenance

(1) Based on contract of property alienation contingent on lifelong maintenance, a party (maintenance beneficiary) undertakes to convey to the other party (acquirer) ownership over an immovable or movable, while the acquirer undertakes to ensure to the beneficiary maintenance in kind – lifelong dwelling, nutrition, attendance and necessary assistance, as well as funerals.

(2) In case of plurality of parties, the obligation of maintenance is indivisible, either under active or under passive aspect.

(3) The claim for maintenance may not be transmitted to other persons and may not be enforced upon by creditors.

(4) Norms on lifelong annuity shall apply accordingly to the contract of property alienation contingent on lifelong maintenance, if this is stipulated by contract.

Article 840. Form of Contract of property Alienation Contingent on Lifelong Maintenance

(1) The contract of property alienation contingent on lifelong maintenance shall be done in writing.

(2) Where for alienation of the property notary certification is required, the contract shall be certified by notary.

Article 841. Modification of Contract of property Alienation Contingent on Lifelong Maintenance

(1) In case of nonperformance of the maintenance obligation by acquirer, the beneficiary may demand that the maintenance obligation be performed through periodic payments in money.

(2) The maintenance obligation may also be fixed in money by parties' mutual agreement.

Article 842. Surety for Beneficiary of Maintenance

(1) As long as the beneficiary is alive, the acquirer may not alienate the property. In case of immovables, this interdiction shall be entered in the real estate register.

(2) Pledging and other charging of the property is allowed only with the consent of the maintenance beneficiary.

Article 843. Risk of property's Loss

Loss of property does not liberate the acquirer of obligations assumed by virtue of contract.

Article 844. Rescission of Contract of property Alienation Contingent on Lifelong Maintenance

(1) The beneficiary of maintenance is entitled to demand rescission of contract in case of breach of contractual obligations by the acquirer.

(2) The acquirer may demand rescission of contract in case of impossibility to fulfill contractual obligations due to circumstances that are not imputable to him.

Article 845. Effects of rescission of the contract of property alienation contingent on lifelong maintenance

(1) In case of rescission of contract by maintenance beneficiary, he shall be entitled to demand either return of the property, or payment of an amount equivalent to its value.

(2) The value of maintenance offered by the acquirer need not be reimbursed.

Article 846. Effects of Acquirer's Death

Upon acquirer's death, his rights and obligations pass on his heirs.

CHAPTER V: ANNUITY

Article 847. Annuity

(1) The annuity is based on a contract under which a party (annuity debtor) undertakes, onerously or gratuitously, to make periodic payments to the other party (annuity creditor).

(2) The annuity may be paid in money or in kind.

(3) The annuity may be constituted in favor of a third party.

Article 848. Term of Annuity

(1) The annuity is lifelong when its duration is limited by the lifetime of one or several persons.

(2) When in doubt, the annuity debtor must make payments for the lifetime of the annuity creditor.

Article 849. Form of Contract of Annuity

(1) In order for a contract by which an annuity is promised to be valid, it is necessary for the promise to be drafted in writing and certified by notary.

(2) Where, by virtue of the annuity contract, the annuity debtor is conveyed an immovable, the contract must be registered in the real estate register.

Article 850. Annuity Amount

(1) The annuity amount is fixed by the parties.

(2) In case of death of one of the annuity creditors, the annuity shall be paid integrally to the survivors, unless otherwise agreed.

Article 851. Annuity Payment

(1) Frequency and date of annuity payment shall be fixed by parties' mutual agreement, taking into account the form of the annuity.

(2) The lifelong annuity shall be paid in advance.

(3) The pecuniary annuity shall be paid in advance for 3 months, unless otherwise agreed. The term of advance payment for other forms of annuity shall be fixed subject to the nature and purpose of the annuity.

(4) If the annuity creditor was alive at the beginning of the period for which the annuity is paid, the annuity shall be paid for the entire period.

Article 852. No Alienation of Property Received by Annuity Debtor

(1) As long as the annuity creditor is alive, the annuity debtor may not alienate, pledge or otherwise charge the property conveyed by the person that instituted the annuity, without the consent of the annuity creditor. Seizure of such property for other obligations of the debtor is not allowed.

(2) Where the annuity debtor has been conveyed an immovable, the interdictions shown at para.(1) shall be registered in the real estate register.

Article 853. Modification of Annuity Payment Form

The parties to the contract for payment of annuity in kind may agree on its replacement with a periodically paid amount in money.

Article 854. Persistence of Obligation in Case of Accidental Loss or Deterioration of property

Debtor's obligation shall not cease due to accidental loss or deterioration of the property that has been conveyed to him in connection to the institution of annuity.

Article 855. Challenge of Contract of Annuity

(1) The contract of annuity may be challenged by the third party entitled to maintenance from the person bound to pay the annuity, if the latter cannot fulfill his obligations towards the third party, because of the annuity obligation. In case of rescission of contract, the property conveyed by the person that instituted the annuity shall be returned to him.

(2) The annuity debtor may not demand from the annuity creditor reimbursement of the annuities paid.

Article 856. Rescission of Contract of Annuity

(1) Both the annuity creditor and debtor are entitled to demand rescission of the contract of annuity if the continuation of these relations is impossible, due to nonperformance of obligations or for other good reasons.

(2) Rescission of contract of annuity shall be followed by return of the property conveyed in connection with annuity establishment. Performance provided by annuity debtor need not be returned, unless otherwise agreed.

Article 857. Stipulation regarding Unenforceable Character of Annuity

The annuity contract may stipulate the unenforceable character of the annuity only when the annuity has been instituted gratuitously.

Article 858. Consequences of Death of Annuity Debtor

(1) In case of death of the annuity debtor, his obligation shall pass to the heirs that inherited the property.

(2) Where the heir relinquishes the property, it shall be conveyed to the annuity creditor. By this, the contract shall cease.

CHAPTER VI: GRATUITOUS LOAN FOR USE

Article 859. Contract for Gratuitous Use

(1) By contract of gratuitous loan for use, a party (lender) gratuitously conveys a property for use to the other party (borrower), while the latter undertakes to return the property upon expiry of the term for which it was conveyed to him.

(2) The contract of gratuitous loan for use may provide compensation by the borrower of the wear and tear of the property.

Article 860. Liability of Lender

- (1) The lender is responsible only for willful conduct or gross negligence.
- (2) Where the lender does not fulfill his obligation to convey the property, the borrower may only claim compensation for damage.
- (3) Where the lender fraudulently concealed the defects of the property conveyed into gratuitous use, the lender is bound to compensate the borrower for the damage caused therefore.

Article 861. property's Wear and Tear

A borrower is not responsible for any alteration or deterioration of the property, which is brought about by the use of the property in conformity with the stipulated destination.

Article 862. Duties of Borrower

- (1) The borrower must preserve and take care of the property with the diligence of a good owner and to use it only for the purpose established in contract or determined by the nature of the property.
- (2) The borrower shall bear the costs necessary for using the property. The borrower may demand compensation for extraordinary, necessary and urgent costs, which were needed for preserving the property.
- (3) The borrower may not convey the property into the use of third parties without lender's consent.

Article 863. Liability of Borrower

- (1) Where the borrower does not fulfill obligations laid down in Article 860, the lender may demand immediate return of the property and compensation for damage caused.
- (2) In case of nonperformance of the obligations stipulated at Article 860, the borrower shall also be liable for cause non-imputable to him (accident), unless he proves that the damage would have occurred even if he had fulfilled his obligations. This rule shall also apply in the case when the borrower did not timely return the property.
- (3) Where several persons have jointly borrowed a property, they shall be jointly and severally liable towards the lender.

Article 864. Duty to Return property

- (1) The borrower is bound to return the property lent on the expiration of the time fixed for the loan.
- (2) If no time is fixed by contract, the borrower shall return the property after he finished using it for the purpose envisioned in the contract. The lender may demand the property back earlier, if sufficient time has elapsed for such use.
 - (3) If the term of the contract of loan cannot be inferred from the purpose of property's use, the lender may demand property's return any time.

Article 865. property's Retention

The borrower may not retain the property for claims against the lender, save for claims regarding extraordinary, necessary and urgent costs made for preservation of the property.

Article 866. Right to Terminate Contract of Gratuitous Loan for Use

The lender may terminate the contract of gratuitous loan for use, if:

- a) under unforeseen circumstances, the lender himself needs the property;
- b) the borrower uses the property in breach of the purpose intended under the contract, conveys the property into the use of third parties without lender's consent or subjects the property to great danger, as a consequence of defective prudential measures;
- c) the borrower died;
- d) the borrower-legal person winded-up.

CHAPTER VII: LOAN

Article 867. Contract of Loan

- (1) By a contract of loan, a party (lender) undertakes to convey to the other party (borrower) ownership of money or other fungibles, and the borrower binds himself to return to the lender what he has received in things of the same kind, quality and quantity upon the expiry of the term for which they were given to him.
- (2) The contract for loan is presumed gratuitous, unless the law or contract provide otherwise.

Article 868. Nonperformance of Obligation to Offer Loan

Where the lender does not fulfill his obligation to offer loan, the borrower may only claim compensation for damage caused therefore.

Article 869. Interest on Loan

- (1) The parties to a contract of loan may provide for payment of interest that must be reasonably linked to the refinancing rate of the National Bank.
- (2) The agreement on interest that comes into contradiction with para.(1) is void.
- (3) Unless otherwise agreed, the interest is payable at the end of each year for the period between the moment of conclusion of contract and that of loan return.
- (4) Where the borrower does not pay interest in time, the lender may demand immediate restitution of loan and related interest.

Article 870. Revocation of Promise of Loan

The lender is entitled to relinquish performance of obligations, where the material standing of the borrower worsens considerably, which puts restitution of loan under risk, even if the worsening took place before conclusion of contract and became known to the lender afterwards.

Article 871. Restitution of Loan

- (1) The borrower must restitute the loan at the time and under the order established by contract. Where no interest is established, the borrower is entitled to restitute the loan even before expiry of the term fixed.
- (2) The borrower must return property of the same quality and quantity as the received property and nothing more, even if prices have increased or dropped.
- (3) Where a sum of money was borrowed, the borrower must return the nominal sum received, regardless of the variations in cash value.

(4) Where the contract of loan fails to fix any term neither for restitution nor for notification, the loan must be reimbursed within 30 days as of when the borrower received the reimbursement request.

Article 872. Effects of Non-Restitution of Loan

(1) Where the borrower does not timely reconstitute the loan, the lender may demand payment of interest for the entire sum owed, in the amount provided by Article 619, unless the law or the contract provide otherwise.

(2) Where the contract provides for loan restitution in installments and the borrower does not timely reconstitute at least an installment, the lender may demand immediate restitution of the entire loan and related interest.

(3) Where the borrower cannot reconstitute the property, he is bound to pay its value, calculated contingent on the time and place of obligation performance.

Article 873. Effects of Breach of Surety Obligations for Performance

Where the borrower breaches his obligation regarding surety for restitution of property, the lender may demand immediate restitution of the property and related interest.

Article 874. Lender's Liability for property's Defects

The lender shall be liable for the defects of the property as provided by rules regarding liability of lender in the contract of loan for gratuitous use.

CHAPTER VIII: LEASE

Article 875. Contract of Lease

By a contract of lease, a party (lessor) undertakes to convey to the other party (lessee) an individually-determined property for temporary use or for temporary use and possession, while the latter undertakes to pay rent.

Article 876. Form of contract of Lease

(1) The contract for lease of an immovable must be drawn in writing.

(2) The contract of lease of an immovable for a term exceeding three years must be registered in the real estate register. If this rule is not be complied with, such contract may not be set up against third parties.

Article 877. Maximum Term for Contract of Lease

The contract of lease may be concluded for a term not exceeding 99 years.

Article 878. Properties of Leased property

(1) The lessor is bound to convey to the lessee the property in adequate condition, in accordance with the destination agreed by contract, and to maintain the property in such condition during the lease period.

(2) The property conveyed by the lessor must be free from material defects and defects in title.

(3) The property shall be deemed free from any material defects, if it has the agreed properties. Where no specific properties have been agreed upon, the property is free from material defects when it can be used according to the destination fixed by contract, and absent such a specification, when it can be used for the usual destination of such property.

(4) The property shall be deemed free from any defects in title where no third party may exercise rights over the property for the duration of the contract of lease.

(5) Before exercising his rights, the lessee must notify the lessor about the discovered defects of the property.

Article 879. Reduction of Rent Due to Defects of Leased property

(1) If the property has a defect, the lender shall be released from payment of a part of the rent in proportion to the diminution of the use of the property. The right to pay reduced rent ceases if the defect is cured. An insignificant defect is not taken into consideration.

(2) In case of a contract for lease of dwelling, provisions derogating from para.(1) to the prejudice of the lessee are ineffective.

Article 880. Compensation for Losses Inflicted by Defect in property

(1) If a defect that diminishes the possibilities to use the property exists at the time of conclusion of contract or appears subsequently due to a circumstance for which the lessor is responsible, or if the lessor is in default with respect to removal of the defect, the lessee may demand compensation for damage caused, without prejudice to his right to demand reduction of rent.

(2) If the lessor is in default, the lessee may himself remove the defect and demand compensation for any useful costs.

Article 881. Effects of Lessee's Awareness about Defect

If the lessee knew of the defect in the leased property at the time of contract conclusion, and did not put in a relevant claim, he may not enjoy the rights specified in Article 879.

Article 882. Invalidity of Agreement concerning Exoneration from or Reduction of Liability

An agreement whereby lessor's liability for defects in leased property is excluded or reduced is ineffective if the lessor fraudulently concealed the defects.

Article 883. Lessor's Liability for Acts of Third Party

(1) The lessor is bound to repair damage that results from interference in property's use by a third party, only if the third party is a lessee or if the lessor permitted him use of the property or access to it.

(2) Where the use of the property is reduced, the lessee keeps the right to other remedies that he has against the lessor.

Article 884. Effects of Delay or Refusal to Convey Leased property

Where the lessor does not timely convey the leased property or refuses to convey it, the lessee is entitled to demand performance of this obligation and reparation of damage or may terminate the contract and demand compensation for damage caused therefor.

Article 885. No Alteration of Form or Destination of Leased property

Neither the lessor, nor the lessee may alter the form or the destination of the property during the lease period.

Article 886. Order of Rent Payments

- (1) The rent may be paid integrally at the end of the period fixed in the contract of lease. If the rent is measured by periods of time it is payable after the expiration of each period.
- (2) Payment for additional costs is mandatory if the parties agreed on this.
- (3) Where due to lessee's fault hindrances arose in the use of the leased property, he shall not be released from rent payment.

Article 887. Terms and Conditions of Rent Modification

- (1) The rent amount may be modified by parties' agreement. The lessor may demand modification of rent only once a year and only if economic conditions render non-adjustment unfair.
- (2) The lessee is entitled to demand reduction of rent, if the conditions of property's use, established in contract, or property's condition have worsened considerably due to circumstances that are not imputable to the lessee.

Article 888. Duties of Lessee

The lessee is bound:

- a) to use the property in conformity with its destination and contract provisions;
- b) to preserve and ensure property's integrity;
- c) to bear current expenses for use and maintenance of the property in normal state;
- d) to perform current repair of the property.

Article 889. Duties of Lessee in Relation to Other Lessees

- (1) The lessee is bound to act so as not to hinder the normal use of the property by other lessees. The lessee is bound in relation to the lessor and to other lessees to compensate for damage that may result from nonperformance of this obligation, whether it was caused by him, or by persons whom he permitted use of the property or access to it.
- (2) The lessor may terminate the contract of lease in case of nonperformance of the obligation provided at para.(1).

Article 890. Right of Lessee in Case of Hindrance of Use from Part of Another Lessee

- (1) The lessee whose use is hindered by another lessee or by persons whom the latter permitted use of property or access to it, may demand, as the case may be, reduction of rent or termination of contract, if he notified the common lessor about the breaches that affected his use and if such breaches persist.
- (2) Without prejudice to the provisions of para.(1), the lessee may demand from the common lessor reparation of damage, save for the case when the latter proves that he acted with prudence and diligence.
- (3) The lessor may turn against the lessee that is responsible for the damage.

Article 891. Right of Lessor to Check on Leased property and to Performs Works on It

The lessor is entitled to check on the leased property, to perform works on it and, in case of an immovable, to present it to potential buyers or lessees, under the obligation to exercise these rights reasonably.

Article 892. Reparation of Damage Caused to Lessor

(1) The lessee is bound to compensate for damage caused to the lessor through losses in the leased property, unless he proves that the losses are not due to his fault or to that of the persons whom he permitted use or access to the property.

(2) Where the property leased is an immovable, the lessee is not liable for the damage caused by fire, unless it is proved that the fire started due to the deed of the lessee or of the persons whom he permitted use or access to the property.

Article 893. Liability for Normal Wear and Tear

A lessee is not responsible for the ordinary wear and tear of the leased property, which is brought about by use according to the stipulated use.

Article 894. Sublease or Assignment of Lease

(1) A lessee is not entitled to convey the leased property into sublease or to assign the lease, without lessor's consent. To do this, the lessee must inform the lessor about his intention and indicate the name and address of the person to whom he intends to sublease the property or assign the lease.

(2) The lessor may not refuse permission to sublease or assignment of lease, if after conclusion of contract the lessee has a legitimate interest in conveying the property, entirely or partially, to a third party. This provision does not apply if the person of the third party creates serious grounds for refusal, if the space leased consequently becomes overcrowded, or if the lessor may not be imposed to accept sublease or assignment of lease for any other good reasons.

(3) Where the lessor does not give his consent to sublease or assignment of lease, he shall be bound to notify the lessee about the reasons within 15 days; otherwise, it shall be deemed that the lessor consented.

(4) The lessor, who consents to sublease or assignment of lease, may not claim anything besides compensation for reasonable costs that may result from the sublease or assignment.

(5) In case of sublease, the lessee remains liable towards the lessor.

(6) The term of the contract of sublease may not exceed that of the contract of lease.

(7) Assignment of lease liberates the previous lessee from obligations. In cases other than that of a dwelling building, parties may agree otherwise.

Article 895. Reparation of Damage by Sub-Lessee

(1) Where the lessor demands reparation of damage from the lessee, the sub-lessee is held liable towards the lessor only to the extent of rent amount for sublease owed to the lessee. The sub-lessee may not set up early payments made.

(2) Payment made by the sub-lessee, either by virtue of a provision of the contract of sublease, or in conformity with local usages, shall not be deemed early payments.

Article 896. Effects of Nonperformance of Obligations by Sub-Lessee

Where nonperformance of an obligation by the sub-lessee causes substantial damage to the lessor or to other lessees, the lessor may demand termination of the contract of sublease.

Article 897. Effects of Nonperformance of Obligations by Lessor

Where the lessor does not perform his obligations, the sub-lessee may exercise lessee's rights in order to compel the former to perform his obligations.

Article 898. Duty to Perform Overhaul

- (1) The lessor is bound to perform overhaul of the leased property, unless the law or the contract provide otherwise.
- (2) Overhaul must be performed at the date fixed in contract or when this results from a stringent necessity.
- (3) Noncompliance by lessor with the obligation provided in para.(1) and (2) empowers the lessee to perform overhaul and deduct overhaul costs from the rent.

Article 899. Duty to Notify Lessor about Defects

The lessee, who is aware of a defect or a substantial deterioration of the leased property, is bound to notify the lessor thereof, within a reasonable term, under liability to compensate for damage.

Article 900. Effects of Change of Owner of Leased property

If the lessor alienates the leased property to a third party after that thing has been transferred to the lessee, the acquirer shall subrogate to the lessor in all rights and duties arising from the lease.

Article 901. Effects of Expropriation of Leased Property

- (1) Total expropriation of the leased property extinguishes the lease from the date on which the expropriator is entitled to take the property into possession.
- (2) If the expropriation of the property is partial, the lessee may demand reduction of rent or termination of contract, as the case may be.

Article 902. Death of Lessor or Lessee

The lease does not cease by death of lessee or lessor, unless otherwise agreed or, under the circumstances, the contract cannot be maintained.

Article 903. Ceassation of Lease

The lease ceases:

- a) upon expiry of the term of contract;
- b) in case of loss of the leased property;
- c) in other cases provided by law or contract.

Article 904. Extension of Contract of Lease

- (1) Where contractual relations continue tacitly after expiry of the contract of lease, it shall be considered extended for an indefinite period.
- (2) Upon expiry of the contract of lease, the lessee shall have a right of priority at concluding the contract for a new term, if:
 - a) he previously fulfilled his contractual obligations;
 - b) the property is given for lease for another term;
 - c) he agrees with the new contractual terms established by the lessor.

(3) The surety granted by a third party for performance of obligations by the lessee shall not extend on the renewed lease.

Article 905. Termination of Contract of Lease

(1) Either party may request termination of the contract of lease concluded for an undetermined duration, by giving a 3 months' notice, for immovables, and of 1 month notice, for movables, unless otherwise agreed.

(2) Where the dwelling or any other lodgments intended for human habitation is in such condition that involves a serious danger to health, the lessee may terminate contract without observing the term of such notice. The lessee shall also have this right where at the conclusion of the contract he knew of the danger and did not put forward any objections.

(3) Unless otherwise agreed under the contract of lease, its termination also triggers termination of any sublease.

Article 906. Termination of Contract by Lessor

(1) The lessor may demand termination of contract, if the lessee:

- a) fails to use the leased property under its intended purpose or the contractual terms;
- b) deliberately or by negligence allows the worsening of property's condition or creates a real danger of such worsening;
- c) fails to pay rent during 3 months after expiry of the payment term, unless otherwise agreed;
- d) concludes a contract of sublease without lessor's authorization.

(2) Law and contract may provide for other reasons for termination of contract by lessor.

Article 907. Termination of Contract by Lessee

(1) The lessee may demand termination of contract, if:

- a) he lost work capacity and cannot use the leased property;
- b) he is confined and cannot perform contractual obligations.

(2) Law or contract may provide reasons other than those laid down in para.(1) for termination of contract of lease by lessee.

Article 908. Return of Leased Property

(1) After cessation of contractual relations, the lessee is bound to return the leased property in the condition in which it was given to him or in the condition provided by contract.

(2) Damage caused by deterioration of property's condition shall be compensated by the lessee, unless he proves his innocence. The lessee is liable to the same extent for deterioration admitted by the members of his family, by the sub-lessee or by third parties, to whom he allowed access to the leased property.

(3) The lessee is liable for property's deterioration to the extent that its value has diminished, unless otherwise agreed.

Article 909. Regime of Improvements

(1) Upon expiry or termination of contract of lease, the lessee may separate improvements made with lessor's authorization, which are separable without damaging the property, or to demand compensation for their value from lessor, unless the law or the contract provide otherwise.

(2) Lessee may separate improvements made without lessor's authorization, if they are separable without damaging the property and if the lessor refuses to offer compensation for their value.

Where improvements made without lessor's authorization cannot be separated without damaging the property, they shall become lessor's ownership.

(3) Upon lessor's request, constructions not authorized by him shall be demolished either by the lessee or the latter's account.

Article 910. Effects of Failure to Return Property in Due Time

If, after cessation of contractual relations, the lessee fails to return the leased property, the lessor may demand payment of rent for the entire period of delay. Compensation for damage not covered by such rent may be also claimed.

CHAPTER IX: AGRICULTURAL LEASE

Article 911. General Provisions on Agricultural Lease

(1) Agricultural lease is a contract between a party that is owner, usufructuary or other legal possessor of land plots and other agricultural property (lessor) and the other party (lessee) regarding utilization of such property during a fixed period and for a mutually agreed price.

(2) By parties' mutual agreement rules on agricultural lease may apply to the lease of other immovables.

(3) Rules on lease apply accordingly to the contract of agricultural lease, to the extent that this chapter does not provide otherwise.

Article 912. Form of Contract of Agricultural Lease

The contract of agricultural lease shall be drawn in writing.

Article 913. Description of Leased property

(1) The lessor and the lessee shall at the beginning of the lease jointly draw up a description of leased property and its condition at the moment of hand over. The same applies accordingly to cessation of lease.

(2) The description shall bear the date of its drawing up and be signed by both parties.

Article 914. Specifics of Agricultural Lease of Land Plot

A contract of agricultural lease of a land plot shall include conditions of use of objects situated on the plot, including installations and agricultural equipment.

Article 915. Duration of Agricultural Lease

(1) The duration of agricultural lease may not be shorter than 1 year.

(2) The lessor shall notify the lessee by a note of his unwillingness to extend the contract of agricultural lease three months ahead of the expiry of agricultural lease.

(3) If the duration of lease expired and the lessor does not demand to hand over the plot, while the lessee continues its utilization, the contract shall be deemed extended for another year.

Article 916. Payment of Rent

(1) Payment of rent shall be made in kind, in money or in kind and in money, as the parties agree, and shall be performed at the date and in the place specified under the contract.

(2) The following properties may serve as elements based on which the rent for each type of property utilization is determined: plot's surface, production potential, parcel structure, relief and degree of mechanization possibilities, access, distance from storage, industrialization or commercialization facilities, condition of buildings, installations and other endowments, degree of depreciation of the leased agricultural equipment.

(3) Rent in kind shall be established in the form of a certain amount of products or a percentage from production. Products in which the rent shall be paid are established by the parties, depending on the specifics of agricultural activity and on the zone.

(4) Terms and place of payment of rent in kind shall be fixed by the parties, dependent of the type of products and specifics of their procurement.

Article 917. Reduction of Rent

Where over a half of the fruits procured by lease is accidentally lost, the lessee may demand proportionate reduction of rent payments. The right to reduction subsists only until separation of fruits.

Article 918. Lessor's Right of Pledge

The lessor possesses a pawn in the property brought in by the lessee and on the fruits of the leased property, for his claims arising from the lease.

Article 919. Change of Destination of Leased Plot

The lessee may change the destination of the leased plot only with lessor's prior written consent and in conformity with the legal provisions.

Article 920. Contractual Distribution of Risks

(1) The parties may, by their mutual agreement, provide in the contract of agricultural lease the cases and limits of bearing the risk of damage caused by natural calamities.

(2) The parties may agree on the distribution of total or partial losses in leased property, arisen as a consequence of accidents or force majeure.

Article 921. Cessation of Agricultural Lease

(1) Agricultural lease shall cease upon expiry of the term for which it was agreed upon.

(2) Early cessation of lease shall take place as provided by law.

Article 922. Effects of Termination of Contract of Agricultural Lease of Land Plot

Where the termination of a contract of agricultural lease of a land plot is effected before the completion of the agricultural year, the lessor is bound to compensate the lessee for the value of the fruits not yet gathered but to be gathered in accordance with the principles of due management before the end of the year.

CHAPTER X: FINANCIAL LEASE

Article 923. Contract of Financial Lease (Leasing Agreement)

- (1) In a leasing agreement one party (lessor) is obliged at the request of another party (lessee), to ensure temporary use and possession of a good, purchased or produced by the lessor, against payment of a periodical fee (leasing fee).
- (2) In the absence of contrary provisions, the right to choose the good and/or of the seller belongs to the lessee.
- (3) At the expiry of the leasing agreement, the lessor shall offer to the lessee the option to purchase the good, to extend the leasing agreement or to terminate the leasing agreement.
- (4) The provisions regulating lease agreement shall apply accordingly to leasing agreement, unless this chapter of the law on leasing provides otherwise.
(Amended on 28.04.2005)

Article 924. Form and Content of Contract of Financial Lease

- (1) The contract of financial lease shall be drawn up in writing.
- (2) The contract of financial lease must contain in particular:
 - a) price of the property;
 - b) total amount, number and maturity of instalments;
 - c) final payment and methods of calculation in case of contract termination.

Article 925. Preservation of Property's Movable Character

- (1) Any movable or immovable property can be object of financial lease, except for:
 - (a) goods withdrawn from the civil circuit or which circulation is limited by law;
 - (b) agricultural land;
 - (c) consumption goods;
 - (d) intellectual property that cannot be assigned.
- (2) Movable property that is object of the financial lease shall keep its movable nature for the term of the agreement, even if is incorporated or annexed to an immovable property, provided it does not lose its identity.
(Amended on 28.04.2005)

Article 926. Notice on Contract of Financial Leasing

The lessor is bound to notify the seller of the contract of financial leasing, which is already concluded or is to be concluded.

Article 927. Seller's Liability towards Lessee

- (1) The seller of the property is liable directly towards the lessee for the legal or contractual warranties inherent to a contract of sale. However, the seller is not liable for the same damage towards both the lessor and the lessee.
- (2) Provisions of para.(1) do not empower the lessee to rescind or amend the contract of sale without lessor's consent.

(3) The lessor is not liable for nonperformance of obligations by the seller, unless the seller was chosen by the lessor and the contract does not provide otherwise.

Article 928. Transfer of Risks and Costs on Lessee

(1) Upon taking the property into possession, the lessee assumes all risks for its loss, including force majeure loss.

(2) The lessee bears all costs for property maintenance and repair.

(3) Parties may derogate from provisions of para.(1) and (2) by means of contract.

Article 929. Liability of Lessor and Lessee

The lessor and the lessee are bound by their obligations in accordance with the contract and with the law.

Article 930. Disposal of Rights Arising from Contract

(1) The lessor may assign or dispose in any other manner of his rights over the property or rights arising from the contract of financial lease. Assignment or other disposal does not liberate the lessor from obligations resulting from contract and does not change the nature or legal regime of the contract.

(2) The lessee may assign the right of use of the property or other rights arising from contract only with lessor's consent and with observance of the rights of third parties.

CHAPTER XI: CONTRACT FOR WORK AND SERVICE-RENDERING

Section 1: General Provisions on Contract for Work and Service-Rendering

Article 931. Freedom to Choose Order of Work Performance or Service-Rendering

The contractor or service-provider is free to choose the order of work performance or service-rendering. There is no subordination relation between the contractor or service-provider and the beneficiary.

Article 932. Reward

(1) The reward is deemed tacitly agreed upon if, under the circumstances, such works or services are performed only for reward.

(2) Where the amount of reward is not specified, in case of existence of certain tariffs, it is deemed that the parties agreed on tariff reward, while in the absence of such tariffs, it is deemed that the parties agreed on the usual reward.

Article 933. Approximate Estimate

(1) If upon conclusion of contract, the price of works or services was subject to estimation, the contractor or service-provider must justify the increase in retribution.

(2) The beneficiary shall be bound to pay the increase shown at para.(1) only to the extent that it follows from works, services or costs, which the contractor or service-provider could have not foreseen upon conclusion of contract.

Article 934. Report of Contractor or Service-Provider

Where the reward is set contingent on the value of works, services or delivered property, the contractor or service-provider is bound, upon beneficiary's request, to submit to him a report on the progress of works, services and costs incurred.

Article 935. Lump Price

(1) Where the work or service was agreed upon at a lump price, the beneficiary is bound to pay the agreed reward and may not demand a reduction of the reward due to the fact that the work has required fewer efforts or fewer expenses than expected.

(2) Similar to para.(1), the contractor or service-provider may not demand reward-raise for opposite reasons.

(3) Unless otherwise agreed, the lump price shall remain unchanged, even if the initial performance terms or conditions have been modified.

Article 936. Personal Performance

(1) The contractor or service-provider is bound to perform personally only when such an obligation follows from contract, from circumstances or from the nature of performance.

(2) The contractor or service-provider remains in any case bound to monitor and keeps liability under contract.

Article 937. Obligation to Inform Beneficiary

Before conclusion of contract, the contractor or service-provider is bound to provide to the beneficiary, as is possible under the circumstances, all information regarding the nature of work or service and the term necessary for performance.

Article 938. Delivery of property by Contractor or Service-Provider

(1) Unless otherwise agreed, the contractor or service-provider is bound to deliver all property necessary for performance of contract.

(2) Property must be of quality fit for performance of works and rendering services.

(3) Where works or services are only an accessory in relation to the delivered property, the matter concerns a contract of sale and not a contract for work or service-rendering.

Article 939. Use of Beneficiary's Property

(1) Where the property is provided by the beneficiary, the contractor or service-provider undertakes to use such property with care and to keep record of their use.

(2) Where the property is obviously improper for use according to the destination or are affected by an obvious defect or by a hidden defect that becomes known, the contractor or the service-provider is bound to notify the beneficiary, otherwise becoming liable for the damage that may result from the use of the property.

(3) The contractor or the service-provider is bound to submit to the beneficiary a report on the use of property delivered by the latter and to return the remaining part.

Article 940. Risk of Accidental Loss or Deterioration of property

The risk of accidental loss or deterioration of the property needed for performance of contract shall be borne by the one who delivered them, unless otherwise agreed.

Article 941. Rights of Contractor or Service-Provider in Case of Non-Acceptance of Offered Work or Service

(1) The contractor or the service-provider may demand an according compensation, without being bound with subsequent work performance or service-rendering, if the beneficiary does not accept the offered work or service. The beneficiary is also bound to compensate where he does not perform actions necessary for performance of work or service.

(2) The amount of compensation is determined contingent on the duration of delay and amount of reward, with subtraction of all that the contractor or the service-provider saves as a result of delay or refuse or of all that he could have gained by using his work force otherwise.

Article 942. Termination of Contract by Beneficiary

The beneficiary may terminate the contract any time before the complete performance of work or service, being bound to pay the contractor or the service-provider the reward for works or services performed and to compensate for the damage caused by such termination.

Article 943. Termination of Contract by Contractor or Service-Provider

(1) Where there are no good reasons for termination, the contractor or the service-provider may terminate the contract only so that the beneficiary would obtain the work or service otherwise. Where there is a good reason, the obligation of compensation is excluded.

(2) In case of contract termination, the contractor or the service-provider is bound to return the received prepayment.

(3) Where the contractor or the service-provider terminates the contract, he may demand a proportionate part of reward for works or services performed, to the extent that the beneficiary has an interest in those works or services.

Article 944. Death of Beneficiary

Beneficiary's death does not trigger cessation of contract, unless its performance becomes impossible or useless.

Article 945. Death or Incapacity of Contractor or Service-Provider

Death or incapacity of contractor or service-provider does not trigger cessation of contract, unless the contract has been concluded due to his personal qualities or cannot be continued adequately by the successors in his activity. In such case, the beneficiary may terminate the contract.

Section 2: Contract for Work

Article 946. Contract for work

(1) By virtue of a contract for work, a party (contractor) is bound to produce, at his own risk, a certain work for the other party (customer), while the latter undertakes to receive the work and to pay the remuneration agreed upon.

(2) The object of the contract for work may be either production or alteration of a property, or any other result to be brought about by performance of work.

Article 947. Transfer of Right of Ownership

(1) The contractor is bound to convey to the customer the work free from any material defect or defect in title.

(2) The work is free from material defects if it has the agreed properties. Where no properties have been agreed upon, the work shall be deemed free from material defects when it is conform to the use assumed based on contract or, if no such use may be inferred, when it is conform to the usual use.

(3) Where the contractor produces another work than the ordered one or produces the work in smaller quantity or dimensions, while, under the circumstances, this may be deemed performance of contract, the situation shall be assimilated to the existence of a material defect.

(4) The work is free from defects in title where no third party can exercise rights against the customer.

Article 948. Guarantees against Defects

(1) The contractor shall transmit to the client the work free of any material or legal defect.

(2) The work shall be considered as free of material defects if it has the agreed upon quality. If the quality was not agreed upon, the work shall be considered as free of material defects if it is consistent with its usage envisaged in the contract or, if such an usage may not be inferred, with its common usage.

(3) The material defect shall be assimilated to the situation in which the contractor produces another work than the ordered one or produces the work in a quantity or if a quality which is inferior, if such a performance may be considered, under the circumstances, as contract performance.

(4) The work shall be considered as free from any legal defects if no third party may claim the exercise of any rights in relation to the client.

Article 949. Considerable Overrun of Estimate

(1) If an exceeding of the estimate is needed, the contractor shall give notice to the customer without delay. Noncompliance with this obligation, entitles the customer to demand termination of the contract and reparation of damage caused or his release from the obligation to cover costs exceeding the agreed estimate.

(2) Where the excess over the estimate was unforeseeable upon conclusion of contract, the contractor is entitled only to the additional costs incurred, while the customer may accept this overrun or demand termination of the contract.

Article 950. Contractor's Duty to Give Notice

(1) The contractor is bound to give notice to the customer of the fact that:

a) the material furnished by the customer is unusable or low-quality;

b) the defects of the material will render defective the final product;

c) compliance with customer's indications threatens the durability or utility of the work;

d) there are other circumstances that do not depend on the contractor and which pose a threat to the durability or utility of the work.

(2) Where the contractor does not fulfill his duty under para.(1), the customer is entitled to claim reparation of damage.

Article 951. Contractor's Right to Terminate the Contract

Where the customer, after being timely and duly notified by the contractor, fails to replace within the agreed term the impracticable or low-quality material, to alter the indications regarding performance of work or to remove other circumstances that pose a threat on the sustainability or utility of the work, the contractor may demand termination of the contract and compensation for damage.

Article 952. Contractor's Right of Retention and Pledge

The contractor has a right of retention and pledge over the movable produced or improved by him, if, in the course of production or improvement, the property came into contractor's possession. This provision shall not apply where at the moment of entering into possession of the property the contractor was aware that the owner does not agree with the production or improvement.

Article 953. Institution of Mortgage on Plot for Construction

Where the object of contract is a construction or a part of construction, the contractor is entitled to demand the institution of a mortgage on customer's plot for construction, in order to ensure right resulting from the contract for work.

Article 954. Term for Performance of Contract for Work

(1) The contracting parties may agree on a general term of performance and, if necessary, on the term for starting the works, the term for performance of certain parts of the works and on the term for finalization of the work.

(2) The term may be modified only upon parties' agreement.

(3) If the parties agree, performance may take place within a limited or reduced term, in the presence of the customer.

Article 955. Effects of Impossibility to Finish Work

(1) If finalization of the work becomes impossible for reasons independent from parties' will, the contractor may not claim payment of reward.

(2) The contractor is entitled to reward if the impossibility to finish the work occurred due to the low-quality material provided by the customer or to his indications, contingent on fulfillment by contractor of his duty to give notice.

Article 956. Risk of Accidental Loss or Deterioration of Object of Contract

(1) Before receipt of the object of contract, the risk of its accidental loss or deterioration shall be borne by the contractor. This risk shall pass on the client upon receipt of the work.

(2) Where the client is in default in receiving the work, the risk shall pass on him on the date from which he is in default.

Article 957. Receipt

(1) After performance of work, the customer is bound to receive the work in the order, place and at the time set by legislation or contract.

(2) The receipt is a declaration by which the customer accepts the work, with or without reserves.

(3) The situation in which the customer does not take over the work within the term set by the contractor for this purpose shall be equated to receipt.

Article 958. Documentation of Receipt

(1) Discovered defects and deviations must be entered into the deed of receipt signed by the parties or drawn up unilaterally, setting the order, conditions and terms for removal of discovered defects and deviations.

(2) Defects and deviations are removed at contractor's expense.

(3) The customer who accepted the work without any reserves shall nevertheless keep a right against the contractor in case of hidden defects.

Article 959. Complaints

Complaints regarding hidden defects or deviations from contract terms that could not be discovered upon receipt of work shall be submitted to the contractor after being discovered.

Article 960. Removal of Defects

(1) Where the work is defective, the customer may demand removal of defects. The contractor may choose between removal of defects or performance of a new work.

(2) The contractor bears the costs of recovery, in particular costs for transportation, displacement, labor and price of materials.

(3) The contractor may refuse recovery if it is possible only at disproportionate costs.

Article 961. Contractor's Right to Produce New Work

Where the contractor produces a new work, he may demand from the customer return of the deficient work under the rules of contract termination.

Article 962. Customer's Right to Remove Defect

(1) After useless expiry of the term set by the customer for recovery, he may remove the defect himself and claim compensation for necessary costs, if the contractor does not refuse recovery due to disproportionate costs.

(2) The situation provided at para.(1) shall be governed by Article 709, applied accordingly.

(3) The customer may demand from the contractor an advance payment for defect recovery costs.

Article 963. Termination of Contract for Defects

(1) The customer may terminate the contract under Article 709 para.(2), due to a defect in the work.

(2) Besides cases provided under Article 709 para.(2) there is no need to fix a period of time, even if the remedy is to no avail.

(3) The contractor is bound to compensate the customer for the damage caused.

Article 964. Diminution in Value of Work

The customer, who did not demand defect removal after the term set for this purpose by the contractor and did not terminate the contract as well, may only reduce the reward by an amount equivalent to the diminution in the value of the work due to the defect.

Article 965. Effects of Fraud

Where defects have been fraudulently concealed, the contractor may not rely on an agreement whereby customer's rights in respect to defects are excluded.

Article 966. Payment of Reward under Contract for Work

- (1) After receipt of work, the customer is bound to pay the reward agreed by the parties, unless legislation or contract provide payment in installments or otherwise.
- (2) The customer is entitled to retain from the reward an amount sufficient to cover the reserves that he made upon receipt regarding defects in the work, until the necessary repairs or corrections are made.
- (3) The customer may not exercise the right provided at para.(2) if the contractor grants sufficient surety regarding performance of his obligations.

Article 967. Contractor's Savings

- (1) The reduction by the contractor of the costs of the work in relation to those set in the contract without reducing the quality and quantity of the work does not liberate the customer from the obligation to pay the established reward.
- (2) The parties may agree on another order of distribution of savings from reduction of costs of the work.

Article 968. Period of limitation in Contract for Work

- (1) The period of limitation is one year from the date of receipt of the work.
- (2) Actions regarding constructions may be filed within 5 years.
- (3) Where the contract provides for receipt of work in parts, the period of limitation runs from the day of receipt of work in total.

Article 969. Term of Warranty

Where legislation or contract set a warranty term, the claim may be submitted within this term. The period of limitation runs as of submittal of claim and if no such claim was submitted, the period of limitation runs from the date of expiry of the warranty term.

S e c t i o n 3: Service Rendering

Article 970. Contract for Service Rendering

- (1) By contract for service rendering, a party (service-provider) undertakes to render to the other party (beneficiary) certain services, while the latter undertakes to pay the agreed reward.
- (2) The object of contract for service rendering are services of any character.
- (3) Labor contract are regulated by labor legislation.

Article 971. Term of Payment

(1) Payment for services shall be done after service rendering.

(2) Where the payment for services is computed for certain periods, the amounts are to be paid after each separate period.

Article 972. Delay in Taking Over Services

Where the beneficiary is in default at taking over the services, the provider is entitled to demand payment of the agreed sum for services that could not be rendered due to default and is not bound to render services for this amount. However, the provider must accept deduction from the payment amount of the value of his savings due to non-performance of services or of his income obtained through service rendering to other persons within the same period, or of the value of services that he did not render in bad faith.

Article 973. Ensuring Conditions for Service Rendering

(1) Where the beneficiary is responsible for this, he must arrange and maintain premises, equipment or devices he is bound to procure for service rendering and to regulate service rendering that must be done under his guidance and in conformity with his indications so as to ensure provider's protection against the risks to life and health, to the extent that the nature of the service allows it.

(2) Beneficiary's obligations according to para.(1) may not be preliminarily excluded or limited by a contract.

Article 974. Cessation of Relations under Contract for Service Rendering

(1) Relations under contract for service rendering ceases upon the end of the period for which they have been set.

(2) Where the parties did not agree on the duration of contractual relations and it does not follow from the nature or purpose of the services, either of the parties may terminate the contract.

Article 975. Terms for Termination of Relations under Contract for Service Rendering

All relationships under contract for service rendering may be terminated:

a) daily, starting with the end of the next working day, where the payment is done by day;

b) at the latest on the first working day of the week, starting with the end of the next Saturday, where the payment is calculated by week;

c) at the latest on the 15th day of each month, starting with the end of the calendar month, where the payment is calculated by month;

d) with the observance of the 6-week term for notice, starting with the end of the calendar quarter, where payment is calculated by quarters or longer periods;

e) anytime, where payment does not depend on time intervals. Where relations on service rendering take the entire time of the contractor, the term of notice should be 2 weeks.

Article 976. Long-Term Contract for Service Rendering

Where the contract for service rendering is concluded for terms longer than 5 years, the provider may cancel the contract after 5 years. The term for notice is 6 months.

Article 977. Tacit Prolongation of Contract for Service Rendering

Where relations between parties will continue after the expiry of the term set, with the knowledge of the other party, the contract shall be deemed prolonged for an undetermined period, to the extent that the other party does not immediately reject such prolongation.

Article 978. Termination of Contract for Service Rendering for Good Reasons

(1) Where, after the start of contractual relations, the contract for service rendering is terminated for good reasons under Article 748, the provider may demand a part of the reward for services rendered until the moment of such termination.

(2) Where the provider terminates the contract for service rendering for reasons that do not pertain nonperformance of contractual terms by the beneficiary or where the beneficiary terminates the contract due to the fact that the provider is in breach of contract terms, the provider shall not be entitled to reward, to the extent that after such termination the beneficiary shall not have any interest in the already rendered services. Where advance payments were made, the provider is bound to reimburse the amounts under Article 738 or, in case that termination is declared for reasons for which the provided is not responsible, under the rules on unjust enrichment.

(3) Where termination occurs for reason of breach of contract terms by the other party, that party shall compensate for the damage caused by contract termination.

Article 979. Certificate regarding work performed by provider

Upon concluding a long-term relation, the provider may demand from the other party a written certificate of the work performed and period of work.

CHAPTER XII: CARRIAGE

Section 1: General Provisions on Carriage

Article 980. Contract of Carriage

(1) By a contract of carriage, a party (carrier) binds himself to the other party (passenger or consignor) to transport that party with its luggage or, respectively, to transport the cargo to the place of destination, while the other party undertakes to pay the agreed remuneration.

(2) Free of charge carriage of a person or property shall not be governed by the rules stipulated in this Chapter and the carrier shall bear only a duty of prudence and diligence, save for the case when the carriage is performed in the course of entrepreneurial activity by the person offering public carriage services.

Article 981. Duty to Conclude Contract

A person, who publicly offers delivery of goods and transportation of passengers is bound to conclude a contract of carriage, provided there are no serious reasons for refusal.

Article 982. Successive Carriage and Combined Carriage

- (1) Successive carriage is carriage performed by several carriers that succeed one after another, using the same transportation method (means).
- (2) Combined carriage is carriage in which carriers succeed one after another, using different transportation methods (means).

Article 983. Subrogation of Carrier

- (1) Where the carrier transmits, in total or in part, fulfillment of his obligations, the person that replaced him shall be deemed party to the contract of carriage.
- (2) Payment made by a consignor to one of the carriers shall be deemed liberating.

Article 984. Term for Carriage of Passenger or Cargo

- (1) The carrier is bound to transport the passenger and his luggage or the cargo within the terms established by law or contract or, absent such terms, within a reasonable term.
- (2) The transportation must be made on the shortest and most reasonable itinerary.

Article 985. Carriage Fee

- (1) Unless the law provides otherwise, the carriage fee agreed between the parties shall be paid for carriage of passenger and luggage or for carriage of cargo.
- (2) Unless the law or the contract provide otherwise, the carriage fee shall be paid prior to transportation of passenger and luggage or of cargo.
- (3) The carrier has a right of retention over luggage and cargo until the payment of the carriage fee.

Section 2: Passenger Carriage

Article 986. Ticket (Travel Title)

- (1) The contract for passenger carriage is confirmed (documented) by a ticket (travel title).
- (2) The ticket (travel title) may be transmissible or non-transmissible. The possibility of ticket transmission ceases to the latest upon beginning of the trip.

Article 987. Volume of Obligation

- (1) Passenger carriage includes loading, carriage and unshipping operations.
- (2) The carrier is bound to securely transport the passenger to the destination.

Article 988. Carrier's Liability

- (1) The carrier is bound to compensate for the damage caused to the passenger, save for the case when the damage is due to a force majeure, to passenger's state of health or to passenger's act. The carrier shall be bound to compensate for the damage caused even if it is due to his own state of health, to that of his agents or to vehicle's state or functioning.
- (2) Carrier's liability for damage due to delay is excluded, unless it has been expressly agreed otherwise or unless the carrier has acted willfully or with gross negligence.
- (3) Carrier's liability may not be excluded or limited by contract.
- (4) Limitations of the amount of damages in public transport must be approved by the Government.

Article 989. Carrier's Liability for Luggage

(1) The carrier is liable for loss, destruction or deterioration of luggage that has been entrusted to him by the passenger, save for the case when force majeure, defect in luggage or passenger's fault is proved.

(2) The carrier is not liable for loss of documents, money or other valuable property save for the case when the nature or the value of the property has been declared to him and the carrier undertook to transport it. The carrier is particularly not liable for the loss of hand luggage that remained under passenger's supervision, save for the case when the latter proves carrier's fault.

Article 990. Carrier's Liability in Successive or Combined Passenger Carriage

In case of successive or combined passenger carriage, the one performing the transportation during which the damage was caused shall be liable for it, unless one of the carriers assumed liability for the entire trip by an express stipulation.

Article 991. Passenger's Liability

The passenger is liable for damage caused to the carrier through his conduct or due to the nature or condition of his hand luggage, unless the damage was caused despite to passenger's according conduct.

Article 992. Contract Termination

(1) The passenger may terminate the contract at any moment, unless this causes delays. The passenger is bound to pay to the carrier damages arising from termination.

(2) Where the passenger becomes aware of circumstances pertaining to carriage, which he could not have been aware of or, if aware, it would have given him good reasons not to conclude the contract, he may terminate the contract.

(3) The passenger may also terminate the contract when it is foreseeable that delays will occur as compared to the agreed time and duration. In such cases, passenger's obligation to pay damages does not arise.

Section 3: Transportation of Goods

Article 993. Transportation by Several Vehicles

Where the vehicle by which the good is transported travels through a portion of the itinerary by sea, by rail, by river or canal, or by air, while the good is not subject to unloading (transshipment), the provisions of this section shall apply to the entire transportation.

Article 994. Form of Contract

(1) A contract of carriage is ascertained upon by a bill of lading (consignment or other equivalent document).

(2) Absence, loss or deterioration of the bill of lading does not affect contract validity.

Article 995. Drawing Up of Bill of Lading

- (1) Unless otherwise agreed, the bill of lading shall be drawn up by the consignor.
- (2) The bill of lading shall be drawn up at least in three originals, signed by the consignor and the carrier. The first remains with the consignor, the second is attached to the cargo, and the third is kept by the carrier.
- (3) If the goods are loaded on several vehicles or if there are cargos of different types or cargos shipped to different places, either the carrier or the consignor may demand the drawing up of a number of bills of lading equal to that of the vehicles used or to the number of cargo types or of the places to which the cargos are to be shipped.

Article 996. Incorrect Data Entered into Bill of Lading

- (1) The party is liable for damage caused to the other party by furnishing false or incomplete data for the bill of lading.
- (2) Liability for incorrectness of the bill of lading is borne by the party who drafted or modified the bill of lading.

Article 997. Carrier's Duties upon Cargo Taking Over

- (1) Upon taking over the goods, the carrier is bound to check:
 - a) The conformity of data from the bill of lading with the number, quantity and signs on the parcels;
 - b) External appearance of cargo and package;
 - c) Order of loading and arrangement of cargo within the vehicle.
- (2) Where the carrier does not have the necessary means for checking data mentioned at para.(1) let.a), he shall mention his grounded reserves in the bill of lading. Likewise, the carrier must justify reserves regarding external appearance and package of the cargo. The reserves do not bind the consignor if he did not acknowledge them expressly in the bill of lading.
- (3) The consignor may demand from the carrier to verify the gross weight or otherwise expressed quantity of the cargo, as well as the content of parcels. The carrier is entitled to compensation for costs for checking. The results of the verification are entered into the bill of lading.

Article 998. Consignor's Liability for Package

The consignor is liable to the carrier for damage caused due to defective packaging of the goods, to carrier's personnel, materials, transportation installations and to other cargos, as well as for all costs generated by such packaging, unless the defects were obvious and the carrier was aware of them upon taking over, without any reserves.

Article 999. Attachments to Bill of Lading

- (1) The consignor must attach to the bill of lading documents necessary for customs clearance or for other similar operations, prior to delivery to the place of destination, or to put these documents at the disposal of the carrier with all necessary indications.
- (2) The carrier is not bound to check whether the documents or the indications are according and sufficient. The consignor is liable towards the carrier for the damage caused due to errors or due to the fact that the documents or indications are incomplete or false, unless the carrier has a partial fault in this.
- (3) The carrier is liable for loss or defective use of the documents attached to the bill of lading handed to him. However, the carrier is not bound to pay damages greater than those for cargo loss.

Article 1000. Effects of Signing Bill of Lading

(1) The bill of lading signed by the carrier serves as prima facie proof of conclusion and content of the contract of carriage, as well as of taking over of the cargo by the carrier.

(2) Where the bill of lading does not comprise the grounded reserves of the carrier, there exists a prima facie presumption that upon taking over the cargo and package were in good state, while the number, quantity and signs on the parcels were conform to the data in the bill of lading.

Article 1001. Consignor's Right to Dispose of Cargo

(1) The consignor is entitled to dispose of the cargo. In particular, he may demand from the carrier to cease further transportation of cargo, to change the place of delivery or the consignee mentioned in the bill of lading.

(2) The right provided at para.(1) ceases as of moment when the second copy of the bill of lading is handed out to the consignee or when the latter exercises his right provided at Article 1002 para.(2). From this moment, the carrier must submit to addressee's instructions.

(3) Where the consignor makes a note in this regard on the bill of lading, consignee's right of disposal arises at the moment of the drawing up of the bill of lading.

(4) Where the consignee, upon exercising his rights of disposal, ordered delivery to a third party, the latter cannot, in turn, appoint another consignee.

(5) The exercise of the right of disposal is subject to the following rules:

a) the consignor or the consignee mentioned at para.(3), that intend to exercise the right of disposal, must submit the first copy of the bill of lading, where the new instructions given to the carrier are entered, and bear the damage caused, including carrier's costs arisen by executing those instructions;

b) execution of instructions must be possible at the moment when they reach the person bound to execute them and must not hinder carrier's current activity and cause damage to other consignors or consignees;

c) the instructions must not lead to the fragmentation of the carriage.

(6) Where the carrier cannot execute the instructions received by virtue of para.(5) let.c), the carrier must give immediate notice to the one who issued the instructions.

(7) The carrier that did not execute the instructions given in compliance with the provisions of this article, or who does execute such instructions without soliciting the submittal of the first copy of the bill of lading shall be liable towards the entitled person for the damage caused therefore.

Article 1002. Consignee's Rights upon Receiving Cargo

(1) After the cargo reaches the place set for delivery, the consignee is entitled to request from the carrier, against a receipt declaration, the second copy of the bill of lading and handing over of the cargo.

(2) Where loss of the cargo has been established or where the cargo has not been delivered within the term provided at Article 1010, the consignee may on his own behalf exercise against the carrier rights arising from the contract of carriage.

(3) The consignee exercising the rights pertaining to him under para.(1) must pay the entire amount of costs resulting from the bill of lading. In case of disputes in this regard, the carrier is bound to hand over the cargo, only if the consignee grants surety.

Article 1003. Impossibility to Perform Contract

(1) Where, prior to or after the cargo reached its destination, performance of contract under the terms set in the bill of lading became impossible, the carrier must demand indications from the entitled person, based on Article 689, in order to dispose of the cargo.

(2) Where the circumstances allow fulfillment of carriage under terms different from those set in the bill of lading and the carrier does not receive indications from the entitled person within a reasonable term, the carrier must take the measures that seem to correspond to the greatest extent to the interests of the one entitled to dispose.

Article 1004. Circumstances Preventing Cargo's Handing Over

(1) Where the consignee refuses to take over the cargo, the carrier is entitled to dispose of it without presenting the first copy of the bill of lading.

(2) Even if he refused to take over the cargo, the consignee may demand delivery as long as the carrier did not receive a contrary indication from the consignor or did not dispose of the cargo.

(3) Where an obstacle for delivery appears after the consignee, by virtue of his powers under Article 1001 para.(3), has given instructions that the cargo be delivered to a third party, upon application of para.(1) and (2) of this article, the consignee shall replace the consignor and the third party shall subrogate to the consignee.

Article 1005. Carrier's Right to Compensation for Costs Incurred upon Execution of Consignor's Indications

(1) The carrier is entitled to demand compensation for costs incurred as a consequence of the request and execution of indication, unless he is bound by contract or by law to bear those costs.

(2) In cases mentioned at Article 1003 para.(1) and at Article 1004, the carrier may unload the cargo immediately, on account of the person entitled to dispose of it. However, he may entrust the cargo to a third party and, in such case, be liable only for the prudence in choosing the third party. The cargo shall remain charged with claims deriving from the bill of lading and with all other costs.

(3) Where the cargo consists of perishable goods or if the state of the cargo justifies such action, or if the costs of storage are disproportionate in relation to the value of the cargo, the carrier may sell the cargo without waiting for indications from the person entitled to dispose. The carrier may also sell the cargo in other cases, if within a reasonable time he does not receive from the person entitled to dispose contrary instructions, performances of which may be demanded from him based on the principle of fairness.

(4) Where the cargo is sold in accordance with the provisions of this article, the proceeds shall be made available to the person entitled to dispose of the cargo after subtracting the costs charging the cargo. Where these costs exceed the price obtained, the carrier may claim the difference.

(5) The order of sale is determined according to the laws and customs of the place where the cargo is located.

Article 1006. Right of Retention over Cargo

As long as the carrier can dispose of the cargo he has a right of retention over it for all costs arisen under the contract of carriage.

Article 1007. Grounds for Carrier's Liability

(1) The carrier bears responsibility for partial or complete loss or deterioration of the cargo, if the cargo was lost or damaged within the time from taking it over up until delivery; he is also responsible for delay of delivery. The carrier is also held liable to compensate for the damage caused for nonperformance of other contractual obligations. The amount of compensation claim may be limited by contract.

(2) The carrier is liable in the amount of 100% of the carriage fee for delay in delivery to the place of destination and is bound to compensate for the damage caused therefor.

(3) Exoneration or limitation of carrier's liability may be provided only in the cases and under the conditions prescribed by law.

Article 1008. Exoneration from Liability

(1) The carrier shall be exonerated from liability for destruction, loss or deterioration of cargo or for delay in delivery, if:

a) these are due to the fault of the person authorized to dispose of the cargo;

b) consignor's agent accompanied cargo transportation;

c) these are due to the instructions of the person authorized to dispose of the cargo, unless the losses were inflicted by the carrier;

d) these are due to defects inherent to the cargo;

e) these are due to the natural perishable character of the cargo.

(2) The carrier may not be exonerated from liability due to defects in the rented vehicle or due to the fault of the lessor and of his employees, involved in the process of cargo transportation.

(3) With no prejudice to the provisions of Article 1009 para.(2)-(5), the carrier is relieved of responsibility if cargo loss or damage has been inflicted under one or several of the following circumstances:

a) an open, uncovered vehicle was used, and such utilization was explicitly agreed upon and mentioned in the bill of lading;

b) absence or defects in packaging;

c) manipulation, loading, arrangement and unloading of goods were performed by the consignor, consignee or a third party acting on behalf of either of them;

d) complete or partial loss or deterioration of the cargo occurred in consequence of its natural properties, in particular by breaking, corrosion, internal spoiling, drying, spilling, normal losses in weight or attack of insects or rodents;

e) animals were transported.

(4) If, by virtue of this article, damage was caused partially due to circumstances for which the carrier bears no responsibility, and partially by circumstances that are imputable to him, the carrier shall be liable only to the extent that the damage has been caused by circumstances of the second category.

Article 1009. Burden of Proof

(1) If the carrier maintains that the loss or damage of the goods, or delay of their delivery is due to circumstances mentioned in Article 1008 para.(1), the burden of proof is upon him.

(2) If the carrier maintains that under the circumstances the delay or damage could have been caused by one or several dangers specified in Article 1008 para.(3), the damage is deemed to have been caused by those factors. The person authorized to dispose of the cargo may prove that the damage has not been caused by that danger or not only by that danger.

(3) The presumption established at para.(2) does not apply to the circumstances specified in Article 1008 para.(3) let.a) in the event of extraordinary shipment or loss of entire parcels.

(4) If the goods are carried by a vehicle which is specially equipped to protect the cargo against heat, cold, temperature drops or humidity, the carrier may rely on provisions of Article 1008 para.(3) if he proves that he has taken all possible measures to select, employ, and utilize that special equipment and complied with all special instructions given in this regard.

(5) The carrier may rely on Article 1008 para.(3) let.d) only if he proves that he has taken all measures which must be usually taken and complied with all instructions given to him.

Article 1010. Delay in Delivery

A delivery is deemed to have been delayed if the cargo was not delivered by the fixed time or, when the time is not fixed, if the actual duration of transportation, under the given circumstances, exceeds the duration that would have been sufficient for a forehanded carrier under normal circumstances.

Article 1011. Presumption of Cargo Loss

(1) The person authorized to dispose of the cargo may, without presenting any evidence, consider the cargo lost if, within thirty days after the fixed delivery date, the cargo has not been delivered or, if the date is not fixed, after the expiration of sixty days from the time when the carrier took over the cargo.

(2) The person authorized to dispose of the cargo, upon receiving compensation for the damage caused by loss of cargo, may demand in writing that an immediate notice be given to him if the lost cargos were found within one year from compensation payment. This request must be confirmed in writing by the person bound.

(3) Within thirty days from receiving notice under para.(2), the person authorized to dispose of the cargo may demand that delivery of the goods against satisfaction of the claims under the bill of lading and on condition that the compensation received be returned; if necessary, this may be done after deduction of costs incurred on compensation for the damage. The claims for compensation on account of carriage delay, according to articles 1003 and, potentially, 1016 remain unchanged.

(4) If no claim is put forward as specified in para.(2) of this article, or if there is no instruction with regard to the term specified in para.(3) of this article, or if the cargo is found after the expiration of one year from compensation payment, the carrier may dispose of the cargo in conformity with the rules effective in the place where the cargo is located.

Article 1012. Delivery without Taking over After-Payment

If the cargo has been handed over to the consignee without taking over the after-payment, which the carrier was bound to take over, the carrier, while keeping the right of recourse action against the consignee, shall be bound to compensate the consignor for the value of the after-payment.

Article 1013. Rules for Shipment of Dangerous Goods

(1) If the consignor ships goods which are dangerous, he is obliged to provide the carrier with precise information regarding the nature of the danger and instruct him of the necessary security measures. If all this information is not entered in the bill of lading, the consignor or the consignee must produce other evidence that the carrier knew of the exact nature of the danger pertaining to cargo transportation.

(2) The carrier may, at any time and place, unload, destroy or render harmless the dangerous goods, without duty to compensate, if he was not warned of the danger under the conditions of para.(1). The consignor is also responsible for damage and costs caused by hand-over, transportation, unloading and destruction of such cargos.

Article 1014. Determination of Cargo Value in Case of Loss and Payment of Damages

- (1) If under the provisions of this Section the carrier is bound to compensate for the damage caused by partial or complete loss of the cargo, the damages are paid according to the value of the cargo at the place and the time of hand-over.
- (2) The value of the cargo is determined on the basis of the stock exchange price, and if there is no such price, on the basis of the market price, and if the latter does not exist either, on the basis of the usual price of goods with similar properties.
- (3) Besides the damages provided at para.(1), carriage fee, customs duties and other transportation costs are also subject to compensation, entirely – in case of complete loss, and partially – in case of partial loss.
- (4) If delivery of the goods is delayed and the person authorized to dispose of the cargo proves that damage has been caused thereby, the carrier must compensate for the damage, but only to the amount of the value of those goods.
- (5) Compensation to a greater amount than that indicated at para.(4) may be demanded only if, according to Article 1016, a special interest in that delivery has been stipulated.

Article 1015. Liability for Cargo Deterioration

- (1) If the goods have deteriorated, the carrier must compensate for the amount by which the value of the goods has diminished. The amount of damages is determined according to the procedure specified in Article 1014 para.(1), (2) and (4).
- (2) Where the entire cargo has depreciated in consequence of deterioration, the damages calculated in accordance with para.(1) may not exceed the amount that should have been paid in case of total loss.

Article 1016. Consignor's Special Interest

- (1) The consignor, having made an extra payment, may thus mark his special consideration in the carriage in contemplation of loss or deterioration of the goods, or delay of delivery.
- (2) If special consideration in the carriage has already been expressed, regardless of the compensation provided by articles 1014 and 1015, an additional compensation for damage may be demanded in the amount expressed in the consideration.

Article 1017. Right to Interest of Person Entitled to Dispose of Cargo

The person entitled to dispose of the cargo may demand payment of interest on the compensation due to him for the damage, in the amount set by Article 619. The interest accrues from the day this person raises a claim against the carrier, or, if no claim was raised, from the day of filing of the suit.

Article 1018. Carrier's Rights in Case of Extra-Contractual Claims

- (1) If spoilage, loss, deterioration or delay during the carriage that is governed by this Section trigger submittal of extra-contractual claims, under applicable law, the carrier may, in contrast, rely on the provisions of this Section, which exclude his liability, or determine or limit the amount of compensation.

(2) If any claims for extra-contractual liability are submitted on account of a loss, deterioration or delay, with respect to carrier's agent, he may rely on the provisions of this Chapter, which exclude his liability, or determine or limit the amount of compensation for damage.

Article 1019. No Release from Liability

The carrier may not rely on those provisions of this Section, which exclude or limit his liability or relieve him of the burden of proof, if the damage has been caused willfully or with gross negligence.

Article 1020. Submittal of Claims

(1) In case of nonperformance of contractual obligations, the parties are bound to preliminarily submit a claim.

(2) If the consignee accepts the cargo without checking it together with the carrier and does not raise any claims against the carrier on account of spoilage, deterioration or loss, the consignee is deemed to have accepted the goods in the condition specified in the bill of lading, until the reverse is proved. In case of shortages or defects noticeable upon external inspection, the claims must be submitted on the day of receipt of the goods.

(3) If the receiver and the carrier have jointly checked the condition of the cargo, evidence contrary to the results of this inspection can be admitted only if such shortage or defect is unnoticeable upon external inspection and the consignee makes a written claim within seven days, weekends and legal holidays excluded.

(4) Where the reserves do not pertain to shortages or defects that may be noticed upon external inspection, the claims must be submitted in writing, within 7 days after receipt, weekends and legal holidays excluded.

(5) In case of delay of delivery, damages may be claimed only if a written claim was submitted to the carrier within 21 days as of when the cargo has been made available to the consignee.

(6) Upon calculating the terms established in this article, the day of receipt or the day on which the cargo was put at the disposal of the consignee shall not be taken into account.

(7) The carrier and consignee are bound to offer to each other all according facilities for the necessary checks and findings.

Article 1021. Period of Limitation in Contract of Carriage

(1) The period of limitation in relations under contract of carriage is one year. In case of willful conduct or gross negligence, the period of limitation shall be three years.

(2) The prescription begins to run:

a) in case of partial loss, deterioration or delay – from the day of cargo handing over to the consignee;

b) in case of complete loss of cargo - on the thirtieth day after the expiration of the term of carriage or, if no such period has been fixed by the parties or by the law – on the sixtieth day after cargo taking over by the carrier;

c) in all other cases – upon expiration of three months from the day of conclusion of the contract of carriage.

Article 1022. Liability of Successive Carriers

(1) If, under the same contract, a carriage is performed by different carriers who successively replace each other, each of them bears responsibility for performance of the entire carriage.

(2) The second carrier and every subsequent carrier becomes party to the contract to the extent set in the bill of lading, by taking over the cargo and the bill of lading.

Article 1023. Cargo Taking Over from Previous Carrier

(1) The carrier, who takes over the cargo from the previous carrier, must issue to the latter a certificate of receipt, dated and signed. he must enter his name and address on the second copy of the bill of lading. If necessary, the carrier shall write his objections according to Article 997 para.(2) on the second copy of the bill of lading and on the certificate of receipt.

(2) Relations between successive carriers are regulated by Article 1000.

Article 1024. Submittal of Claims against Successive Carriers

(1) Claims for damages in consequence of a loss, deterioration may be enforced only against the first and the last carrier or against the carrier during whose turn of performance the goods were lost, damaged or delayed in hand-over.

(2) One suit may be brought against several carriers.

Article 1025. Right to Recourse Action

Where a carrier has paid damages by virtue of the provisions of this Chapter, he shall be entitled to recourse action, in accordance with the following rules:

a) if spoilage, loss or deterioration has been caused by one of the carriers, he shall bear alone the compensation paid by him or by another carrier;

b) if spoilage, loss or deterioration has been caused by two or more carriers, each of them shall pay an amount proportionate to his share of responsibility. Where the share of responsibility of each carrier cannot be established, the carriers shall be bound contingent on the share from the carriage fee that pertains to each of them;

c) if the carrier liable for damage cannot be identified, the compensation for damage shall be paid by all carriers, in the proportion determined according to let.b).

Article 1026. Insolvency of Carrier

If one of the carriers is insolvent, the amount from compensation that pertains to him and which he has not paid, shall be distributed among the other carriers in proportion to their share in the carriage fee.

Article 1027. Exceptions Raised in Case of Recourse Action

The carrier against whom the recourse action is filed in accordance with Article 1025 and 1026, may not object against the fact that the carrier exercising the recourse has made payment to the damaged persons without being indebted, if the compensation has been set by court judgement and if the carrier against whom the recourse is exercised was duly notified of the pending trial, having the possibility to intervene in it.

Article 1028. Carrier's Right to Derogate from Provisions of This Code

Without prejudice to the interests of the consignor or consignee, the carriers are entitled to agree on certain rules that derogate from the provisions of Articles 1025 and 1026.

Article 1029. Nullity of Agreements

(1) Without prejudice to the provisions of Article 1028, any clause that directly or indirectly derogates from the provisions of this chapter shall be null and without effect. The nullity of such clauses does not trigger nullity of the remaining contract clauses.

(2) In particular, the agreement by which the carrier leaves compensation claims on account of cargo insurance, as well as other similar agreements, shall be null.

(3) The agreement by which the burden of proof is reversed shall also be null.

CHAPTER XIII: MANDATE

Article 1030. Contract of Mandate

(1) Under a contract of mandate, the party (mandator) empowers the other party (mandatary) to represent it in the conclusion of juridical acts, and the latter, by accepting the mandate, binds himself to act on behalf and on account of the mandator.

(2) The mandator is bound to cooperate with the mandatary to facilitate the fulfilment of the mandate.

Article 1031. Acceptance of Mandate

Acceptance of a mandate may be express or tacit. Tacit acceptance may be inferred from the acts or even from the silence of the mandatary.

Article 1032. Special Mandate and General Mandate

(1) A mandate may be special, namely for a particular business, or general, namely for all the business of the mandator.

(2) A mandate expressed in general terms confers the power to undertake acts of administration and preservation only. The power to undertake other acts is conferred only by express mandate, except where, in the case of a mandate given in anticipation of the mandator's incapacity, that mandate confers full administration and is authenticated by a notary.

Article 1033. Remuneration of Mandatary

(1) The mandator is bound to pay remuneration to the mandatary only in cases provided by the contract or by law.

(2) A professional mandate is presumed to be given by onerous title.

(3) In the case of onerous mandate, the mandator is bound to pay to the mandatary the contractual remuneration, based on legal provisions, usages or dependent of the value of services rendered.

(4) A mandatary is entitled to retain from the amounts that he must hand over to the mandator a sum that the latter owes for performance of mandate. He is also entitled to retain from the amounts entrusted to him for performing the mandate sums payable to him.

Article 1034. Powers of Mandatary

(1) The powers of a mandatary extend not only to what is expressed in the mandate, but also to anything that may be inferred from its content or substance, subject to the exceptions laid down in Article 1032 para.(2)

(2) The mandatary may carry out all acts which are incidental to his powers and which are necessary for the performance of the mandate.

(3) Powers granted to persons to perform an act which is an ordinary part of their profession or calling and which may be inferred from the nature of such profession or calling need not be mentioned expressly.

Article 1035. Mandatary's Prudence and Diligence

A mandatary is bound to act in the best interests of the mandator with prudence and diligence in, and to avoid placing himself in a position that puts his own interest in conflict with that of his mandator.

Article 1036. Mandate Performance by Third Party

(1) The mandatary is bound to fulfill the mandate in person unless he is authorized under the contract to appoint a third party perform such mandate. However, he may employ assistants in fulfilling the mandate.

(2) If the interests of the mandator so require, the mandatary shall appoint a third person to replace him where unforeseen circumstances prevent him from fulfilling the mandate and he is unable to inform the mandator thereof in due time.

(3) The mandatary is accountable for the acts of the person he has appointed without authorization as his substitute as if he had performed them in person.

(4) Where he was authorized to make such an appointment, he is accountable only for the care with which he selected his substitute and gave him instructions.

(5) In any case, the mandator has a direct action against the person appointed by the mandatary as his substitute.

Article 1037. Appointment of Several Mandataries

(1) Where several mandataries are appointed for the conclusion of the same juridical act, the mandate has effect only if it is accepted by all of them.

(2) The mandataries shall act jointly for all acts contemplated in the mandate, unless otherwise stipulated or implied by the mandate. They are solidarily liable for the performance of their obligations.

(3) A mandatary who exercises alone powers that his mandate requires him to exercise with another person exceeds his powers, unless he exercises them more advantageously for the mandator than agreed.

Article 1038. Double Representation

(1) A mandatary who accepted to represent for the conclusion of the same act persons whose interests could be in conflict, must notify each mandator, save for the case when usages or mandators' awareness of double representation release the mandatary from this duty.

(2) In case of double representation the mandatary shall act impartially in the best interests of each mandator.

(3) A mandator who was not aware of the double representation and incurred damage may claim voidance such act concluded by the mandatary.

Article 1039. Conclusion of an Act with Himself

(1) A mandatary may not conclude acts on behalf of the mandator with himself, even through an representative, save for the case when he is expressly authorized or when the mandator is aware and does not object.

(2) Only the mandator may demand avoidance of such act concluded with breach of provisions of para.(1).

Article 1040. Deviation from Mandator's Instructions

- (1) A mandatary is bound to carry out mandator's instructions.
- (2) A mandatary is entitled to deviate from mandator's instructions if, under the circumstances, he can assume that the mandator would approve of the deviation if he had knowledge of the state of affairs. Before making the deviation the mandatary shall give notice to the mandator and await his decision, unless there is danger in delay.
- (3) If carrying out of such instructions by the mandatary may inflict a significant damage on the mandator, the mandatary may carry out the instructions only after he gives notice to the mandator concerning the damage and the latter fails to change his instructions.

Article 1041. Duty to Give Information and Report on Mandate Performance

- (1) A mandatary is bound on mandator's demand to give him all necessary information and explanations on mandate performance, and, upon performance, to notify the mandator without delay and to render a report.
- (2) An agreement which limits or excludes in the future mandatary's duties, as specified in para.(1), requires written form.

Article 1042. Confidentiality of Information Known to Mandatary

- (1) A mandatary is bound not to disclose the facts he knows by virtue of his occupation, if the mandator has a legitimate interest not to reveal them, unless there is no statutory duty to reveal the secret or unless the mandator permits the mandatary to reveal it.
- (2) Such duty of non-disclosure continues even after the mandate ceases.

Article 1043. Duty to Hand Over to Mandator Results of Performance

The mandatary is bound to hand over to his mandator all that he received for performance of the mandate and did not use for this purpose as well as all that he obtains from performing the contract.

Article 1044. No Use of Information or Property for Own Benefit

- (1) The mandatary may not use for his benefit any information he obtains or any property he is charged with receiving or administering in carrying out his mandate, unless the mandator consents to such use or such use arises from the law or the mandate.
- (2) If the mandatary uses the property or information without authorization, he shall, in addition to the compensation for which he may be liable for injury suffered, compensate the mandator by paying, in the case of information, an amount equal to the enrichment he obtains or, in the case of property, an appropriate rent. If he spends for his own benefit money, which he has to hand over to the mandator or to use them for his benefit, the mandatary is bound to pay interest as of the time of spending.

Article 1045. Protection of Mandator's Rights

Any property which the mandatary has purchased at mandator's expense, but on his own behalf, during performance of contractual obligations, or which the mandator has given to him for

performance of the mandate, is deemed mandator's property in relationships with mandatary's creditors.

Article 1046. Reimbursement for Mandatary's Costs

- (1) If, for the purpose of mandate performance, the mandatary incurs any costs, which he may regard as necessary under the circumstances, the mandator is bound to reimburse him.
- (2) Claims under para. (1) cannot be submitted when the costs are to be compensated through remuneration. The costs that are ordinarily incurred upon performance of obligations similar to those set in the contract or costs that would have been made by the mandatary even in absence of contract shall be reimbursed through remuneration, if their reimbursement is not usually done and unless otherwise agreed.
- (3) Upon request, the mandator advances to the mandatary the necessary sums for the performance of the mandate.

Article 1047. Compensation for Damage Caused to Mandatary

- (1) Where the mandatary is not at fault, the mandator is bound to compensate him for any damage he has suffered by reason of the performance of the mandate, if such damage was incurred due to mandator's instructions or as a result of a serious danger involved in the performance the contractual obligation.
- (2) The claim under para.(1) does not arise if the damage suffered has been covered on account of the remuneration or has been caused by an act that was not necessary for performing mandatary's contractual obligations or by an omission of the latter. If the settlement of damage on account of remuneration becomes disputable, the burden of proof is upon the mandatary.

Article 1048. Solidarity of Mandators

If a mandate is given by several persons, their obligations towards the mandatary are solidary.

Article 1049. Mandatary's Liability in Case of Gratuitous Mandate

Where the mandate is gratuitous, the mandatary shall be liable only for deliberate misconduct and gross negligence.

Article 1050. Revocation of Mandate

- (1) A mandate may be revoked at any time by either of the parties.
- (2) Where notice of the revocation has been given only to the mandatary, the revocation does not affect a third person who deals with him while unaware of the revocation. In such a case, the mandator has a recourse action against the mandatary.
- (3) A mandatary can revoke the mandate only so that the mandator can make other arrangements for taking care of the acts, unless there is a good reason to revoke.
- (4) If the mandator revokes the mandate, he is bound to compensate the mandatary for all necessary costs incurred while performing the contract. If the mandate is onerous, the mandator is bound to pay to the mandatary the agreed remuneration.
- (5) A clause under which either party's right to revoke the mandate is excluded is void.

Article 1051. Mandator's Death or Incompetence

- (1) Contractual relationships are not extinguished by the death of the mandator or where he is declare incapable, unless it is agreed or appears otherwise from the essence of the contractual obligation.
- (2) If contractual relationships cease by mandator's death or incapacity, and if there is danger of loss for the mandator or his heirs in suspending the mandate performance, the mandatary shall continue performance of contractual obligations. Performance shall continue until the heir or mandator's legal representative can make necessary arrangements. Under such circumstances, contractual obligations are valid.
- (3) Where contractual relations cease by mandator's death or incompetence, the contract is valid in relation to the mandatary until the moment when he became or should have become aware of the reason for cessation.

Article 1052. Cessation of Contractual Relations by Mandatary's Death

- (1) Contractual relationships are extinguished by the death of the mandatary, unless it was agreed or it appears otherwise from the contractual obligation.
- (2) A heir of the mandatary shall without delay notify the mandator about the mandatary's death and shall make arrangements necessary to protect mandator's interests.

CHAPTER XIV: TRUST

Article 1053. Contract of Trust

- (1) By a contract of trust, a party (trust founder) transfers property into the fiduciary administration of the other party (trustee), while the latter undertakes to administrate the patrimony in the interest of the trust founder.
- (2) The contract may indicate a third party as trust beneficiary, who can put forward his own claims against the trustee.
- (3) Public authorities may not become trustees.
- (4) The trustee may not be at the same time trust beneficiary.
- (5) Where trust is instituted on statutory grounds, rights of trust founder belong to the guardianship authority or to another persons indicated by law.

Article 1054. Form of Contract of Trust

A contract of trust must be in writing

Article 1055. Object of Trust

- (1) The trust may be instituted on any property, including an aggregate of property, either existing at the time of contract conclusion or acquired later, including property acquired by the trustee during contract performance.
- (2) The patrimony attributed into trust also includes property that replace the original ones, as equivalents or in consequence of certain juridical acts.
- (3) Money may not be separately attributed into trust, save for cases provided by law.
- (4) Property attributed into trust shall be separated from other patrimony of the trust founder, as well as from trustee's patrimony.

Article 1056. Rights and Duties of Trustee

- (1) The trustee is bound to administer the trusted patrimony in his own name, but at the risk and expense of the trust founder.
- (2) In relations with third parties the trustee exercises the power of owner. If the trustee, does not show for the founder's interests the same diligence as for his own affairs, he must compensate for the damage caused.
- (3) The trustee must make public the separation of patrimony taken into trust from his own patrimony and to maintain this publicity. he shall be liable towards the trust founder for disadvantages, losses and damage inflicted by confusion between the two properties.
- (4) The trustee may dispose of an immovable only in cases provided by law or the contract of trust.
- (5) Rights obtained by the trustee as a result of trust activity shall be included into the patrimony received for administration, unless the contract provides for the duty to transmit them to the founder or the beneficiary.
- (6) Debts arising from trustee's activity shall be paid from property attributed into trust.

Article 1057. Remuneration, Costs and Fruits

- (1) The trustee does not get remuneration for his activity, unless the contract or the law provide otherwise.
- (2) Where there is stipulation regarding remuneration, it may be set as percentage from income (profit) obtained from the administration of the entrusted patrimony, or as a fixed money amount, or as procurement by the trustee of a part of the entrusted patrimony, as provided by the contract of trust.
- (3) The trust founder incurs all costs on trust, unless the law or the contract provide otherwise.
- (4) The fruits of the patrimony belong to the trust founder.

Article 1058. Liability of Trustee

- (1) The trustee bears liability in relations with third parties for all acts concluded with observance of empowerments granted by the contract of trust. The liability is limited to the patrimony that was received into trust.
- (2) After cessation of trust and transmittal of the patrimony to the trust founder, it may be enforced upon for claims that arose in connection with the trust.
- (3) The Patrimony attributed into trust may not be enforced upon for claims submitted against the trustee personally.
- (4) The trust founder and the beneficiary are liable for trustee's actions only when an illicit conduct may be imputed.

Article 1059. Note of Trustee's Status upon Conclusion of juridical acts

- (1) The trustee must specify in the juridical acts that he acts as trustee. This condition shall be deemed observed if:
 - a) upon conclusion of juridical act, the other party was or should have been aware of the fact that the juridical act is concluded by the trustee in this position;
 - b) in the juridical act concluded in writing, after the name of the trustee, the mention "T." is entered.
- (2) Where there is no mention in the juridical act that the trustee acted in such position, he shall be personally liable towards the third parties only with his own patrimony.

Article 1060. Application of Rules of Mandate

The relevant rules of mandate shall apply to trust relations.

CHAPTER XV: COMMISSION

Article 1061. Contract of Commission

(1) By a contract of commission, a party (commissioner) undertakes to conclude juridical acts in his own name, but on account of the other party (principal), while the latter undertakes to pay remuneration (commission fee).

(2) The juridical act concluded by the commissioner with a third party gives rise to rights and duties only for the commissioner, even if the principal has been mentioned or participated in juridical act performance.

(3) Relations between the principal and the commissioner are similar to the rights and duties arising between mandator and mandatary, with the differences set by this Chapter.

Article 1062. Performance of Obligations by Commissioner

(1) The commissioner must observe instructions received from the principal and perform obligations assumed in terms as favorable as possible for the principal.

(2) Where the commissioner concludes juridical acts under terms more favorable than those stipulated by the principal, the benefits shall be shared equally between him and the principal, unless otherwise agreed.

Article 1063. Commissioner Fee

(1) The principal is bound to pay to the commissioner the remuneration set by contract or usage.

(2) The commissioner may claim payment of commissioner fee even when performance of the juridical act concluded by him did not take place due to the fault of the principal or in connection with his personality.

Article 1064. Deviation from Principal's Instructions

(1) The commissioner is entitled to deviate from principal's instructions if the interests of the latter require this or if there is no possibility to solicit principal's prior approval or if the reply was not received in due time.

(2) Where the commissioner sold the property at a price lower than that stipulated by the principal, he must cover the difference, unless he proves that he could not sell the property at the stipulated price and that by selling the property at a lower price he avoided an even greater damage.

(3) Where the commissioner buys a property at a price higher than the stipulated one, the principal must declare that he relinquishes the juridical act concluded by the commissioner immediately upon being notified of the conclusion of that juridical act. In a contrary case, it shall be deemed that the principal accepted the terms of the buy.

(4) Where the commissioner declares that he will cover for the difference in price, the principal may not relinquish the juridical act.

Article 1065. Right over property that Is juridical act Object

The principal has a right of ownership over the property conveyed to the commissioner or received by the latter for the principal.

Article 1066. Commissioner's Right of Retention

In view of securing claims under the contract of commission, the commissioner is entitled to retain property that he is bound to convey to the principal or to persons indicated by the latter.

Article 1067. Performance of juridical act Concluded by Commissioner

(1) The commissioner must perform all obligations and exercise all rights under the juridical act concluded in his name, but on principal's account.

(2) The commissioner is not responsible for nonperformance of obligations by third parties, save for the case when he granted surety to the principal for performance by third parties. In exchange for the surety the commissioner is entitled to a special remuneration.

(3) Where the third party breached its obligations, the commissioner must inform the commitment immediately and gather necessary proof. Upon principal's request the commissioner shall assign to the former rights arising from the juridical act concluded in view of fulfilling the contract of commission.

Article 1068. Commissioner's Obligation to Insure Principal's property

The commissioner is bound to insure property received from the principal or for the principal only in cases in which this is stipulated in the contract or results from usages.

Article 1069. Commissioner's Report

After performance of obligations or termination of contract, the commissioner shall convey all that he received by virtue of contract and shall submit a report. Where there are objections regarding the report, the principal must inform the commissioner within 15 days from its receipt, unless the contract provides for another term.

Article 1070. Receipt of Performance by Principal

The principal shall receive all that the commissioner executed by virtue of the contract of commission, shall inspect the property and immediately inform the commissioner about defects, and shall release him of the obligations that he assumed towards third parties in view of performing the contract of commission.

Article 1071. Compensation for Commissioner's Costs

(1) The principal undertakes to compensate for all useful costs borne by the commissioner while fulfilling the contract of commission.

(2) Costs for preservation of principal's property, including those received from third parties, shall be borne by the commissioner, unless the law or the contract provide otherwise.

Article 1072. Termination of Contract by Principal

(1) The principal may terminate the contract at any time.

(2) In case of contract termination, the principal is bound to pay to the commissioner the set remuneration for the juridical acts that have already been concluded and to compensate for the damage caused by performance of contract.

Article 1073. Termination of Contract by Commissioner

The commissioner may terminate the contract of commission only in the case provided by contract, of impossibility to perform the undertaken obligation or if the principal breaches its obligations under the contract.

Article 1074. Disposing of Principal's property

(1) Where the principal has terminated the contract or has been given notice about such termination by commissioner, he must give instructions regarding the property in the hands of the commissioner within one month.

(2) Where the principal fails to comply with the requirement of para.(1), the commissioner may place principal's property on deposit on the account of the latter or to sell it at a price that is most convenient for the principal.

CHAPTER XVI: FORWARDING

Article 1075. Contract of Forwarding

(1) By a contract of forwarding, a party (forwarder) binds himself, on his own behalf and at the expense of the other party (customer), to conclude a contract of carriage and perform acts needed in view of carriage accomplishment, while the customer is bound to pay the remuneration agreed upon (commission).

(2) The contract of forwarding is concluded in writing. If necessary for fulfilling contractual obligations, the customer must issue a proxy to the forwarder.

(3) The rules of mandate shall apply to forwarding, unless it follows otherwise from this Chapter.

(4) The norms of this Chapter shall also apply in cases when, in accordance with the contract of carriage, the obligations of the forwarder are exercised by the carrier.

Article 1076. Forwarder's Diligence

The forwarder is bound to perform forwarding, in particular regarding selection of carrier, with the prudence of a diligent forwarder. For this purpose, he must watch over customer's interests and follow his instructions.

Article 1077. Customer's Duties

(1) At forwarder's request, the customer is bound to timely provide the former with information about the cargo and with instructions necessary for drawing up carriage documents and for passing customs procedures and other formalities. The customer is bound to deliver relevant documents proving the accuracy of such information.

(2) In carrying a dangerous cargo, the customer must warn the forwarder about the type of danger and instruct him regarding safety measures.

(3) The cargo, regarding which the forwarder was not notified of the danger, may, at any time and place, be unloaded, destroyed, or rendered harmless without duty to compensate for the damage.

(4) The customer is bound, if the kind of the property requires so, to pack them in compliance with the requirements of the carriage.

(5) If the cargo requires identification through marks, it must be marked so as to be clearly seen until the cargo is delivered.

(6) The customer bears liability for the damage caused to the forwarder by non-compliance with the requirements provided for in this article, except when the forwarder did not object against the absence or defects of package or identifiers, according to para.(4) and (5) of this Article, although such absence or defect was evident and known to him while taking over the cargo.

Article 1078. Checking of Cargo by Forwarder

The customer may, on condition of a special remuneration, demand from the forwarder to check the cargo item by item when the latter receives it.

Article 1079. Duty to Insure Cargo

The forwarder is bound to insure the cargo only if he receives customer's instruction to that effect. In the absence of such instruction the forwarder is bound only to insure the cargo on ordinary terms at an insurer chosen by him.

Article 1080. Determining property's Condition at Place of Destination

Where the condition of the property was concluded upon in the absence of the parties, the delivery of the property to the consignee justifies the presumption that the property has been received without losses and deteriorations, except for the situation when the consignee submitted to the person that performed the delivery objections in which the type of damage was mentioned. Where losses of damage may be discovered upon external inspection, the objection must be submitted on the moment of delivery at the latest, while in regard of losses and damage that cannot be noticed upon external inspection, objections must be submitted on the third day after delivery at the latest.

Article 1081. Application of Rules on Carriage

Where the consignee does not take over the cargo at the place of destination or where the cargo cannot be delivered for other reasons, forwarder's rights and duties shall be set in accordance with rules on contract of carriage.

Article 1082. Forwarder's Right to Perform Carriage on his Own

(1) Unless otherwise agreed, the forwarder is allowed to perform the carriage himself. The permission is valid only to the extent that the duty to tend to customer's rights and interests is fulfilled.

(2) Where the forwarder makes use of the right specified at para.(1), he shall concomitantly assume carrier rights and duties.

Article 1083. Forwarder's Liability

(1) As usually, the forwarder is liable for duties arising under contract of forwarding only in case of his own fault or fault of his assistants.

(2) The forwarder cannot rely on the provisions of this Chapter that exclude or limit his liability or reverse the burden of proof, where the damage has been caused by willful conduct or gross negligence.

Article 1084. Damage Caused by Third Parties

Where the damage is caused by a third party participating in contract performance, the forwarder is bound, upon customer's request, to assign to the latter his claims against the third party, save for the case when, by virtue of a special agreement, the forwarder assumes exercise of claim on customer's account and risk.

Article 1085. Payment of Remuneration

Remuneration under contract of forwarding, becomes due on the moment when the forwarder handed over the cargo to the carrier.

CHAPTER XVII: DEPOSIT

Article 1086. Contract of Deposit

By a contract of deposit, a party (depository) is bound to keep in his custody a movable delivered to him by the other party (depositor) for a certain or undetermined term, and to return the property upon request.

Article 1087. Refuse to Convey or Receive property

- (1) The depository cannot demand from depositor to hand over the property. However, unless the law or the contract provide otherwise, the depositor is liable for the damage caused to the depository by willful conduct or gross negligence by refusing to convey the property.
- (2) Unless otherwise agreed, the depository is entitled to refuse receipt of the property where it is not conveyed to him within the established term.

Article 1088. Remuneration for Deposit

- (1) The deposit is undertaken gratuitously, unless otherwise agreed. If the depository undertakes the deposit as part of his professional activity, the remuneration is deemed to have been tacitly agreed upon.
- (2) Where the parties did not agree on the amount of remuneration, it shall be deemed agreed upon as the tariff remuneration, where such tariffs exist, or, in the absence of tariffs, as the usual remuneration.
- (3) The depositor is bound to compensate depository's costs necessary for keeping the property.

Article 1089. Duty to Keep property

- (1) Under onerous deposit, the depository is bound to take care of the integrity of the received property with the diligence and prudence of a provident entrepreneur.
- (2) Under gratuitous deposit, the depository is bound to tend to property's integrity as for his own property.

Article 1090. No Request of Proof of Ownership

The depository may not demand from the depositor or the person to whom he must return the property proof of the fact that he is the owner of the property.

Article 1091. No Handing Over of Property into Deposit of Third Party

- (1) The depositary may not, without depositor's consent, convey the property into the deposit of a third party.
- (2) In case of hand over of the received property to a third party, with depositor's consent, the depositary remains liable only for the selection of the third party and of the place of deposit.

Article 1092. No Use of Deposited Property

Unless otherwise agreed, the depositary is not entitled without depositor's consent to use the property deposited with him, except when the use is necessary for property's preservation.

Article 1093. Change of Deposit Conditions

- (1) As the case may be, the depositary is entitled to change the conditions of deposit, only after serving notice to the depositor and receiving his approval. Similarly, the depositary is bound to inform the depositor about seizure or exercise of the claims of third parties over the deposited property.
- (2) Where the change in the conditions of deposit is necessary to avoid the risk of property's destruction, loss or deterioration, the depositary is entitled to alter the order, place and other conditions of deposit, without seeking depositor's approval.
- (3) The arising of a serious danger of deterioration or spoilage of the deposited property or the occurrence of other conditions that threaten the security of property custody entitles the depositary to sell the property at a price determined under the existent situation, if the depositor cannot take any action.
- (4) Where circumstances mentioned at para.(3) arose for reasons for which the depositary is not responsible, he shall be entitled to retain sale costs from the amount received from property's sale.

Article 1094. Compensation for Damage Caused by property's Properties

The depositor shall compensate the depositary for any damage caused by the properties of the property deposited with him if the former knew or could not have known about such properties. The depositor is not liable for that damage if he notified the depositary regarding property's properties or if the depositary was aware of them.

Article 1095. Duty of Return

- (1) The depositary is bound to return the property in its condition at the moment of return. The risk of accidental loss or deterioration remains on the depositor.
- (2) The depositary, from whom the deposited property has been taken and who received an amount in money or another property instead, must return to the depositor that what he received.
- (3) The successor of the depositary who sold in good faith the property of which he did not know that it is held in deposit, must only return the price received or to assign his claim against the buyer, if the price has not been paid.

Article 1096. Right to Withdraw Deposited property

- (1) The depositor is entitled to withdraw the deposited property, even if the contract provides for a fixed term of deposit.

(2) Where the deposit is made in the interest of the depositary, the depositor is bound to compensate for the damage caused by early withdrawal of the property.

Article 1097. Duty to Withdraw property

(1) The depositary may, at any time, require that the property deposited be taken back, if the contract does not fix a term for deposit.

(2) The depositary may exercise the right specified at para.(1) only in such a way as to enable the depositor to deposit the property somewhere else, except when there are good reasons to demand immediate withdrawal.

Article 1098. Place of Return of Deposited property

The return of the property deposited shall be made at the place where the property was handed over to the depositary, unless otherwise agreed.

Article 1099. Duty to Transfer Fruits of Deposited property

(1) The depositary is bound to transfer to the depositor all fruits received during the period of custody. he shall be liable for nonperformance of this obligation only in case of willful conduct or gross negligence.

(2) The depositor is bound to reimburse the depositary for the necessary costs owing to the collection and preservation of the fruits.

(3) The depositary is bound to pay interest for deposited money only from the day on which he defaulted on return of the money.

Article 1100. Costs for Return

(1) Under gratuitous deposit, the costs for return shall be borne by the depositor.

(2) Under onerous deposit, the costs for return shall be borne by the depositary.

Article 1101. Depositary's Liability in Case of Delay in property's Taking Over

Where a term was set for taking over the property, following its expiry the depositary shall only be liable for damage caused by willful conduct or gross negligence.

Article 1102. Duty to Pay Remuneration

If the parties agreed on an onerous deposit, the depositor is bound to pay the remuneration upon cessation of the contract, unless otherwise agreed.

Article 1103. Right of Retention of Deposited property

The depositary is entitled to retain the deposited property after expiry of the term set in contract until he receives remuneration due and reimbursement for costs owing to custody.

Article 1104. Deposit of Generic property

Where generic property is deposited, in the absence of an agreement to the contrary, they shall pass into the ownership of the depositary. In such case, the depositary undertakes to return to the depositor an equal or otherwise agreed amount of property of the same kind and quality.

Article 1105. Specifics of Hotel Deposit

(1) Hotels, hostels, sanatoriums, rest homes and other similar institutions are liable for any damage caused to the customer by loss, destruction or deterioration of the property which he had with him in the booked premises, even if such property, save for money, securities and jewelry, were not specially handed over for deposit. An agreement to the contrary is deemed void.

(2) Liability provided for at para.(1) shall be excluded if the damage has been caused by a force majeure, by a guest of the customer or by property's properties.

Article 1106. Sequestration

Sequestration is the deposit by which the persons convey a contentious property to a third party that undertakes to return it, after the end of trial, to the one entitled over it.

Article 1107. Selection of Depositary in Case of Sequestration

(1) The depositary charged with sequestration shall be chosen by the parties by mutual agreement. The parties may appoint one of them.

(2) Where the parties did not reach an agreement regarding the depositary or the terms of sequestration, the parties may demand court judgement.

Article 1108. Rights of Depositary Charged with Sequestration

(1) Absent a stipulation to the contrary or a court authorization, the depositary charged with sequestration may not incur costs or undertake other acts in relation to the property, except those for preservation.

(2) The depositary may, however, sell the property, the deposit of which involves disproportionate costs in relation to their value, either with the consent of the parties, or without their consent, with authorization from court. The amount collected from the sale of the property shall remain at the depositary under the terms of sequestration.

Article 1109. Cessation of Sequestration

(1) The sequestration cessation after solving the dispute by returning the property to the one entitled.

(2) The depositary may be liberated and return the property before dispute-solving only with the consent of all parties or, without their consent, with court permission, if there are good reasons for that.

Article 1110. Report

The depositary charged with sequestration must submit a report at the end of deposit or in the course of it, upon the request of the parties or of the court.

Article 1111. Attachment

Attachment may be also placed by the court. In such case, this procedure shall be governed by the norms of the Code of Civil Procedure and by provisions of this Chapter, insofar as they are compatible.

CHAPTER XVIII: WAREHOUSE DEPOSIT

Article 1112. Norms Applicable to Relations of Warehouse Deposit

The relations of warehouse deposit, which is a contract of handing over of goods for storage in a warehouse, shall be governed accordingly by provisions regarding deposit, unless this Chapter provides otherwise.

Article 1113. Duty of Warehouse Depositary to Perform Obligations with Diligence

The warehouse depositary must ensure storage and custody of the deposited property with the diligence of a provident entrepreneur.

Article 1114. Check of Quantity and Type of property by Depositor

- (1) The depositary is not bound, while accepting the goods, to check their quantity (number, size or weight), type, kind or other properties, unless the law or the contract provide otherwise.
- (2) If, upon delivery, the goods are in a depreciated or deteriorated condition, which is noticeable at visual inspection, the depositary is bound to reinforce his right to compensation against the carrier, to take care of the proof of deposited goods' condition and to notify the depositor without delay. In case of failure, the depositary shall compensate for the damage caused therefore.

Article 1115. Right to Examine Deposited Goods

During the working hours the depositary must allow the depositor or another empowered person to examine the goods delivered, take samples or perform undertakings necessary for their preservation.

Article 1116. Duty to Inform

The depositary is bound to inform the depositor without delay about change in the place of storage, about changes in the condition of the goods or about the possibility of occurrence of such changes. The notice shall be addressed to the last holder of the warehouse certificate known to the depositary. If the depositary fails to comply with this duty, he shall compensate for the incurred damage.

Article 1117. Depositary's Liability

The depositor bears liability for any damage caused by loss or deterioration of goods deposited with him, except when even the care of a professional depositary could have not prevented the damage.

Article 1118. Deposit of Generic Goods

- (1) A depositary that undertakes the custody of generic goods is entitled to mix them with goods of the same kind only if he has an explicit permission to do so.
- (2) The owners of the mixed goods shall have a right of joint ownership in shares over the entire stock of goods. Unless otherwise agreed, the shares shall be determined contingent on the quantity of deposited goods.
- (3) The depositary is entitled and bound to return the goods to each depositor from the total stock according to their shares without seeking permission from other depositors.

Article 1119. Sale of Deposited Good in Case of Deterioration

(1) If the deposited goods are subject to spoilage or change so much that they can depreciate, and the depositary has no time to prevent or remove the spoilage or deterioration, or the authorized person, after being notified, failed to take a timely decision, the depositary is entitled to organize sale of these goods by public auction.

(2) The proceeds from the sale according to para.(1), shall be given to the depositor after deduction of the costs owing to custody and sale.

Article 1120. Warehouse Certificate

On the receipt of the goods, the depositary is bound to issue a warehouse certificate to the depositor.

Article 1121. Requisites of Warehouse Certificate

(1) A warehouse certificate must contain:

- a) date of its issuance and file number in the deposit register;
- b) name and address of the person to whom the deposited goods belong;
- c) place of custody;
- d) rules of deposit;
- e) quantity (number, size or weight) of deposited goods and their quality; description of the package, if the goods are packed;
- f) deposit costs and other costs that might arise;
- g) whether the deposited good must be insured, and, if positive, the price of insurance;
- h) period of deposit and date of expiry or absence of term;
- i) other data, upon parties' request;
- j) Depositary's signature and seal.

(2) The absence of some requisites does not render the warehouse certificate invalid.

Article 1122. Right of Charging Deposited Good

The holder of the warehouse certificate may pledge the deposited goods as security for another obligation so that the goods shall not be taken out of the warehouse.

Article 1123. Endorsement of Warehouse Certificate

If the depositary issues a warehouse certificate to order, it may be conveyed to another person by endorsement.

Article 1124. Depositary's Liability in Case of Endorsement of Warehouse Certificate

(1) If a warehouse certificate is transmitted by endorsement, the depositary bears liability to the legal holder of that certificate for the precision of the information included in it, except when the certificate states in writing that those data are based exclusively on information provided by either the depositor or a third party.

(2) If the depositary had knowledge about imprecision of the information, he shall bear responsibility even if he has made the statement as specified in para.(1).

(3) In the event of mixed custody, the depositary is not entitled to make a statement as specified in para. (1).

Article 1125. Delivery of Goods in Case of Certificate to Order

(1) In case of issuance of a warehouse certificate to order, the depositary is bound to deliver the deposited goods only to the legal holder of the certificate and only in exchange for the certificate.

(2) Where a certificate was issued constituting a pledge over the deposited goods, the depositary must also solicit the return of this certificate.

(3) The depositary is not bound to check the authenticity of the endorsements. The delivery shall be confirmed by entry on the warehouse certificate.

Article 1126. Destruction or Loss of Warehouse Certificate

(1) Where the warehouse certificate was destroyed or otherwise lost, the empowered person may demand, by public announcement, rendering the certificate void and issuance of a new one. In such case, special provisions of the Code of Civil Procedure shall apply.

(2) Based on a court judgement, the depositary will issue a new warehouse certificate and a new pledge certificate, as the case may be.

Article 1127. Assignment of Pledge over Deposited Goods

(1) Where the owner constitutes a right of pledge on the deposited goods, the endorsement and transmittal of the pledge certificate shall equal assignment of pledge.

(2) The endorsement must mention the pledge creditor and the amount of claim.

(3) The depositary must be notified about the pledge. he must confirm that the pledge took place.

Article 1128. Depositary's Right of Pledge

(1) The depositary has a right of pledge over the deposited goods for storage costs as long as the goods are in his possession.

(2) Where the warehouse certificate was transmitted by endorsement, the right of pledge shall exist only in relation to the legal holder of the warehouse certificate.

Article 1129. Depositary's Right to Demand Withdrawal of Deposited Good

(1) The depositary may not demand withdrawal of the deposited good until the agreed term of storage has expired, and in the absence of such term, not before the lapse of 3 months from the date of storage.

(2) Where no term of storage was agreed upon or where the good is kept in custody after the expiry of such term, the depositary may demand withdrawal of the good only after termination of contract, with observance of an one-month notice term.

Article 1130. Sale of Goods by Auction

(1) Where the depositor does not withdraw the deposited good upon expiry of the term of deposit, the depositary is entitled to sell the good by auction, after providing a warning. The sale may not occur earlier than a month from the day of warning.

(2) After depositary's claims arising from storage and organization of auction have been paid from the sale proceeds, the remaining amount shall be transmitted by him to the legal holder of the warehouse certificate.

CHAPTER XIX: CONTRACT FOR TRAVELLING SERVICES

Article 1131. Contract for Traveling Services

(1) Under a contract for travelling services, a party (travel organizer, travel agent) undertakes to render to the other party (tourist) all agreed services, while the latter undertakes to pay the cost of such services.

(2) A declaration stating that only mediation of contract with persons that will accomplish the travel (service-provider) is being undertaken shall be disregarded if other circumstances confirm that the author of the declaration accomplishes contractual obligations pertaining to the travel at his own responsibility.

Article 1132. Preliminary Information

(1) Any advertising material, an offer or other information about travelling services provided by the organizer must be made so as to exclude misinterpretation.

(2) The conditions specified by the publicity ad, the offer or other information, which the organizer provides to the customer, are binding upon the former, unless the customer is notified about alteration of the conditions before contract conclusion.

Article 1133. Mandatory Information

(1) Before contract conclusion, the organizer is bound to inform the customer in writing or in any other suitable form about the visa and passport regime and about health insurance requirements for the duration of the travel.

(2) Within a reasonable time before the start of the travel, the travel organizer is bound to provide to the customer in writing or any other suitable form information on:

- a) the time and place of intermediate stations and transportation junctions, as well as the details of customer's placement within the vehicle (cabin on ship, train compartment etc.);
- b) name, address and phone number of organizer's local agents or, absent such agents, data for identifying the local agency which the customer may address in case of necessity. Absent such agents or agencies, the customer must be provided organizer's contact data;
- c) in case of travel of persons under age – data for direct contact with the person under age or with the responsible person at the place of destination;
- d) possibility of acquiring an insurance policy, covering customer's liability for declining the travel, as well as other costs, in case of accident or illness.

Article 1134. Content of Contract for Traveling Services

(1) The contract for travelling services must include the following clauses:

- a) itinerary, place (places) of destination and terms of stay, with indication of dates;
- b) vehicles, their class and properties, date of departure and arrival;
- c) information on accommodation, class or level of conveniences, basic properties, catering services;
- d) in case a minimal number of persons required to realize the travel is set, the deadline for notification of the customer in case of cancellation of the travel;
- e) visits, excursions and other services included in the general cost of the travel;
- f) name and address of the organizer (travel agent) and of the insurer as the case may be;
- g) cost of the travel, possibility of cost alteration, costs of certain additional services (boarding and debarkation fee in ports and airports, tourist fees) not included in the cost of the travel and possibility of their alteration;

- h) terms and order of payment of the cost and other costs;
 - i) specific conditions agreed by the parties upon customer's request;
 - j) terms for forwarding complaints regarding nonperformance or defective performance of contract;
 - k) other conditions.
- (2) All contractual provisions must be provided to the customer in writing, before concluding the contract.
- (3) Provisions of para.(2) do not preclude conclusion of contract at the last moment.

Article 1135. Travel of Third Party

- (1) The customer is entitled to request, before the beginning of the travel, that a third party takes over the rights and obligations under the contract for travelling services. The organizer may reject tourist's request if the third party does not fit into travel conditions.
- (2) The organizer is entitled to demand from the tourist compensation for additional costs caused by replacement with a third party.

Article 1136. Alteration of Essential Contract Terms

- (1) If, before departure, the organizer learns that he has to alter in a significant way the essential terms of the contract, including the price, he shall forthwith notify the customer to that effect.
- (2) The price specified in the contract cannot be altered unless the contract provides for a possibility to alter the price and specifies the way to calculate the altered price. The price may be altered exceptionally if changes occur in the price of transportation, fees for certain services (boarding and debarkation fees in ports and airports, other fees). The price may not be increased within 20 days before the day of departure.
- (3) In the event provided for in para.(1), the customer may relinquish the contract or accept the alteration, being bound to notify the organizer of his decision as soon as possible.

Article 1137. Security Providing and Removal of Deficiencies

- (1) The organizer is bound to organize the travel so as to ensure the promised properties and to avoid shortages that would diminish its value or utility as deduced from contract or from usual practice.
- (2) Where the tourist detects shortages in the course of the travel, he is entitled to demand their immediate removal. The organizer may refuse removal of shortages, if such removal requires disproportionate costs.
- (3) Where the organizer does not remove the shortages within the term set by the tourist, the latter may remove them by him and demand from the organizer compensation for incurred costs. Where the organizer refuses to remove the shortages or the tourist has an interest in their immediate removal, the setting of a term is not necessary.

Article 1138. Reduction of Price for Shortages of Travel

- (1) Where shortages are detected in the course of the travel, its price shall reduce, taking into account the moment of detection.
- (2) The price of the travel shall not reduce if the tourist, either wilfully or by gross negligence, did not give notice to the organizer about the detected shortages within a reasonable time.

Article 1139. Termination of Contract Due to Shortage

(1) If the travel is substantially affected due to shortages of the type mentioned at Article 1138, the tourist may terminate the contract. He may also terminate the contract when, due to such shortages, for an important reason that may be acknowledged by the organizer, he may not be expected to continue the travel.

(2) Contract termination is allowed only if the organizer let a period of time, fixed by the tourist, lapse to no avail. It is not necessary to fix a period of time if a remedy is impossible or is refused by the organizer or if immediate contract termination is justified by a special interest of the tourist.

(3) In case of contract termination, the organizer loses the right to claim the agreed price. He may nevertheless demand an according indemnification for services that have already been rendered and for those necessary with a view to concluding the travel, unless the tourist does not have any interest in such services due to termination of contract.

(4) In case of contract termination, the organizer of the travel is bound to take necessary measures to return the tourist back, especially where the contract provides for return travel. Additional costs shall be borne by the organizer.

Article 1140. Compensation for Damage due to Shortage

Regardless of whether he demanded price reduction or terminated the contract, the tourist may demand compensation for non-fulfilment of contract, where the shortages of the travel are due to circumstances imputable to the organizer.

Article 1141. Term for Submitting Complaints and Period of limitation

(1) Complaints based on Articles 1137-1140 may be submitted by the tourist to the organizer within a month as of the date fixed by contract for travel conclusion. Complaints may be also submitted after the expiry of the one month-term, where it has been omitted for reasons not imputable to the tourist.

(2) The period of limitation for actions filed by the tourist shall be six months, computed from the last day of the travel, as set by contract.

Article 1142. Permission to Limit Liability

Based on an agreement with the tourist, the organizer may limit his liability for damage, other than bodily injury, to the triple price of the travel, if:

- a) the damage is not caused by wilful conduct of gross negligence;
- b) the damage is caused to the tourist only by error of a service-provider involved in contract unfolding.

Article 1143. Termination of Contract by Tourist

(1) The tourist may terminate the contract anytime before the beginning of the travel.

(2) Where the tourist terminates the contract, the organizer is deprived of the right to demand payment of the price of travel. However, he may demand an due compensation. The amount of the compensation shall be determined based on the price of the travel, by subtracting the costs that have not been incurred by the organizer, as well as that which he could obtain by using his services otherwise.

Article 1144. Termination of Contract due to Force majeure

(1) Where the travel is rendered difficult, imperiled or substantially damaged due to a force majeure that could not be foreseen at the moment of contract conclusion, either the organizer or the tourist may unconditionally terminate the contract.

(2) Where the contract is terminated under para.(1), provisions of Article 1139 para.(3) and the first sentence of para.(4) shall apply. The additional costs for return transportation shall be borne by the parties, in equal shares. In other cases, additional costs shall be borne by the tourist.

Article 1145. No Derogations

The provisions of this Chapter may not be derogated from to the detriment of the tourist.

CHAPTER XX: GUARANTY

Section 1: General Provisions on Guaranty

Article 1146. Contract of Guaranty

(1) By contract of guaranty, a party (guarantor) binds himself to the other party (creditor) to fulfill debtor's obligation in total or in part, gratuitously or onerously.

(2) A guaranty may also secure a future or conditional obligation.

Article 1147. Form of Contract of Guaranty

The validity of guaranty requires written form. Where the guarantor fulfills the obligation, noncompliance with the form requirement is deemed removed.

Article 1148. Non-mandatory Character of Debtor's Consent upon Guaranty Establishment

A person may become guarantor without debtor's consent and even without his knowledge.

Article 1149. Multiple Guaranties

(1) The guaranty may be constituted either for the principal debtor or for the guarantor.

(2) The later guarantor, who became bound in regard of obligation fulfillment by the earlier guarantor, shall be liable jointly with the latter, in the same fashion as the earlier guarantor is liable jointly with the principal debtor.

Article 1150. Grounds for Guaranty Establishment

(1) The guaranty may arise from parties' agreement, may be prescribed by law or set by court judgement.

(2) The debtor bound to constitute a guaranty must propose a natural person with domicile or residence in the Republic of Moldova or a legal entity registered in the Republic of Moldova, that disposes of enough property to give guaranty for the obligation. Where the proposed person is not accepted, the debtor must propose another person. This rule does not apply where the creditor requested a certain person as guarantor.

Article 1151. Right to Guaranty Replacement

The debtor bound to provide a legal or judicial guaranty may offer in exchange another sufficient guaranty.

Article 1152. Limits of Guaranty

- (1) The guaranty may not exceed debtor's debt and may not be constituted on more onerous terms.
- (2) The guaranty that exceeds debtor's debt or on more onerous terms is valid only to the extent of the principal obligation.
- (3) The guaranty may be constituted for a part of the obligation and on less onerous terms.
- (4) The obligation of the guarantor is not increased by any juridical act entered into by the principal debtor after the assumption of the guaranty.

Article 1153. Extent of Guarantor's Liability

- (1) Under all circumstances, the guarantor shall be liable only to the extent of the maximum amount shown in the contract of guaranty.
- (2) To the extent of the maximum amount shown in the contract of guaranty and absent a provision to the contrary, the guarantor shall be liable for:
 - a) the total amount of the principal debt at the respective moment, especially when the principal debt changed due to the fault or delay of the principal debtor. However, where the contract provides for a penalty or a lump compensation for the case of contract cessation, the guarantor shall be liable only if there is an express provision to this effect;
 - b) costs for contract termination and court enforcement, if such must be borne by the principal, to the extent that the guarantor was timely accorded the possibility to avoid such costs by fulfilling creditor's requirements;
 - c) interest owed by the principal debtor, if this was expressly agreed upon.

Article 1154. Relations between Several Guarantors

- (1) Where several guarantors assumed guaranty for the same debtor and the same obligation, the guarantor who performed the obligation shall be entitled to recourse action against the other guarantors for the share of each of them.
- (2) In case of insolvency of one debtor, his share shall be distributed proportionately amongst the remaining guarantors.

Section 2: Relations between Creditor and Guarantor

Article 1155. Creditor's Duty to Inform

- (1) The creditor is bound to provide upon guarantor's request all useful information regarding the content and conditions of the principal obligation and regarding its stage of performance.
- (2) The guarantor may not relinquish in advance the right to being informed.

Article 1156. Guarantor's Liability

- (1) In case of nonperformance of the principal obligation, the guarantor and the debtor shall bear joint and several liabilities towards the creditor, unless otherwise agreed.

(2) The parties may agree that the guarantor is bound to pay the debt only after enforcement against the debtor. In such case, the guarantor must indicate the property of the debtor and make advance payments for the costs of enforcement over such property.

Article 1157. Exceptions that May Be Invoked by Guarantor

(1) The guarantor may set up against the creditor all defences that he could have set up against the debtor. In case of death of the principal debtor, the guarantor may not rely on the fact that heirs' liability for debtor's obligations is limited.

(2) The guarantor shall not be deprived of the right to rely on an exception only for the reason that the principal debtor has relinquished it.

(3) The guarantor may refuse fulfillment of creditor's requirements as long as the debtor is entitled to challenge the deed on which the obligation is based.

(4) The right provided at para.(3) is also recognized to the guarantor where the creditor can satisfy his claim towards the principal debtor by setoff of his debt towards the latter.

Article 1158. Diminution of Securities by Creditor

Where the creditor diminishes, to the detriment of the guarantor, certain rights of pledge or other securities or preferential rights which existed at the moment of guaranty arising or were obtained later by the principal debtor and meant to provide for the right secured by the guaranty, guarantor's obligation shall be reduced by an amount corresponding to that diminution.

Article 1159. Guarantors' Joint and Several Liabilities

(1) Where several persons assumed guaranty in favor of the same creditor, for the same obligation, each of them shall be liable for the entire debt, unless the parties agreed on the divisibility of the obligation.

(2) Where the parties agreed on divisibility, the guarantors may demand that the creditor divides his action and reduce it to the share that each of them owes.

Article 1160. Notice about Delay in Obligation Performance

Where the principal debtor is in delay in what regards performance of his obligations, the creditor must give notice about this to the guarantor.

Article 1161. Guarantor's Subrogation in Creditor's Rights

(1) The guarantor who performed the obligation subrogates into creditor's rights against the debtor. The transfer of the right of claim may not occur to the detriment of the creditor. Exceptions of the principal debtor based on his relation with the guarantor shall remain unaffected.

(2) After the guarantor performs his obligation, the creditor shall be bound to convey to him documents that confirm creditor's claim against the debtor, as well as rights that secure these claims.

Section 3: Relations between Guarantor and Debtor

Article 1162. Debtor's Summoning into Trial

Where an action is filed against the guarantor, he is bound to summon the debtor into trial. Otherwise, in case of guarantor's action of recourse, the debtor shall be entitled to rely on all defences that he could have set up against the creditor.

Article 1163. Recourse against Debtor

(1) The guarantor who performed the principal obligation has a right of recourse against the debtor to the extent of the amounts he has paid, including the principal debt, the related interest, as well as all costs that he has incurred in relation to the guaranty.

(2) The guarantor has no recourse against the debtor who has also paid the debt due to the fact that the guarantor did not notify him of the payment made.

(3) The guarantor may file action against the debtor even before paying the debt, if the guarantor has been filed against a judicial action for payment, or if the debtor undertook to liberate him from guaranty upon lapse of a certain term and the term has lapsed.

(4) Where there are several joint and several debtors, the guarantor who executed the guaranty for all of these debtors has a right of recourse against each of them in order to recover integrally what he has paid.

Article 1164. Guarantor's Request to Be Liberated from Guaranty

(1) Where the guarantor became bound at principal debtor's instructions or if, as a consequence of guaranty execution, he acquires rights of mandatary in relation to the principal debtor, based on provisions regarding management of affairs, the guarantor may demand from the principal debtor to liberate him from guaranty obligations, if:

- a) the material condition of the principal debtor substantially worsened;
- b) judicial seizure over the principal debtor is substantially hampered after the assumption of guaranty due to change of domicile, residence or registered office of the debtor;
- c) the principal debtor is in delay regarding performance of his obligations;
- d) the creditor obtained a court judgment with a enforcement title against the guarantor.

(2) Where the principal obligation has not matured yet, the principal debtor may offer securities to the guarantor instead of liberating him.

Article 1165. Notification of Guarantor about Performance of Obligation by Debtor

The debtor that performed the obligation secured by guaranty must give immediate notice to the guarantor. Otherwise, the guarantor who performed the obligation shall maintain the right to file recourse action against the debtor.

Section 4: Cessation of Guaranty

Article 1166. Guarantor's Right of Termination

(1) Where the guaranty was constituted to secure future or undefined obligations or if no term for guaranty was set, the guarantor may terminate the contract after three years have lapsed as of the undertaking of the guaranty, by a 3-month's notice to the creditor, the principal debtor and other guarantors.

(2) A fixed-term guaranty may be terminated after 5 years with a 3-month's notice.

(3) After termination, the guaranty is maintained only for already existent obligations, even if they are conditional.

Article 1167. Extinction or Alteration of Secured Obligation

- (1) Guaranty cessation upon extinction of secured obligation.
- (2) Guaranty ceases in case of alteration of secured obligation without guarantor's consent, when such alteration leads to increase of guarantor's liability or brings about other unfavourable consequences for him.
- (3) Guaranty ceases in case of transfer of the secured debt towards another person, if the guarantor did not accept to guarantee performance of obligation by the new debtor.

Article 1168. Guarantor's Death

Guaranty ceases in case of guarantor's death. Any provision to the contrary shall be void.

Article 1169. Impossibility of Subrogation

Guaranty also ceases when guarantor's subrogation in creditor's rights towards the debtor becomes impossible due to creditor's fault. In such case, the guarantor is liberated to the extent of the damage suffered.

Article 1170. Ceases of Guaranty by Expiration of Term

- (1) Guaranty ceases upon expiration of the term for which it has been undertaken.
- (2) Where such term is not fixed, guaranty ceases if the creditor did not file any action against the guarantor within a year from the maturing of the secured obligation.

CHAPTER XXI : FRANCHISING

Article 1171. Contract of Franchise

Under a contract of franchise, which is one with recurring performance, one party (franchisor) and the other party (franchisee) - independent enterprises - undertake to assist each other in selling goods and providing services by way of exercising specific responsibilities.

Article 1172. Form and Provisions of Contract of Franchise

- (1) The validity of a Franchising requires written form.
- (2) In addition to a clear statement of the reciprocal obligations, the duration of contract, the provisions concerning termination and extension, and other essentials, the parties must incorporate into the text of the contract a full description of the franchising program.

Article 1173. Franchisor's Duties

- (1) The franchisor is bound to grant the franchisee an ensemble of incorporeal property, rights, trademarks, samples, arrangements, decorations, concepts of acquisition, sale and management, and other data and knowledge useful for sale promotion.

(2) The franchisor is obliged to protect the program of cooperation against interference of third parties, to improve it constantly and to support the franchisee by providing him with guidance, information, and by upgrading his professional skills.

Article 1174. Franchisee's Duties

The franchisee is bound to pay a recompense, the amount of which is calculated, in principle, as a fraction of the volume of sale in accordance with the contribution of the franchising program to the volume of sales. The franchisee undertakes as well to actively use the franchising program with the diligence of a good entrepreneur as well as to purchase goods and services through the franchisor or persons designated by him, if this is directly related to the object of the contract.

Article 1175. Duty to Provide Information and Keep Confidentiality

While negotiating a franchise, the parties must frankly and fully inform each other of the circumstances related to the franchising and provide each other with relevant information in good faith. The parties undertake not to reveal confidential information, even if the contract is not eventually concluded.

Article 1176. Period of Contract

(1) The period of the contract is fixed by the parties in consideration of the requirements for the sale of goods or services agreed upon.

(2) If the period is not fixed or exceeds ten years, either party may terminate the contract in one year's notice. If neither party exercises its right of termination, each time the contract shall be extended for two years.

Article 1177. Duty of Fair Competition

(1) The parties are bound to stay in loyal competition even after cessation of the contract. Within these limits, a local prohibition of competition may be established for the franchisee, which cannot exceed one year.

(2) If the prohibition of competition imperils the business, a proper financial compensation must be allotted to the franchisee, irrespective of the grounds for contract cessation.

Article 1178. Franchisor's Responsibility

(1) The franchisor bears responsibility for the existence and volume of the rights and information provided by the franchising program.

(2) If there exist no rights mentioned at para.(1) or if the franchisor culpably violates other contractual obligations, the franchisee is entitled to reduce the recompense. In case of a dispute, the extent of reduction shall be determined on the basis of the opinion of an independent expert. Expert's fees shall be borne by the party whose estimation is most far from that determined by the expert.

CHAPTER XXII: BROKERAGE

Section 1: General Provisions on Brokerage

Article 1179. Contract of Brokerage

By contract of brokerage, a party (broker) undertakes towards the other party (customer) to act as mediator for concluding one or several contracts between the latter and a third party.

Article 1180. Payment of Remuneration for Brokerage

- (1) The person that promises a broker's fee for mediation of a contract or for information on the opportunity of making a contract is bound to pay the fee only if the contract is concluded in consequence of the given indications.
- (2) If the contract is concluded under a suspensive condition, broker's fee may not be demanded until the condition is fulfilled.
- (3) If the amount of the remuneration is not specified, the amount usually paid for a similar act is deemed agreed upon.
- (4) The broker may not demand an advance payment from the fee set according to this article and may not accept such an advance payment.
- (5) The contractual provision that derogates from the provisions of this article is void.

Article 1181. Right to Other Remuneration

- (1) Parties may agree that broker's services, which cannot be related to brokerage, but are agreed upon in the contract, shall be remunerated regardless of whether or not the contract was concluded as a result of brokerage activity.
- (2) An agreement providing for the reimbursement of costs unnecessary for brokerage or of unproved costs is invalid.

Article 1182. Contract of Exclusive Mandate

- (1) Where the customer undertook to refrain from resorting to the services of another broker for a certain period (exclusive mandate), the broker is bound, during that time, to act in view of contract mediation or indicating opportunities for contract conclusion.
- (2) If the customer breaches his obligation under para.(1), the broker may demand compensation for damage, if a contract with a third party is concluded using another broker's services. The contract may provide for an according lump compensation, regardless of damage proof. This compensation may not exceed 2.5% of the selling price, if the contract provides for brokerage or indication of an opportunity for concluding a sale. An agreement concluded without observance of this paragraph to the detriment of the customer is void.
- (3) An agreement on exclusive mandate must be in writing.

Article 1183. Termination of Contract of Brokerage

- (1) A contract of brokerage may be terminated at any time, without prior notice, if the contract term has not been fixed.
- (2) A contract of exclusive mandate may be terminated only for good reasons and with a 2-week's notice.

Article 1184. No Broker's Fee Payment and Compensation Claims

- (1) Broker's claims regarding fee payment and compensation or regarding reimbursement of costs are barred if the contract concluded with a third party pertains to an object that belongs to the broker. The same rule applies when specific circumstances result in a suspicion that the broker is affected in his capacity to represent customer's interests.

- (2) The broker keeps the right to claim remuneration or reimbursement for costs, if he, before the conclusion of the contract with the third party, warns the customer of those circumstances that justify the suspicion of a possible damage to the customer.
- (3) The rules of para.(1) apply even if another person acts at broker's expense or the contract has been concluded at the expense of the third party.
- (4) The broker loses the right to remuneration and reimbursement for costs, if he, contrary to the terms of the contract, has also acted for the third party.
- (5) An agreement in conflict with the rules stipulated by this article is void.

Section 2: Brokerage in Tenancy

Article 1185. Rules Applicable to Brokerage in Tenancy

- (1) The general rules established for brokerage also apply to a contract, by which a party (tenancy broker) undertakes to mediate or to indicate to the other party the opportunity of concluding a contract of lease of living accommodation, unless it appears otherwise from this section.
- (2) The provisions for tenancy brokerage do not apply to contracts pertaining to brokerage for lease of accommodation for tourists.

Article 1186. No Payment of Broker's Fee and Claims for Compensation to Tenancy Broker

- (1) Tenancy broker's claims regarding fee payment and compensation or reimbursement of costs are barred, if:
 - a) The lease contract only prolonged an already existing tenancy or changed the rent for the same living accommodation;
 - b) A lease of the living accommodation administered by the broker is entered into.
- (2) The tenancy broker may not demand other remuneration for his acts performed in connection with brokerage or indication of the opportunity for conclusion of the contract of tenancy, than the remuneration prescribed at Article 1181 para.(1).
- (3) Provisions in conflict with this article are void.

Section 3: Brokerage in Loan

Article 1187. Rules Applicable to Brokerage in Loan

The general rules for brokerage also apply to the contract, by which a party (loan broker) undertakes to act as a broker for the other party (customer) in concluding or indicating the opportunity to conclude a contract of loan, unless special rules follow from this Section.

Article 1188. Form and Content of Contract for Brokerage in Loan

- (1) The contract for brokerage in loan must be in writing.
- (2) The contract must stipulate the amount of the loan broker's fee, calculated as a certain percentage of the loan amount. Additionally, the contract must stipulate amount, term, interest and amortization of the loan, payment period, exchange rate, period of interest accrual, accessory

costs of the loan, as well as the effective annual interest, the total amount that must be paid by the customer, and the full name and address of the lender.

(3) The provisions of para.(2) do not apply if the task of brokerage or of indicating the opportunity to conclude a contract concerns a loan secured by a mortgage or a loan granted for purchase of an immovable, or a loan which the customer must use for his professional, commercial, public or work activity.

(4) The text of the contract shall not refer to the petition for granting of a loan.

(5) The loan broker must submit a copy of the contract to the customer.

Article 1189. Loan Broker's Remuneration

(1) The customer is bound to pay the remuneration only if he has received a loan as a result of brokerage or broker's indication. The contract concluded by derogation to the prejudice of the customer is void.

(2) The loan broker may not agree on another remuneration for brokerage or indication of the opportunity to conclude a loan than that provided by para.(1).

Section 4: Trade Brokerage

Article 1190. General Provisions on Trade Brokerage

(1) A person enjoys the rights and performs the duties of a trade broker if he, in pursuance of his professional activity, not being permanently authorized by other persons on the basis of contractual relations, acts as an agent for those persons in concluding contracts of acquisition and alienation of goods or securities, contracts of insurance, banking operations, cargo carriage, lease of commercial goods.

(2) The rules of this section do not apply to transactions other than those mentioned at para.(1) and transactions with real estate.

Article 1191. Final Text of Contract

(1) After settlement of the contract, the trade broker must without delay, unless the parties or the local usages release him from doing this, provide each party with the final version of the contract signed by him, which specifies the contracting parties, subject and terms of the contract; particularly for the sale of goods or securities, the contract must specify their type and quantity, as well as the price of and the time of delivery.

(2) With regard to juridical acts, which cannot be performed immediately, the final version of the contract shall be submitted to be signed by the parties and each party shall receive the final version of the contract signed by the other party.

(3) If a party refuses to accept or to sign the final version of the contract, the trade broker is bound, without delay, to inform thereof the other party.

Article 1192. Specified Commitment

(1) If a party accepts the final version of the contract where the trade broker reserves a right to specify the other contractual party later, the first party shall become bound by the contract in relation to the party specified afterwards, unless substantial objections can be raised against the latter.

- (2) The other party shall be specified within the usual term at the place of issuance of the final version of contract, or, in the absence of such a term, within a reasonable term.
- (3) If the party is not specified or there are substantial objections against the specified person, the first party may raise a claim against the trade broker with a view to contract performance. The claim is barred if, upon trade broker's inquiry, that party does not immediately demand performance of the contract.

Article 1193. Keeping of Samples

- (1) To the extent that the parties or the local rules allow this, the trade broker shall keep a sample of each commodity sold through his agency, until the commodity is accepted without objections or the act is otherwise carried out.
- (2) The trade broker shall identify the sample by a mark.

Article 1194. Absence of Authority to Collect Payments

A trade broker is not authorized to collect payments or other forms of defrayal stipulated by the contract.

Article 1195. Liability of Trade Broker

A trade broker is liable to each of the parties for damage caused through his fault.

Article 1196. Right to Demand Remuneration from Both Parties

Unless the parties have an agreement on the payment of broker's fee and unless there are other local rules, each of the parties is bound to pay half of the remuneration.

Article 1197. Trade Broker's Ledger

- (1) The trade broker is bound to keep a ledger and to enter all conducted acts on a daily basis. The entries shall be made in chronological order. The trade broker is bound to confirm each entered information with his signature.
- (2) Provisions regarding commercial registers shall apply to trade broker's ledger.

Article 1198. Issuance of Excerpts from Trade Broker's Ledger

Upon parties' request, the trade broker is bound to issue signed excerpts from the ledger. The excerpts shall contain all relevant data with respect to acts conducted through his agency.

CHAPTER XXIII: COMMERCIAL AGENT. MERCHANDISE BROKER

Section 1: Commercial Agent

Article 1199. General Provisions on Commercial Agency

- (1) A commercial agent is a self-employed natural person who has continuing authority to mediate or conclude commercial contracts with goods and services on behalf of and in the name of an enterprise (the principal).

- (2) For the purposes of this Code, a person is not a commercial agent if he's:
- a) a person who, in his capacity as an employee of the principal, is empowered to enter into commitments binding on such principal;
 - b) a partner who is lawfully authorized to enter into commitments binding on his partners;
 - c) a receiver, a receiver and manager, a liquidator or a trustee in bankruptcy;
 - d) operating on commodity exchanges.

Article 1200. Commercial Agent's Obligations

- (1) A commercial agent must look after his principal's interests and act dutifully.
- (2) In particular, a commercial agent must make proper efforts to negotiate and, where appropriate, conclude the transactions he is instructed to take care of; communicate to his principal all the necessary information available to him; comply with reasonable instructions given by his principal.

Article 1201. Principal's Obligations

In his relations with his commercial agent a principal must act in good faith. A principal must in particular obtain for his commercial agent the information necessary for the performance of the agency contract; to notify the commercial agent within a reasonable period once he anticipates that the volume of commercial transactions will be significantly lower than that which the commercial agent could normally have expected; as well as about acceptance, refusal, and of any non-performance of a commercial transaction which the commercial agent has procured for the principal.

Article 1202. Remuneration of Commercial Agent

- (1) A commercial agent shall be entitled, under the agency contract, to a remuneration for services rendered to the principal.
- (2) In the absence of any agreement on the amount of remuneration due, a remuneration customarily allowed in the business sector concerned is deemed to have been agreed upon. If there is no such customary practice a commercial agent shall be entitled to reasonable remuneration taking into account all the aspects of the transaction and the requirements of fairness.

Article 1203. Payment of Remuneration

- (1) Remuneration may be, wholly or partially, paid by way of commission, i.e. varying with the value of commercial juridical acts.
- (2) A commercial agent shall be entitled to commission on juridical acts concluded during the period covered by the agency contract:
 - (a) where the juridical act has been concluded as a result of his action;
 - (b) where the juridical act is concluded with a third party whom he has previously acquired as a customer for acts of the same kind.
- (3) A commercial agent shall also be entitled to commission on juridical acts concluded during the period covered by the agency contract where he has, under the agency contract, an exclusive right to conduct negotiations or to conclude contracts on principal's behalf within a specific geographical area or group of customers, and where the transaction has been entered into with a customer belonging to that area or group.
- (4) A commercial agent shall be entitled to commission on juridical acts concluded after the agency contract has ceased:

a) if, in accordance with the conditions mentioned in para.(2) and (3), the proposal (offer or order) of the third party reached the principal or the commercial agent before the agency contract ceased.

b) if the juridical act is mainly attributable to the commercial agent's efforts during the period covered by the agency contract and if the transaction was entered into within a reasonable period after that contract ceased.

(5) A commercial agent shall not be entitled to the commission referred to in para.(2) and (3), if that commission is payable, pursuant to para.(4), to the previous commercial agent, unless it is reasonable for the commission to be shared between the two commercial agents.

Article 1204. Term for Commission Payment

(1) The commercial agent is entitled to commission as soon as and to the extent that the juridical act has been performed. Upon parties' agreement, agent's right to remuneration may arise either when principal's obligation to perform the juridical act concluded with a third party becomes due or when third party performs.

(2) The commission must be paid at the latest on the last day of the month when the agent obtained the right to commission. Agreements to derogate from provisions of this paragraph to the detriment of the commercial agent shall not be permitted.

Article 1205. Extinguishment of Right to Commission

(1) The right to commission can be extinguished only if and to the extent that it is established that the contract between the third party and the principal will not be executed, and that face is due to a reason for which the principal is not to blame. Agreements to derogate from this paragraph to the detriment of the commercial agent shall not be permitted.

(2) Any commission which the commercial agent has already received shall be refunded if the right to it is extinguished.

Article 1206. Providing of Information regarding Remuneration Calculation

(1) The principal shall supply his commercial agent with a statement of the commission due. This statement shall set out the main components used in calculating the amount of commission.

(2) A commercial agent shall be entitled to demand that he be provided with all the information, and in particular an extract from the books and documents, which is available to his principal and which he needs in order to check the amount of the commission due to him.

(3) Agreements to derogate from paras. (1) and (2) to the detriment of the commercial agent shall not be permitted.

Article 1207. Form of Agency Contract

(1) An agency contract may be concluded in writing or verbally.

(2) Each party has the right to seek a written conclusion of the contract or to receive from the other party a document stating the former's obligations under the agency contract.

Article 1208. Duration of Agency Contract

(1) The contract between the commercial agent and the principal may be concluded for an indefinite period.

(2) An agency contract for a fixed period which continues to be performed by both parties after that period has expired shall be deemed to be converted into an agency contract for an indefinite period.

Article 1209. Termination of Agency Contract

- (1) Where an agency contract is concluded or prolonged for an indefinite period either party may terminate it by notice.
- (2) The period of notice shall be one month for the first year of the contract, two months for the second year commenced, and three months for the third year commenced and subsequent years. The parties may not agree on shorter periods of notice.
- (3) If the parties agree on longer periods than those laid down in para.(2), the period of notice to be observed by the principal must not be shorter than that to be observed by the commercial agent.
- (4) Unless otherwise agreed by the parties, the end of the period of notice must coincide with the end of a calendar month.

Article 1210. Restraint of Trade Clause

- (1) The parties to an agency contract may make a provision in such contract concerning restriction of commercial agent's business in the same sector as principal's after cessation of the contract (restraint of trade clause).
- (2) A restraint of trade clause shall be valid only if:
 - a) it is concluded in writing;
 - b) it relates to the geographical area or the group of customers and the geographical area entrusted to the commercial agent and to the kind of goods covered by his agency under the contract;
 - c) it does not infringe upon legislation on antimonopoly and protection of competition.
- (3) A restraint of trade clause shall be valid for not more than two years after termination of the agency contract.

Article 1211. Compensation and Recovery of Damage

- (1) Upon contract cessation, the commercial agent may demand according compensation from the principal, if:
 - a) he has brought the principal new customers or has significantly increased the volume of business with existing customers and the principal continues to derive substantial benefits from the business with such customers;
 - b) payment of compensation is equitable having regard to all the circumstances and, in particular, the commission lost by the commercial agent on the business transacted, based on juridical acts already concluded or realizable in the future, with clients brought by him; or in consideration of the restraint of trade clause provided for by the agency contract in accordance with Article 1210.
- (2) The amount of the indemnity may not exceed a figure equivalent to an indemnity for one year calculated from the commercial agent's average annual remuneration over the preceding five years. In case of a shorter duration of contractual relations, the average remuneration for the period of agency shall be used as the basis.
- (3) The grant of such an indemnity shall prevent the commercial agent from seeking damages.
- (4) The commercial agent shall be entitled to compensation for the damage he suffers as a result of the termination of his relations with the principal. Such damage shall be deemed to occur particularly when the termination takes place in circumstances:
 - a) depriving the commercial agent of the commission which proper performance of the agency contract would have procured him whilst providing the principal with substantial benefits linked to the commercial agent's activities;

- b) which have not enabled the commercial agent to amortize the costs and expenses that he had incurred for the performance of the agency contract on the principal's advice.
- (5) Entitlement to the compensation provided for in para.(1), and the right to damages provided for in para.(4) may also be exercised by the heirs where the contract is ceased as a result of the commercial agents' death.
- (6) The claim for compensation and damages must be made within one year after cessation of the contractual relationships.
- (7) Compensation and damages shall not be payable:
- a) where the principal had a lawful right to terminate the contract due to the commercial agent's fault;
 - b) where the commercial agent has terminated the agency contract, unless such termination is justified by circumstances attributable to the principal or on grounds of age, infirmity or illness of the commercial agent in consequence of which he cannot continue his activities under the agency contract;
 - c) where, with the agreement of the principal, the commercial agent assigns his rights and duties under the agency contract to another person.

Section 2: Merchandise Broker

Article 1212. General Provisions on Merchandise Broker

- (1) A merchandise broker (broker) is a person who, in pursuance of his business, undertakes to conclude contract on merchandise or securities in his name but on account of another person (principal).
- (2) Where this Section does not provide regulation for broker's activity, rules regarding the commercial agent shall apply.
- (3) Norms on contract of commission shall apply, unless the provision of this Chapter provide otherwise.

Article 1213. Duties of Merchandise Broker

- (1) A merchandise broker is bound to conduct the assumed obligations with due care of a businessman in good faith. The broker is bound to comply with the interests and to follow the instructions of the principal.
- (2) The merchandise broker shall provide the principal with the required information; particularly notify him without delay of the performance of the commission. The merchandise broker must submit to the principal a report on commission performance and give him what is due from the respective performance.
- (3) The merchandise broker is liable to the principal for the juridical act concluded, if the former, while informing the latter about commission performance, does not specify the third party, whom he has entered the juridical act with.

Article 1214. Noncompliance with Principal's Instructions

If the merchandise broker does not act in compliance with principal's instructions, he is bound to compensate the latter for the damage. The principal in this case is not bound to admit the effect of the juridical act with respect to himself.

Article 1215. Price Limits

- (1) If the merchandise broker has performed a sale at a price lower than it was agreed, or exceeded the purchase price set, the principal, if wishing to reject the juridical act as one not made on his account, must declare his intention immediately after receiving notice about the juridical act conclusion. Otherwise, the deviation from the price set is deemed approved.
- (2) If the merchandise broker, while providing notification about the closure of the juridical act, offers to cover the difference in price, the principal may not reject the juridical act. Principal's right to compensation for losses which exceed the difference in price remains unimpaired.

Article 1216. Conclusion of the Juridical Act on More Profitable Terms

If the merchandise broker concludes a juridical act on more profitable terms than the principal has stipulated, the added profit is counted as principal's benefit. The foregoing is particularly effective when the selling price realized by the broker is higher than the lowest price set by the principal, or when the actual purchase price paid is less than the highest price set by the principal.

Article 1217. Merchandise Broker's Remuneration

- (1) The merchandise broker may claim compensation, if the juridical act is performed.
- (2) Even if the juridical act is not performed, the broker is entitled to commission, insofar as the trade usages provide for it.
- (3) The broker may also claim commission if the juridical act concluded by him was not performed for reasons relating to the fault of the principal or in relation to his personality.

Article 1218. Damaged or Defective Merchandise

If the merchandise that was delivered to him is deteriorated or has defects detectable upon inspection, the merchandise broker is bound to ensure proof of its condition in relation to the carrier or the principal regarding the condition of the merchandise and to give immediate notice to the principal. Otherwise, the merchandise broker is bound to compensate for losses inflicted therefore.

Article 1219. Merchandise Broker's Responsibility for Commodities

- (1) The merchandise broker bears liability for the loss or damage of the goods that he has taken charge of, unless the loss or damage is caused by circumstances that a businessman in good faith could not have averted by his care.
- (2) The merchandise broker bears liability for lack of merchandise insurance only if the principal has instructed him to insure the merchandise.

Article 1220. Advance and Credit upon Performance of Contract of Commission

- (1) If the merchandise broker has granted an advance payment or a credit to a third party without principal's consent, the former acts at his own risk.
- (2) If the trade usages provide for the possibility of deferred payment of the purchase price, the merchandise broker is also entitled to it, unless there is another instruction by the principal.
- (3) If the merchandise broker sells on credit, having no authority, he is bound as a debtor to pay, without delay, the purchase price to the principal.

Article 1221. Similar Contracts

The provisions of this Section also apply if the merchandise broker, in pursuance of his usual trade or business, undertakes, in his name and on behalf of another person, to conduct juridical act of other kind than specified in Article 1212 para.(1).

CHAPTER XXIV: BANKING CONTRACTS AND OPERATIONS

Section 1: Bank Deposit

Article 1222. Contract of Bank Deposit

- (1) By a contract of bank deposit, the bank or another legally authorized financial institution (bank), receives from its client (depositor) or from a third party in favor of the depositor an amount of money, undertaking to return it to the depositor after a certain period (timed deposit) or upon request (deposit by request).
- (2) Relations between the bank and the depositor shall be regulated by rules on loan and current bank account, if such rules do not come into contradiction with this Section and with the nature of the bank deposit.

Article 1223. Form of Contract of Bank Deposit

The contract of bank deposit must be concluded in writing. The written form is deemed complied with if the bank issues to the depositor a savings-bank book, a deposit certificate or any other document confirming the deposition of money and which complies with legal requirements and bank usages.

Article 1224. Interest

- (1) The bank shall pay to the depositor an interest in the amount and order set by contract, while if the contract does not provide for the amount of interest, this shall be determined in accordance with provisions of Article 619. The parties may agree that the bank does not pay interest to the depositor.
- (2) The bank may not unilaterally reduce the amount of interest, save for cases provided by law or contract, contingent on complying with a term of notice of at least 15 days.

Article 1225. Order of Interest Calculation and Payment

- (1) The interest on the bank deposit shall be calculated starting with the day following the day of deposit until the day preceding the return of the deposited amount or its transfer on other legal grounds.
- (2) Unless otherwise agreed under the contract of bank deposit, the interest on the amount of the bank deposit shall be paid to the depositor, upon his request, at the expiry of each quarter, while interest that has not been withdrawn shall be added to the sum of the deposit, on which interest further accrues.
- (3) Upon returning the deposited amount, the entire interest computed until that moment shall be paid out.

Article 1226. Bank Secret

- (1) The bank guarantees the secret of information pertaining to business relations with the client.

(2) Information that constitutes bank secret may be furnished only upon the request of the client or his representative. The bank may furnish such information to public authorities only in cases and under the procedures set by law.

(3) Where the bank disclosed information constituting bank secret, the depositor thus damaged is entitled to demand compensation.

Article 1227. Timed Deposit and Deposit upon Request

(1) Regardless of the type of deposit, the bank is bound to return the sum of the deposit, entirely or partially, upon depositor's first request, with a notice term as set by parties' agreement or by bank usages. Any contrary provision to the detriment of the depositor is void.

(2) Where the depositor is returned entirely or partially the deposited amount before the lapse of the agreed term, the interest shall be computed in the amount provided for deposits upon request, unless otherwise agreed.

(3) Where upon the lapse of the agreed term the depositor does not request return of the deposit, the contract shall be deemed extended under terms of a deposit upon request.

Section 2: Current Bank Account

Article 1228. Contract of Current Bank Account

By a contract of current bank account, the bank undertakes to receive and register in the account of the account holder (client) money amounts deposited by him or by a third party in cash or by transfer from accounts of other persons; to perform client's orders regarding transfer of amounts to other persons and cash withdrawals, within the limits of account balance; and to perform other operations on client's account, on the instructions of the latter, as provided by law, contract and bank usages, while the client undertakes to pay a remuneration for the rendering of the mentioned services.

Article 1229. Disposal of Money Amounts Found on Bank Account

(1) The account holder is free to dispose of the money amounts on his account at any moment, save for cases when, by agreement of the parties, a term for notice is set. The client is entitled to revoke his instructions regarding disposal of money amounts on his account. The revocation shall be effective if the bank receives it before the moment of performance of the respective instructions.

(2) Persons authorized to dispose of the money amount on account shall be indicated by the client by submitting the respective documents provided by law, contract and bank usages.

(3) The identification of persons authorized to dispose of the money amounts on account is made by the bank based on signatures or other identification means.

Article 1230. Client's Orders and Instructions

(1) The bank is bound to fulfill operations in client's account only by his order. The bank cannot perform operation in client's account without his orders save for cases provided by law or contract.

(2) In the case of performance of certain operations in client's account, the bank is bound to comply with the instructions of account holder within the limits of contract's purpose.

(3) Where the bank does not comply with client's instructions or derogates from them, the bank is bound to pay compensation if it cannot be deemed that, if aware of the situation, the holder would have approved the derogation.

(4) Rules on contract of mandate shall apply to the relations between the bank and the client, unless they contradict the provisions of this Chapter and the nature of the contract of current bank account.

Article 1231. Accounting of Operations and Account Statement

The bank shall keep account records by registering performed operations on account's debit and credit, being under the obligation to submit to the client, within the terms agreed, account statements concerning its condition. The account holder may demand at any time information or explanations on account's situation and circumstances of any operations performed on account.

Article 1232. Mutual Claims between Bank and Client

(1) The bank owes to the client interest for the use of funds on his account, unless otherwise agreed.

(2) The mutual claims of the bank and the client shall be extinguished by setoff.

Article 1233. Termination of the Contract

(1) The contract concluded for an undetermined period may be terminated at any time by either party, subject to a period of notice fixed by the contract or by bank usages, or, absent such a period, with a 15-days' notice.

(2) The bank may terminate the contract only to the extent that the holder of account may benefit in any other way of the possibility to make settlements by transfer, unless there is a good reason for termination.

Article 1234. Duty of Confidentiality

(1) The bank is bound to keep confidential all facts that became known to it as a consequence of business relations with the client. This duty does not arise if this is provided by a legal provision or if it pertains to general information, the disclosure of which does not damage the justified interests of the client.

(2) The duty of confidentiality continues even after cessation of contractual relations.

Article 1235. Cheque Collection and Payment

(1) Even in the absence of an additional contract to this effect, the bank is bound towards the client to collect cheques presented by the client, by mediating timely submittal to the drawee bank, and, in case of non-collection, to take the necessary security measures.

(2) Where an according contract exists, the bank is bound to pay cheques issued by the client, within the limits of account's credit.

Section 3: Bank Credit

Article 1236. Contract of Bank Credit

- (1) By a contract of bank credit, the bank (creditor) undertakes to put at the avail of a person (debtor) an amount of money (credit), while the debtor undertakes to repay the received amount and pay interest and other related amounts provided by contract.
- (2) The contract of bank credit shall be concluded in writing.
- (3) Rules on contract of loan shall apply to the contract of bank credit, to the extent that the rules of this Chapter do not provide otherwise or it does not follow otherwise from the essence of the contract of bank credit.

Article 1237. Interest on Bank Credit

- (1) The parties to the contract of bank credit may agree on a fixed or floating interest.
- (2) Where the parties agreed on a floating interest, its amount may be altered by parties' agreement.
- (3) The creditor may not alter the amount or interest unilaterally, save for cases provided by law or contract. Where the contract provides for bank's right to unilaterally alter the amount of interest, this shall be done contingent on the refinancing rate of the National Bank, the rate of inflation and the evolution of the market, taking into account the principle of fairness.
- (4) The creditor shall give written notice to the debtor about the alteration of the amount of interest, 10 days before alteration. The new amount of interest shall apply to the balance of the credit on the day of alteration.

Article 1238. Commission

Besides interest, the parties may agree on a commission for services rendered in connection with credit use.

Article 1239. Overdraft Credit

- (1) The credit may be accorded by putting at the avail of the debtor an amount of money (credit line), which he may use in installments, depending on his needs.
- (2) The interest for the overdraft credit shall be computed based on the amount of credit actually used during a certain period.

Article 1240. Security for Credit Reimbursement

- (1) Parties may agree on constituting securities, real (pledge), personal (guaranty) or other securities used in banking practice.
- (2) Where the creditor believes that the security for credit reimbursement is insufficient, the creditor is entitled to demand additional security to be constituted. Where the debtor refuses to constitute additional security demanded by the creditor, the latter is entitled to reduce credit in proportion to the reduction of security or to terminate the contract.
- (3) The creditor is bound to accept the annulment of security measures that exceed the agreed limit of security. This provision does not apply where the security exceeds the agreed limit only temporary.

Article 1241. Refusal to Perform Contract

- (1) The creditor is entitled to refuse performance of the obligation to offer the credit to the debtor if, after the conclusion of the contract of credit:
 - a) Circumstances arose that indicate with certainty debtor's future incapacity to reimburse the credit;

b) The debtor or a third party breaches the obligation to offer security for credit reimbursement, which he has assumed, or other conditions set by the bank for offering the credit.

(2) Where the contract provides for credit in installments, the creditor is entitled to refuse to offer the following installment of the credit, where the debtor does not fulfill the terms of the contract regarding previous installment or installments.

(3) The debtor is entitled to reject the credit entirely or partially. In such case, he shall pay to the creditor remuneration for offering the credit (commission for non-use).

(4) The right of refusal provided by para. (1)-(3) may be exercised only if the party that refuses notifies the other party within a reasonable time before performance of obligations that constitute the object of refusal.

Article 1242. Termination of the Contract

(1) The creditor may terminate the contract and demand reimbursement of credit and related amounts, if:

a) the debtor became insolvent;

b) the debtor failed to deliver the requested security or reduced the delivered security without creditor's authorization;

c) the debtor fails to pay the interest at the fixed term;

d) the debtor failed to reimburse at least 2 instalments of the credit, where the contract provided for credit reimbursement in instalments;

e) in other cases provided by law or contract.

(2) Contract termination suspends immediately the use of credit, but the creditor may allow the debtor 15 days for reimbursing the amounts used and related amounts.

(3) The debtor may declare termination of the contract of credit with floating interest at any moment, subject to 7 days' notice to the creditor after receiving the notice about alteration of interest amount.

(4) The debtor may terminate the contract of credit with fixed interest for a certain period, if the duty to pay interest ceases before the term set for credit reimbursement comes about and there is no agreement concerning another interest. A 15-days' notice is required.

(5) Termination for the reason laid down in para.(1) let.d) shall become effective only where the creditor allowed the debtor, to no avail, 15 days for payment of the remaining amount.

Article 1243. Debtor's Liability

(1) Where the debtor does not perform the due obligation of credit reimbursement, as well as of payment of interest and other related sums, the creditor may demand the payment of a default penalty in the order and amount provided by law or contract.

(2) Where the debtor is in delay in what regards payment of amounts owed under the contract and the parties did not agree in the contract on the default penalty, an interest by 5% greater than that provided for in the contract shall accrue on the owed amount.

(3) Where the creditor terminated the contract for the reason that the debtor is in delay concerning reimbursement of owed amounts, the creditor shall be entitled to an interest equal to the legal rate of interest. This does not affect creditors or debtor's right to prove causation of a greater or lesser damage by delay of credit reimbursement.

Article 1244. Creditor's Liability

Where the bank does not perform the obligation to offer credit, the debtor may demand payment of a delay penalty in the order and amount provided by law or contract.

Article 1245. Reparation of Damage in Case of Early Reimbursement of Credit

Where the debtor reimburses the credit before the maturity date, the creditor is entitled to demand compensation for damage caused by early reimbursement, while subtracting the saved amounts, taking into account the credit that could have been accorded on account of these funds. Upon calculating the damage, both the profit lost by the creditor and the costs avoided by the debtor by early reimbursement shall be taken into account.

Section 4: Bank Guaranty

Article 1246. Bank Guaranty

- (1) The bank guaranty is a written commitment, assumed by a bank or other financial institution (guarantor), at the request of another person (principal), to pay a sum of money to the principal's creditor (beneficiary) on the basis of beneficiary's written request.
- (2) The bank guaranty ensures proper performance of the principal's obligations to the beneficiary.
- (3) The principal is bound to pay the guarantor the remuneration agreed upon.
- (4) The guarantor's obligations to the beneficiary provided by the bank guaranty do not depend on the principal obligation, which the guaranty has been issued to secure, even if the guaranty makes a reference to it.

Article 1247. Irrevocability of Bank Guaranty

A bank guaranty may not be revoked, unless otherwise agreed.

Article 1248. No Assignment of Bank Guaranty

The right to a bank guaranty may not be assigned to a third party, unless otherwise agreed under the guaranty.

Article 1249. Moment of Bank Guaranty Coming into Effect

A bank guaranty comes into effect from the day it is issued, unless otherwise agreed under the guaranty.

Article 1250. Claim of Payment

- (1) Where the secured case occurred, the beneficiary must lodge in writing his claim against the guarantor, attaching the relevant sustaining documents. The beneficiary must specify the essence of the breach of obligation by the principal.
- (2) Beneficiary's claim against the guarantor may be lodged only before the expiration of the term set in the guaranty.

Article 1251. Guarantor's Duties

- (1) Upon receiving beneficiary's claim, the guarantor must without delay inform the principal thereof.
- (2) Where the beneficiary claimed his rights, the guarantor must, within a reasonable time and with due diligence, examine whether the conditions necessary for payment are complied with.

Article 1252. Guarantor's Refusal to Satisfy Claim for Payment

(1) The guarantor is bound refuse to satisfy claims arising under bank guaranty, if the secured case did not occur, the documents attached do not comply with the terms set or if the claims have been filed after the expiration of the term fixed by the guaranty. The guarantor must without delay inform the beneficiary of the refusal to satisfy his claim.

(2) If, before satisfaction of beneficiary's claim, the guarantor obtains knowledge that the principal debt secured by the bank guaranty has been fulfilled completely or has ceased for other reasons, or has become ineffective, he must without delay notify the beneficiary and the principal to that effect. Where the principal repeatedly orders payment after such notification, the guarantor is bound to make payment.

Article 1253. Limits of Guarantor's Liability

(1) Guarantor's obligation to the beneficiary is restricted to the payment of the secured amount.

(2) Unless otherwise agreed under the guaranty, guarantor's liability to the beneficiary for nonperformance or improper performance of the guaranty obligation shall not be restricted to the payment of the secured amount.

Article 1254. Grounds for Cessation of Guarantor's Obligation

(1) Guarantor's obligations to the beneficiary cease by:

- a) payment of the secured amount;
- b) expiration of the fixed term of the guaranty;
- c) beneficiary's waiver of his rights;
- d) guarantor's written confirmation of the beneficiary's waiver of his rights.

(2) Cessation of guarantor's obligations on grounds provided for by let. a), b) and d) comes about regardless of the fact whether the deed of guaranty is returned to him or not.

(3) The guarantor must forthwith give notice to the principal about the termination of such guaranty.

Article 1255. Principal's Duties towards Guarantor

(1) The principal is bound to reimburse the guarantor the sum given to the beneficiary under the bank guaranty.

(2) The right to reimbursement shall arise only inasmuch as the guarantor could have considered necessary payments made to the beneficiary in relation to the agreement concluded with the principal.

Section 5: Payment Order

Article 1256. Payment Order

(1) The payment order (payment draft) is the order given by a person (drawer) to a bank (drawer bank) to pay an amount of money in favor of another person (beneficiary) for the purpose of extinguishing drawer's obligation towards the beneficiary.

(2) The payment order may be simple, where collection of amount by the beneficiary is not contingent on submittal of a certain document regarding the purpose of payment, or documentary, where collection of payment is contingent on submittal by the beneficiary of certain documents requested by the drawer.

Article 1257. Execution of Payment Order

(1) The drawer bank shall execute the payment order by transferring the indicated amount from drawer's account to beneficiary's account in the same bank or a different bank (payer bank).

(2) The bank shall execute the payment order within the terms set by law, parties' agreement or bank usages.

(3) The drawer may revoke or alter the payment order as long as the bank did not execute it yet.

Article 1258. Content of Payment Order

The payment order shall include:

- a) drawer's name, address and account number;
- b) beneficiary's name, address and account number;
- c) name, code and address of drawer bank;
- d) payment order;
- e) amount in figures and in words;
- f) grounds for payment;
- g) in case of documentary payment order, instruction regarding documents that must be submitted by the beneficiary;
- h) date of issuance;
- i) signature of drawer's authorized person(s);
- j) other information, according to the regulations of the National Bank of Moldova.

Section 6: Payment by Cheque

Article 1259. Cheque

(1) The cheque is a transmissible document, consisting in a written claim, drafted in accordance with legal provisions, containing the unconditional order of the issuer (drawer) towards the payer (drawee) to pay a certain amount upon the request of the presenter of the cheque or of the person indicated on the cheque, or by order of the latter.

(2) The cheque is not contingent on the transaction on which the claim paid by cheque is based.

(3) Payment by cheque is regulated by this code, other laws and bank usages.

Article 1260. Cheque Requisites

(1) The cheque includes:

- a) the word "cheque", inserted in its title;
- b) the simple and unconditional order to pay a determinate sum of money to the presenter of the cheque or to the person indicated in the cheque, or by order of the latter;
- c) drawee's name, address or registered office;
- d) place of payment;
- e) date and place of issuance;
- f) drawer's name, address or registered office;
- g) drawer's signature.

(2) An instrument in which any of the mentioned requirements is wanting is invalid as a cheque, except in the cases specified in the following cases:

- a) in the absence of special mention, the place specified beside the name of the drawee is deemed to be the place of payment. If several places are named beside the name of the drawee, the cheque is payable at the first place named. In the absence of these statements, the cheque is payable at drawee's domicile or registered office;
 - b) a cheque which does not specify the place at which it was drawn is deemed to have been drawn in the place specified beside the name of the drawer.
- (3) Any mention on the cheque relating to acceptance, interest or liberation of drawer from liability for payment shall be deemed unwritten.

Article 1261. Amount of Cheque

Where the sum payable by a cheque is expressed in words and also in figures, and there is any discrepancy, the sum denoted by the words is the amount payable. Where the sum payable by a cheque is expressed more than once in words or more than once in figures, and there is any discrepancy, the smaller sum is the sum payable.

Article 1262. Signature on Cheque

- (1) If a cheque bears signatures of persons incapable of binding themselves by a bill of exchange, or forged signatures, or signatures of fictitious persons, the obligations of the other persons who have signed it are none the less valid.
- (2) Whosoever puts his signature on a cheque as representing a person for whom he had no power to act is bound himself as a party to the cheque and, if he pays, has the same rights as the person for whom he purported to act. The same rule applies to a representative who has exceeded his powers.

Article 1263. Cheque Issuance

- (1) The cheque may be issued:
 - a) in favor of a person, with or without the express clause "to order", "to our order" or equivalent words (cheque by order). A cheque may be drawn to the drawer's own order.
 - b) in favor of a person, with the words "not to order" or equivalent words (nominal cheque). The nominal cheque may not be issued in favor of the drawer, save for the cheque issued by drawer's branch in favor of another branch;
 - c) in favor of cheque's presenter (cheque to bearer). The cheque issued in favor of a person with the words "or to bearer" is deemed to be a cheque to bearer. The cheque that does not contain the name of the beneficiary is deemed to be a cheque to bearer.
- (2) A cheque may be issued only against a drawee holding funds at the disposal of the drawer and in conformity with an agreement, express or implied, also referring to the form of cheque issuance. Nevertheless, if these provisions are not complied with, the instrument is still valid as a cheque.
- (3) Where the cheque that has not been filled in upon its issuance is later filled contrary to the parties mutual agreement, non-observance of this agreement may not be set up against the cheque holder, save for the case when he obtained it in bad faith or by gross negligence.

Article 1264. Cheque Transmittal

- (1) The cheque by order may be transferred by means of endorsement. The endorsement transfers all rights from endorser to the cheque holder, who is deemed legal possessor if he justified his right uninterrupted series of endorsements, even if such endorsements are blank.
- (2) The endorser is liable for cheque payment, save for persons to whom the cheque was passed over by endorsement, after the following endorsements by that endorser have been prohibited.

- (3) The endorser is bound to indicate the date of endorsement note.
- (4) A nominal cheque can only be transferred according to the form and with the effects of an ordinary assignment.

Article 1265. Endorsement

- (1) An endorsement must be unconditional. Any condition to which it is made subject shall be unwritten.
- (2) A cheque may be endorsed even to the drawer or to any other party to the cheque. These persons may re-endorse the cheque.
- (3) The partial endorsement and that signed by the drawee are void.
- (4) An endorsement must be written on the cheque or on a slip affixed thereto (allonge). It must be signed by the endorser.

Article 1266. Blank Endorsement

- (1) It is allowed that the endorsement does not specify the person in whose favor it is made, bearing only endorser's signature and requisites on the cheque (verso) or on the allonge (blank endorsement).
- (2) An endorsement " to bearer " is equivalent to an endorsement in blank.

Article 1267. Endorsement by Proxy

Where the endorsement contains the note "for collection", "by procuration"), or any other phrase implying a simple mandate to collect the cheque, the holder may exercise all rights arising out of the cheque, but he can endorse it only by order of the endorser (endorsement by proxy). In this case the parties liable can only set up against the holder defences which could be set up against the endorser.

Article 1268. Endorsement following Protest or time limit for presentment

An endorsement after protest or after an equivalent declaration or after the expiration of the limit of time for presentment operates only as an ordinary assignment. Failing proof to the contrary, an undated endorsement is deemed to have been placed on the cheque prior to the protest or equivalent declaration or prior to the expiration of the limit of time referred to in the preceding paragraph.

Article 1269. Dispossession

Where a person has been dispossessed of a cheque, the holder into whose possession the cheque has come not bound to give up the cheque unless he has acquired it in bad faith or by gross negligence.

Article 1270. Collateral Acceptance

- (1) Partial or complete cheque payment may be guaranteed by collateral acceptance (guaranty), accorded by a third party or even by a signor of the cheque (guarantor).
- (2) The collateral acceptance shall be accorded by note on the cheque or the allonge. Its shall be expressed by the words "to consider as collateral acceptance", "as guarantor for..." or by any other equivalent. The guarantor shall indicate the amount of guaranty, his name, domicile

(registered office) and the person for whom the guarantor binds himself and shall sign the guaranty.

(3) The guarantor shall be liable as all persons bound by the cheque. Guarantor's obligation shall be valid even in the case when the secured obligation is void for any reason.

(4) Where the guarantor pays the cheque, he acquires rights arising under the cheque towards the one he gave guaranty for, as well as in relation to those that, according to the cheque, are bound towards the person in whose favor the cheque was issued.

Article 1271. Payment Based on Cheque

(1) The cheque is payable upon request. Any contrary indication is deemed unwritten. The cheque submitted for payment before the day of issuance shown on the cheque is payable upon submittal.

(2) The term of cheque submittal for payment constitutes 8 days. The term starts running as of cheque issuance.

Article 1272. Cheque Revocation

(1) Cheque revocation is valid only after the lapse of the term of submittal for payment.

(2) Where the cheque is not revoked, the drawee may also effect payment after the lapse of the term of submittal for payment.

(3) The death or incapability of the drawer, occurred within the term of submittal for payment, does not affect cheque validity.

Article 1273. Drawee's Rights

(1) The drawee may demand the copy of the cheque upon effecting payment towards cheque's holder and request from him written confirmation of receipt of the paid amount.

(2) Partial payments may not be refused. In case of partial payments, the drawee may demand from the cheque holder written confirmation of partial payment.

Article 1274. Holder's Rights in Case of Cheque Non-Payment

(1) The cheque holder may exercise his right of action against the drawer, the endorser and other bound persons, if the cheque submitted within the legal term is not paid and the refusal of payment is proved by:

a) a notary certified deed (protest);

b) a declaration of the drawee that contains the date of the declaration and the date of cheque submittal for payment.

(2) The protest or any other similar act must be effected before the lapse of the term of cheque submittal for payment.

Article 1275. Notification Duties

(1) The holder of the cheque must give notice to the cheque endorser and drawer about payment refusal within 4 working days that follow the day of issuance of the protest or other similar deed, while in case of a note on the cheque stating "circulation without delay", the duty to give notice must be fulfilled on the day following the day of cheque submittal.

(2) Every endorser shall give notice to the preceding endorser (from whom the former received the cheque) within 2 working days, while in the case that the obligation of the preceding endorser is secured by a guarantor, the respective person shall also give notice to the guarantor

about the notification received, specifying the name and address of those who signed the previous notices, until the information about non-payment shall be sent to the drawer.

(3) Failure to send the mentioned notices does not deprive the person from his rights that arise under the cheque. However, this person shall be held liable for the damage that could be caused by failure to perform the duty to give notice (such liability cannot exceed the value of the cheque).

Article 1276. Note “Without Protest”

(1) The cheque holder, endorser or guarantor, are entitled to liberate the next cheque holders from the duty to make deed of protest or any other similar deed necessary for the exercise of the right of recourse, by inserting the note “circulation without delay”, “without protest” or any other similar note, signed by them. Where the respective note is inserted by the drawer, it shall be applicable to all persons that signed the cheque, while if it is inserted by an endorser or a guarantor; the note shall be applicable only to those that signed it.

(2) The note provided for in para.(1), does not liberate cheque holders from the duty to give notice.

(3) Where, in spite of the note, the cheque holder issues a deed of protest or any other similar deed, he shall bear the related costs.

Article 1277. Liability of Participants to Cheque Payments

(1) All persons bound under the cheque are joint and several debtors in relation to the cheque holder and in relation to any person that applied on the cheque the instruction of cheque payment, signed by the payer. The action filed against one of the persons bound under the cheque does not bar filing action against other joint and several debtors.

(2) The cheque holder may request from the person against whom the action is filed payment of:

a) the unpaid cheque value;

b) a 6% interest for the period of non-payment;

c) costs for issuance of the deed of protest or any other similar act, for sending of notices, and other costs relating to the court action.

(3) The person that has effected cheque payment may demand from the rest of the debtors payment of:

a) the amount paid based on cheque;

b) a 6% interest for the period that lapsed from cheque payment;

c) costs relating to cheque payment.

(4) Any person against whom a recourse action is filed according to the provisions of para.(1)-

(3) may condition cheque payment on the receipt from the person that filed the recourse action of the cheque, together with the deed of protest or any other similar deed (as the case may be), with written confirmation that the latter received payment under the cheque. Any endorser that effected cheque payment may erase his endorsement note and the following endorsements from the cheque.

(5) Actions filed with a view to receiving the amounts indicated in para.(2) and (3) are subject to a 6-month period of limitation. Interruption of the running of the period of limitation shall apply only in relation to the person in whose regard there are grounds to do this.

Article 1278. Force majeure

(1) Where the submittal of cheque for payment, the issuance of the deed of protest or of any similar deed within the set terms is barred by an event of force majeure, the mentioned term shall be extended for the duration of this event, contingent on the notification by the cheque holder of

his endorser about the occurrence of the force majeure event and contingent on the note about performance of such notification, written on the cheque.

(2) Where an event of force majeure occurred, provisions of Article 1275 shall also apply to the fulfillment of the duty to notify.

(3) Where the duration of the force majeure event exceeds 15 days from maturity, the right of recourse may be exercised without cheque submittal or without issuance of the deed of protest or of any other similar deed.

Section 7: Payments by Bill of Exchange or by Promissory Note

Article 1279. Bill of Exchange and Promissory Note

(1) The bill of exchange is an instrument of credit that consists in a written claim, issued in accordance with legal provisions, containing the unconditional order given by the drawer (issuer) to the drawee (payer) to pay immediately or upon maturity a certain amount to the presenter of the bill of exchange or to the person indicated in the bill, or at the order of that person.

(2) The promissory note is an instrument of credit, issued in accordance with legal provisions, by which the drawer undertakes to pay immediately or upon maturity a certain amount to the presenter of the deed or the person indicated in it, or at the order of that person.

(3) The bill of exchange and the promissory note do not depend on juridical act on which claims paid by such means are based.

(4) Payments by bill of exchange and by promissory note are regulated by this Code, the Law on Bill of Exchange and by other normative acts, as well as by bank usages.

Section 8: Payments by Documentary Letter of Credit

Article 1280. Documentary Letter of Credit

(1) The documentary letter of credit is an arrangement, however named or described, whereby a bank (issuing bank), acting at the request and on the instructions of a customer (applicant) or on its own behalf, is to make a payment to or to the order of a third party (the beneficiary), or is to accept and pay bills of exchange drawn by the beneficiary, or authorises another bank to effect such payment, or to accept and pay such bills of exchange.

(2) Documentary letter of credit is an agreement separate from the juridical act on which it may be based. In letter of credit operations all parties concerned deal with documents, and not with goods, services or other performances to which the documents may relate.

(3) Payment under documentary letter of credit is regulated by this Code, other normative acts, as well as by bank usages.

Article 1281. Presumption of Irrevocability of Letter of Credit

(1) The letter of credit should clearly indicate whether it is revocable. Otherwise, the letter of credit shall be deemed irrevocable.

(2) An irrevocable letter of credit constitutes a definite undertaking of the issuing bank, provided that the stipulated documents are presented to the nominated bank or to the issuing bank and that the terms and conditions of the letter of credit are complied with. An irrevocable

letter of credit may be amended or cancelled without the consent of the issuing bank and the confirming bank, if any, and of the beneficiary only in cases provided by this Code.

(3) A revocable letter of credit may be amended or cancelled by the issuing bank at any moment and without prior notice of the beneficiary, provided that it shall reimburse the bank that made the letter of credit usable, for any payment, acceptance or receipt of documents (in case of letters of credit with fixed-term payment), if such actions are in compliance with the terms of the letter of credit and have been made prior to receipt by it of notice of amendment or cancellation of the letter of credit.

Article 1282. Use of Letter of Credit

(1) A letter of credit must clearly indicate whether it is available by sight payment, by deferred payment or by acceptance.

(2) Unless the letter of credit stipulates that it is available only with the issuing bank, it must nominate the bank (the nominated bank) which is authorised to pay, to incur a deferred payment undertaking or to accept bills of exchange. Unless the nominated bank is the confirming bank, nomination by the issuing bank does not constitute any undertaking by the nominated bank to pay.

(3) Presentation of documents must be made to the issuing bank or the confirming bank, if any, or any other nominated bank.

Article 1283. Endorsement of Letter of Credit

(1) A confirmation of an irrevocable letter of credit by another bank (confirming bank) upon the authorisation or request of the issuing bank, constitutes a definite undertaking of the confirming bank, in addition to that of the issuing bank, provided that the stipulated documents are presented to the confirming bank or to any other nominated bank and that the terms and conditions of the letter of credit are complied with.

(2) If another bank is authorised or requested by the issuing bank to add its confirmation to a letter of credit but is not prepared to do so, it must so inform the issuing bank without delay.

(3) Unless the issuing bank specifies otherwise in its authorisation or request to add confirmation, the advising bank may advise the letter of credit to the beneficiary without adding its confirmation.

(4) A confirming bank may choose to advise an amendment to the beneficiary without extending its confirmation and if so, must inform the issuing bank and the Beneficiary without delay.

Article 1284. Transferable and Assigned Letter of Credit

(1) A letter of credit can be transferred only if is expressly designated as transferable. The fact that a letter of credit is not stated to be transferable shall not affect the beneficiary's right to assign any proceeds to which he may be, or may become, entitled under such letter of credit, in accordance with the provisions of the applicable law.

(2) A transferable letter of credit is one under which the beneficiary (first beneficiary) may request the nominated bank (transferring bank) to make an undertaking of deferred payment or to accept or, in case of free negotiations, to make the letter of credit available in whole or in part for one or more beneficiary(ies) (second beneficiary(ies)).

(3) The transferring bank shall be under no obligation to effect such transfer except to the extent and in the manner consented by such bank.

(4) Unless otherwise stated in the letter of credit, a transferable letter of credit can be transferred once only.

Section 9: Payment by Documentary Collections

Article 1285. Documentary Collections

(1) The documentary collection is a commitment by which a bank (remitting bank) undertakes to manipulate, according to the instruction given by its client (principal), financial documents (bills of exchange, promissory notes, cheques, or other similar instruments used for obtaining the payment of money), accompanied by commercial documents (invoices, transport documents, documents of title or other similar documents not being financial documents), with a view to accomplishing, also by mediation of another bank (collecting bank), payment or acceptance of issued bills of exchange, or with a view to issuing documents against payment or acceptance of issued bills of exchange.

(2) A collection instruction should contain the following items of information:

- a) principal and drawee (name, address, telex, phone, fax);
- b) the bank from which the collection was received and the presenter bank (SWIFT code, in addition to the information requested from the principal and the drawee);
- c) amount and currency to be collected;
- d) list of documents enclosed and the numerical count of each document;
- e) terms and conditions upon which payment and or acceptance is to be obtained;
- f) charges to be collected;
- g) interest to be collected, if applicable, indicating the rate of interest, interest period and basis of calculation;
- h) method of payment and form of payment notice;
- i) instructions in case of non-payment, non-acceptance, or non-[compliance] with other instructions.

(3) The documentary collection is a contract separate from its underlying transaction.

(4) Payments by documentary collection are regulated by this Code, by other legal acts and by bank usages.

Article 1286. Banks' Duties and Responsibilities

(1) Banks shall have no obligation to handle either a collection or any collection instruction or subsequent related instructions. If a bank elects, for any reason, not to handle a collection or any related instructions received by it, it must advise the party from whom it received the collection or the instructions without delay.

(2) Banks are only permitted to act upon the instructions given in such collection instruction, and in accordance with this Code. Banks will not examine documents in order to obtain instructions.

(3) Without prejudice of the obligation to check compliance of the received documents with the list contained in the instructions for collection and to give immediate notice to the principal in case of absence of documents or submittal of other documents than the enlisted ones, the banks shall not have any further obligation in this regard. The submitting bank must check whether the form of acceptance of the bill of exchange is correct and complete, but is not liable for the authenticity of signatures or for the validity of the right to sign of those who signed the bill of exchange.

(4) The banks shall not assume any obligation or liability regarding the authenticity of received documents.

(5) The bank assigned to execute a documentary collection must give notice of its further evolution in conformity with the instructions of the remitting bank.

Article 1287. Execution of Documentary Collection

(1) The bank assigned to collect the paid amount shall submit (make available according to principal's instructions) the documents to the person to whom the submittal must be made (drawee) in the form in which those documents were received, save for the case when the banks are authorized to apply necessary stamps and seals, to make any necessary endorsements and to apply all identification elements or usual symbols, required by the collection operations.

(2) Amounts that must be paid are made available to the principal without delay. Unless otherwise agreed, the bank assigned to perform collection shall make payment of the owed amounts only towards the remitting bank, even in the case provided by Article 1286.

(3) Partial payments are allowed in the case of a documentary collection only if this is specified in the collection instructions, and the documents are issued only after the entire payment is made, unless collection instructions provide otherwise. In the case of partial payments made under this paragraph, the submitting bank is not liable for the consequences of tardy issuance of documents. Partial payments shall be made according to the requirements of para.(1).

Article 1288. Interest, Commission and Costs

(1) Interest is paid only if this is stipulated in the collection instructions. Where the payments of interest, costs and commission are eluded by the drawee, these shall be borne by the principal. Where, in accordance with the collection instructions and this Code, the payment of commission, costs and of other expenses must be borne by the principal, the bank assigned to make collection is entitled to recovery of such expenses from the bank that received the collection instructions, while the remitting bank is entitled to recovery from the principal of any amount paid thereby, regardless of the further evolution of the collection. The banks participating in the execution of the collection instructions may demand advance payment of commission, costs and other expenses and, contingent on the receipt of the advance payment, reserve the right to put or not to put into action the instructions received.

(2) Where the drawee refuses to pay the established interest, the submitting bank may issue the documents without collecting interest, against payment or acceptance of issued bills of exchange or on other terms, save for the case when collection instructions clearly specify that the payment of interest may not be avoided. The submitting bank does not bear liability for the consequences of the refusal to pay interest and is bound to give immediate notice to the remitting bank about the refusal, as provided by Article 1286.

(3) Where the collection instructions provide for payment of collection costs and commission by the drawee and the latter refuses to pay, the provisions of Article 1286 para.(5) shall apply *mutatis mutandis*.

Section 10: Payment by Bank Card

Article 1289. Bank Card

(1) The bank card is a payment instrument issued by a bank (issuer) that allows the card holder to withdraw cash, to make transfer payments within the limits of account balance in the issuer bank or on account of a credit line accorded by the latter.

(2) The holder of the bank card may make payments for goods and services rendered by commercial enterprises which, based on contracts concluded with the issuer, accept to be paid by card. The commercial enterprise recovers the amounts for performance towards the holder of the card by assigning the claim against the holder of the card to the issuer.

(3) Payments by bank card are regulated by the provisions of this Code, in particular the norms regarding the payment order, the current bank account, the overdraft credit and by other normative acts and bank usages.

CHAPTER XXV: FACTORING

Article 1290. Factoring Contract

(1) Under a factoring contract, a party who is a provider of goods and services (the supplier) undertakes to assign to the other party, a factoring company (the factor), actual or future claims under contracts of sale of goods, service rendering and contracts for work, while the factor is to perform at least 2 of the following functions:

a) finance for the supplier, including loans and advance payments;

b) accounting of claims;

c) ensuring warning procedure and collection of claims;

d) assuming the risk of debtor's insolvency for claims that have been taken over (delcredere);

(2) The factoring contract shall be concluded in writing.

(3) Notice of the assignment of the receivables is to be given to the debtor.

(4) The parties are bound to specify the size, volume, field and properties of claims that form the object of contract, as well as the elements for determining the payment amount.

(5) Provisions governing assignment of claims shall apply to the factoring contract, inasmuch as the provisions of this Chapter do not provide otherwise or it does not follow otherwise from the essence of factoring.

Article 1291. Duty to Give Notice

Both parties undertake to provide each other with the needed information, with a view to contract unfolding in conformity with the interests of each party.

Article 1292. Assigned Claims

(1) The contract may provide for the transfer of all supplier's rights deriving from the contracts with the debtors or only some of them.

(2) The contract may provide for the assignment of actual, future, conditional claims, and claims determined upon conclusion of contract or determinable at the latest upon their arising.

(3) A provision in the factoring contract by which future claims are assigned operates to transfer the claims to the factor when they come into existence without the need for any new act of transfer.

Article 1293. Nullity of Prohibition of Assignment

The assignment of a claim by the supplier to the factor shall be effective notwithstanding any agreement between the supplier and the debtor prohibiting such assignment. This provision is without prejudice to supplier's liability towards the debtor for damage inflicted by the assignment operated contrary to contractual provisions.

Article 1294. Supplier's Liability

(1) The supplier is liable for the existence of claims, as well as for the performance of contractual obligations by the debtor.

(2) The supplier is liable for debtor's solvency, if the risk has not been taken over by the factor according to Article 1290 para.(1) let.d).

Article 1295. Payment Owed to Factor. Guaranty

(1) The contract is void if it does not expressly provide the amount that is to be paid to the factor. The amount is computed based on the given circumstances, focusing in particular on the eventual delcredere fee and, additionally, on the share held by total deductions from the assigned claims.

(2) Where the factor demands a part of the amount of claim as guaranty for covering risks related to contract unfolding, he must expressly provide the content and amount of the sum. The guaranty may not exceed 20% of the amount of claims.

Article 1296. Rights of Guaranty in Relation to Debtor

Supplier's rights and guaranties in relation to the debtor pass to the factor concomitantly with the conclusion of claim transfer to the factor, inasmuch as this is provided in the factoring contract.

Article 1297. Debtor's Rights

(1) The debtor may set up against the factor all objections and defences that he had against the supplier.

(2) The debtor may demand from the factor compensation for his claim against the supplier, if that claim was mature at the moment of claim assignment to the factor.

(3) In cases provided by para.(1) and (2) the supplier is liable towards the factor for losses inflicted. In case of additional damage, the supplier is liable to pay compensation only inasmuch as the damage were inflicted by imputable conduct.

Article 1298. Debtor's Right of Recourse

Where the debtor has paid to the factor, the latter made payment towards the supplier, and the supplier does not perform his contractual obligations, the debtor shall be entitled to demand reparation of damage only from the supplier. The debtor may also demand reparation from the factor, where the latter made payment to the supplier, while being aware that the latter did not perform his obligations under the contract.

Article 1299. Open or Covered Factoring

(1) The factoring contract may provide for parties' obligation and right to notify the debtor about the assignment of claim, as well as the means by which he should be notified.

(2) Where the debtor has not been notified about the assignment of claim and the type of the claim, debtor's payment to the supplier may be set up against the factor. In such case, the supplier is bound to forthwith deliver the obtained amount to the factor.

(3) Debtor's payment to the factor is exonerative, regardless of the performance of the duty of notification, save for the situation when the debtor was aware that the assignment is ineffective.

Article 1300. Other Assignments

Where the factor subsequently assigns claims taken over from the supplier, the provisions of this Chapter shall apply accordingly, the latest supplier being considered factor.

CHAPTER XXVI: INSURANCE

Article 1301. Contract of Insurance

Under a contract of insurance, the insured undertakes to pay to the insurer an insurance premium, while the latter undertakes to pay to the insured or to a third party (insurance beneficiary) an insured sum or a compensation, within the agreed limits and terms, upon occurrence of the insured risk.

Article 1302. Types of Insurance

Insurance comprises personal insurance and insurance for damage.

Article 1303. Personal Insurance

- (1) In case of personal insurance the insured's life and health (including mental sanity) may become object of insurance.
- (2) Personal insurance may be individual or collective.

Article 1304. Insurance for Damage

- (1) Insurance for damage secures the insured person against the consequences of an event that may affect his patrimony.
- (2) The insurance for damage comprises insurance of property and civil liability insurance.

Article 1305. Reinsurance

- (1) By concluding the contract of reinsurance:
 - a) the reinsurer contributes, according to obligations undertaken and in exchange for reinsurance premiums received, to the payment of indemnifications which the reinsured is bound to pay upon realization of the reinsured risk;
 - b) the insurer, as reinsured, assigns a part of the insurance premiums, in exchange for which the reinsurer contributes, according to the obligations undertaken, to the payment of indemnifications which the reinsured is bound to pay upon realization of the reinsured risk.
- (2) A contract of reinsurance shall have effect only between the reinsurer and the reinsured.

Article 1306. Conclusion of Contracts in the Republic of Moldova

Persons from the Republic of Moldova shall conclude insurance contracts with societies registered in the Republic of Moldova, save for cases when the needed insurance type is not carried out on the internal market.

Article 1307. Insured Risk and Insured Event

- (1) An insured risk is a possible, but uncertain future event, which may affect the life, health of the patrimony of a person.
- (2) Insurance of the following risks shall be prohibited:
 - a) illegal interests;
 - b) damage inflicted by participation in lotteries, games and bets;
 - c) potential costs to which a person may be subject in order to set free hostages.

(3) An insured event is the event for removal of the consequences of which the insurance was concluded, and at the occurrence of which insurer's obligation to pay the insured sum or the compensation arises.

Article 1308. Conclusion of Contract of Insurance

(1) With a view to concluding a contract of insurance, the insured shall submit to the insurer a written proposal (request), where he shall indicate his own and beneficiary's interest or shall declare by word of mouth the intention to conclude a contract of insurance.

(2) A contract of insurance may be concluded in favour of several beneficiaries.

(3) A contract of insurance shall be concluded in writing.

(4) A contract of insurance shall provide for:

a) the name, domicile or registered office of the contracting parties;

b) object of insurance: property, person or civil liability;

c) insured risks;

d) start and duration of insurance;

e) insured sum;

f) insurance premiums, place and term of payment;

g) other information, required under law or contract.

(5) A contract of insurance may not be proved by witness testimony, even if there is partial written proof.

(6) A proof of conclusion of the contract of insurance may also be inferred from the sending of an insurance document, as well as from the insurance policy (certificate), from the request for premium payment or from the deed that confirms this payment or from any other document from which the conclusion of contract may be inferred.

Article 1309. Insurance Policy

(1) An insurer is bound to hand over to the insured a copy of the insurance policy signed by him.

(2) An insurance policy shall provide for:

a) name, domicile or registered office of the contracting parties;

b) object of insurance: property, person or civil liability;

c) insured risks;

d) start and duration of insurance;

e) insured sum;

f) insurance premium, place and term of payment;

g) other information, required under law or contract.

Article 1310. Duty to Hand over Documents

(1) An insurer is bound to hand over, together with the insurance policy, copies of the written proposals submitted by the insured or on his behalf.

(2) In case of discrepancy between the insurance policy and the proposals, the latter shall have priority, save for the cases when the insurer indicates to the insured in a separate document the elements on which discrepancies exist.

Article 1311. Setting Rights and Obligations in Case of Mutual Insurance

(1) Several persons can insure their property on mutual principles, by association, based on their free will, through societies of mutual insurance.

(2) The certificate of participation in a society of mutual insurance may set members' rights and duties by reference to the document of society's incorporation.

(3) Each member is entitled to obtain a copy of the document of society's incorporation.

Article 1312. Set Up of Defenses

Where an insurance policy is issued as nominal, bearer or at one's order, the insurer may set up against the holder of the policy all defences he could have set up against the initial insured. Defences may not be set up if the holder of the policy notifies the insurer about the assignment of rights that arise under insurance and the insurer does not forthwith notify him of the existent defences.

Article 1313. Duration of Contract of Insurance

- (1) The insurance takes action on the moment of payment of the insurance premium or of the first instalment of the premium and ceases at 12 pm of the last day of the agreed term of insurance, unless the contract or the law provide otherwise.
- (2) Where the validity of the insurance contract extends over a period preceding the payment of the insurance premium, such insurance is valid contingent on the non-occurrence of the insured event before and upon conclusion of insurance.
- (3) Where the contract of insurance is concluded for a period exceeding 5 years, the parties may terminate the contract at expiry of the fifth year or expiry of every year that follows thereafter by a 3-months' notice.
- (4) Where the contract is concluded for an undetermined period, both parties are entitled to terminate the contract, subject to a at least one month's and at the most 3 months' notice.
- (5) The agreement by which the contract of insurance is deemed tacitly extended for a period longer than one year is void.
- (6) The insurance period is the time interval of maximum 1 year or less, if insurance premiums are accordingly calculated.

Article 1314. Insurance Premium Increase

Where, in accordance with a contractual clause for updating the insurance premium, the insurer increases the amount of the premium, the insured may terminate the contract, with an 1 month term of prior notice. Insignificant increases do not give right to terminate the contract.

Article 1315. Insurer's Duties

- (1) The insurer is bound:
 - a) to familiarize the insured in an adequate form with the terms of insurance;
 - b) where the right of the insured or of the insurance beneficiary to collect the sum insured or the insurance compensation arose, to make payment within the term established under insurance provisions;
 - c) to compensate the insured for costs incurred due to efforts made to avoid occurrence of the insured event or to mitigate damage subject to compensation;
 - d) to keep confidential the information about the insured and insured persons, of which he became aware in the course of insurance.
- (2) The law and contract of insurance may also provide other obligations for the insurer.

Article 1316. Insured's Duties

- (1) The insured is bound:
 - a) to inform the insurer, upon conclusion of contract, of all essential circumstances regarding the extent of the risk to be insured;

- b) to inform the insurer of other contracts of insurance concluded with regard to the same object;
 - c) to timely pay insurance premiums;
 - d) to take actions in his power to avoid the occurrence of the insured event or to mitigate the damage caused by the occurrence of that event;
 - e) to inform the insurer immediately of the occurrence of the insured event.
- (2) The law and the contract of insurance may also provide for other duties of the insured.

Article 1317. Insurer's Notification of Extent of Insured Risk

(1) Upon concluding the contract of insurance, the insured is bound to notify the insurer of all the circumstances known to him, which might be important with regard to the assumption of the insured risk. Circumstances deemed to be important are those dangerous circumstances that could influence insurer's decision to conclude the contract or to conclude it under the agreed terms.

(2) In case of doubt, a circumstance with regard to which the insurer expressly formulated written inquiries shall be deemed important.

(3) Where, contrary to the provisions of para.(1) and (2), the mention of an important circumstance was omitted, the insurer may terminate the contract. He is also entitled to terminate the contract if the mentioning of an important circumstance has been omitted because the insured was not aware of that circumstance for reasons for which he is responsible.

(4) Cancellation is excluded where the insurer was aware of the mentioned circumstance or the mention is neglected without the insured's fault.

Article 1318. Termination of Contract Due to Certain Inaccuracies

(1) The insurer may also terminate the contract where an inaccurate mention was made in relation to an important circumstance.

(2) Termination is excluded where such inaccuracy is known to the insurer or the mention is inaccurate for reasons for which the insured is not responsible. The insurer may terminate the contract only within a month as of when he became aware of such inaccuracy.

Article 1319. Term for Termination

(1) The insurer may terminate the contract at his own initiative within a month as of when he became aware of the circumstances that entitle him to terminate the contract.

(2) Termination is effected by written declaration to the insured.

Article 1320. Termination of Contract after Occurrence of Insured Event

Where the insurer terminates the contract after the insured event occurred, his obligations will remain valid inasmuch as the circumstance in respect to which the duty to disclose has been breached did not in any way influence the occurrence of the insured event or the extent of the obligation owed by the insurer.

Article 1321. Suspension of Guaranty

Breach of a formal obligation that aggravates the risk suspends insurer's guaranty towards the insured. Such suspension ceases where the insurer agrees to this or the insured begins to abide by his obligations.

Article 1322. Payment of Insurance Premium

(1) The insured is bound to pay the insurance premium only upon issuance of the insurance policy.

(2) If the insured interest does not exist upon the beginning of insurance or if it is not possible already for the future interest to become real, the insured is liberated from his obligation to pay the insurance premium. Where the insured interest is extinguished, the insured owes to the insurer only that part of the premium that corresponds to the duration of the risk. The insurer may demand an according fee for the costs and operations undertaken for the conclusion of contract.

Article 1323. Effect of Non-Payment of Insurance Premium Installment

(1) Where one of the installments of the insurance premium is not paid, albeit payment in installments was agreed upon, the insurer may set a 2-week term for the insured, at the expense of the latter. In such case, the legal consequence of non-payment in time must be specified.

(2) Where, after the lapse of the term provided for at para.(1), the insured event occurs, while at the moment of occurrence the insured has delayed payment of premium or of owed interest, the insurer is liberated from his obligation.

Article 1324. Termination of Contract in Case of Non-Payment of Insurance Premium Installment

Where the insured delayed payment of an instalment of the insurance premium, the insurer may terminate the contract subject to one-month's notice.

Article 1325. Insured's Right to Refuse Payment of Insurance Premium

The insured may refuse payment of insurance premium if, after conclusion of contract, it becomes known that insurer's economic standing became so difficult that there exist justified expectations to consider that upon occurrence of the insured event the insurer will not be able to perform his obligations.

Article 1326. Notification of Dangerous Circumstances

(1) The insured is bound to inform the insurer immediately of the dangerous circumstances that have appeared or of which he became aware after conclusion of contract.

(2) Where the dangerous circumstance is willfully caused by the insured or if non-awareness of circumstances that already existed upon conclusion of contract is due to insured's fault, the insurer may terminate the contract without prior notice.

Article 1327. Notification about Insured Event Occurrence

(1) The insurer is bound to immediately notify the insured about the occurrence of the insured event.

(2) After occurrence of the insured event, the insurer may demand from the insured provision of any information needed to ascertain the insured event or for establishing the extent of his obligation.

(3) The insurer cannot invoke an agreement by which he is liberated from his obligation, if the insured did not perform his obligation of notification accordingly, unless and to the extent that insurer's interest are seriously harmed by nonperformance.

Article 1328. Maturity of Insurer's Obligation

- (1) Insurer's obligation becomes due as of acknowledgement of the insured event and the extent of insurer's obligation.
- (2) If inspection lasts over a month, the insured is entitled to demand an advance payment according and proportionate to the probable payment obligation, contingent on that insurer's obligation to pay the indemnification and its extent is beyond doubt.
- (3) Agreements by which the insurer is relieved from the obligation of payment of delay interest are void.

Article 1329. Taking over of Insured's Rights by Insurer

- (1) The insurer who has paid the insurance money takes over, within the limits of this amount, the right of claim, which the insured or another person that collected the insurance money holds against the third party responsible for the damage, unless the contract or the law provide otherwise.
- (2) Where the insured relinquishes his claims against the third party or the rights that are the basis for those claims, the insurer shall be spared from payment of the part of the insurance money that he could have claimed from the third party, on legal grounds.

Article 1330. Applicable Regulations

Terms and regulations regarding various forms and types of insurance shall be set in accordance with this Code and other normative acts.

CHAPTER XXVII: SETTLEMENT

Article 1331. Settlement

- (1) The settlement is the contract by which the parties prevent a trial about to begin, terminate a trial that already started or solve difficulties appeared in the course of performance of a court judgement.
- (2) In order to conclude the settlement it is necessary to have civil capability to dispose of the object of settlement.
- (3) The settlement may set a penalty for the one who fails to perform it.

Article 1332. Restrictions Concerning Settlement

- (1) No settlement can be done in regard of the capability of a person or of other issues that pertain to public order.
- (2) Conclusion of settlement in regard of a civil suit deriving from a criminal offence is allowed.

Article 1333. Effect of Settlement

- (1) Settlement's effects between its parties are equivalent to those of a court judgement.
- (2) The settlement is not susceptible of enforcement unless it is ratified.

Article 1334. Nullity of Settlement

- (1) The settlement may be declared null under general grounds of nullity of juridical acts.
- (2) Error of law is not a ground for nullity of settlement.

Article 1335. Effect of Nullity of Title

(1) Where the settlement is based on null title, it shall also be subject to nullity, save for the case where the parties have expressly covered the case of nullity.

(2) The settlement based on a title that is later acknowledged as forged is void.

Article 1336. Nullity of Settlement in Case of Definitive Judgement

The settlement regarding an already started trial shall be null where the parties or one of them know that the dispute has been ended by a definitive court judgement.

Article 1337. Settlement regarding All Affairs

(1) Where the parties concluded a settlement regarding all affairs between them, later detection of a document of which they were not aware is not a ground for nullity of settlement, unless it has been concealed by one of the parties or, with that party's awareness, by a third party.

(2) The settlement shall be void only where it has only one object and the documents detected demonstrate that one of the parties did not have any rights.

Article 1338. Computation Errors

Errors in computation admitted by one of the parties upon conclusion of settlements shall not prejudice either of the parties and should be removed.

CHAPTER XXVIII: UNDECLARED PARTNERSHIP

Article 1339. Contract of Undeclared Partnership

Under a contract of undeclared partnership, two or more persons (associates, partners) mutually undertake to pursue common a business or any other goal, without incorporating a legal person, and share profits made and contribute to losses incurred.

Article 1340. Object of Contract of Undeclared Partnership

A contract of undeclared partnership must have a lawful object, set in the common interest of the partners.

Article 1341. Form and Content of Contract of Undeclared Partnership

(1) A contract of undeclared partnership may written or verbal.

(2) A contract of undeclared partnership concluded in writing must specify:

- a) each partner's name, address or registered office;
- b) rights and duties of each partner;
- c) establishment and functions of management;
- d) how are profits shared and losses contributed to by the partners;
- e) procedure of exclusion from partnership;
- f) duration of partnership;
- g) procedure of partnership dissolution and distribution of the patrimony.

(3) Unless otherwise agreed, the contract of undeclared partnership may be amended only by unanimous agreement of the partners.

Article 1342. Partners' Contribution

(1) Partners must deliver all contributions agreed under contract. Where the contract is silent, partners shall be bound to equal contributions.

(2) Contributions may consist of property, including patrimonial rights.

(3) Unless otherwise agreed, contributions become joint property of the partners. Property acquired based on a right that pertains to the joint property shall also enter into that patrimony, as well as amounts received as compensation for loss, destruction or deterioration of an object of that patrimony.

(4) In no case may the contribution of a partner be increased without his consent.

Article 1343. Liability for Contributions

(1) A partner is liable for the property conveyed as contribution under the rules applicable to seller's liability.

(2) A partner who was to contribute a sum to the firm and has not done so, becomes by operation of law, debtor for interests as laid down in Article 619 and without prejudice to greater damages, if there is occasion. This rule shall also apply to sums of money belonging to the partnership and taken away for personal purposes, where the interest shall be calculated as of the day of such taking away.

(3) Where the right of use over a property was conveyed as contribution and this right is extinguished before the term it was transmitted for, the partner is bound to compensate in money for the cost of the use that the partnership did not exercise.

(4) A partner who has bound himself to contribute his industry to the partnership shall account to it for all the profits which he has gained through the activity which is the subject matter of his contribution.

(5) Upon partnership liquidation, each partner has a priority right against all other partners to receive the property he conveyed as contribution.

Article 1344. Conveyance of Shares to Third Parties

(1) Shares in the partnership's patrimony or other rights arising under the contract cannot be conveyed to third parties without the authorization of all other partners. Such authorization may be refused only under a good reason.

(2) In case of alienation of shares in partnership's patrimony all other partners have a right of pre-emption.

Article 1345. Administration and Representation

(1) Unless otherwise agreed, the partners manage together the acts of the undeclared partnership and shall jointly represent it. Where a partner is excluded from partnership management, he may at any time demand information from those carrying the management.

(2) Each partner has the right to participate in collective decisions. Anything to the contrary is void.

(3) Where, under the contract, one or several partners are entrusted with the management of the undeclared partnership, each of them may act independently. Any other partner may, however, object to the conclusion of an act on behalf of the partnership. In such a case, it shall be deemed that the act was not concluded on partnership's behalf.

- (4) Inasmuch as a partner has, according to the contract, the function to manage the undeclared partnership and unless there is a stipulation to the contrary, he is also entitled to represent it in respect to third parties.
- (5) The function granted under contract to one of the partners may be withdrawn only by unanimous decision in case of breach of his obligations. The partner may decline to participate in partnership management. At the same time, he may demand explanations from the management at any time.
- (6) Unless otherwise agreed, rules on contract of mandate determine the rights and duties of the partner in an undeclared partnerships who holds management and representation powers.

Article 1346. Sharing of Profits and Contributing to Losses

- (1) Unless otherwise agreed, the share of each member in the profits and his contribution to losses are determined in proportion to his share in partnership's patrimony.
- (2) However, a stipulation by which a member is allotted the whole of the profit gained by the partnership, or is released for the whole of the losses, the one by which a member is excluded in whole from the profit or is liable for the whole of the losses shall be void.
- (3) Each partner may demand from any other partner to pursue the goal of the undeclared partnership with the diligence needed in relation of such kind.

Article 1347. Competing Claims

- (1) Where a partner is creditor on a sum due by a person who is also a debtor of the partnership, such partner is bound to distribute what he obtains from such debtor both for the benefit of the partnership as well as for his own benefit, proportionate to both claims, even in the case where the receipt specifies that the payment was made only in favour of debtor's particular creditor.
- (2) Where the receipt specifies that the payment be made only in favour of the partnership, such specification shall be complied with.

Article 1348. No Assignment of Partner's Rights

Rights and claims of a partner arising under the contract against all other partners may not be assigned.

Article 1349. No Compensation

A partner remains liable towards the partnership for the damage caused by his fault. This damage cannot be compensated for with advantages brought to the partnership by such partner's performances in other affairs.

Article 1350. Duty of Confidentiality

All partners in an undeclared partnership are bound to confidentiality.

Article 1351. Solidary Liability

All partners are solidarily liable for the obligations of their undeclared partnership. As between partners, their liability is determined by shares in partnership's patrimony, unless otherwise agreed.

Article 1352. Termination of Contract of Undeclared Partnership

- (1) Where the contract does fix a duration for the undeclared partnership, each partner may terminate the contract subject to giving 3-months' notice. Termination is not allowed at such moment or under such circumstances that would damage the undeclared partnership.
- (2) Where under contract a determined period of time has been fixed, early termination is allowed only for good reasons.
- (3) Withdrawal of a partner triggers partnership's dissolution. The contract may provide that the withdrawal of a partner does not lead to partnership dissolution, but only to the exclusion of the one who terminated the contract. In such case, the share in partnership's patrimony of the one who terminated the contract shall be added proportionately to the shares of the remaining partners.
- (4) A partner who terminated the contract has the right to receive compensation in money for his share. With a view to calculation of such compensation, the acts in course of execution at the moment of withdrawal shall be also taken into account.
- (5) Where at the moment of withdrawal, the value of the patrimony of the undeclared partnership is insufficient to cover common debts, the one who is withdrawing is bound to pay to all other partners an amount proportionate to his share in the patrimony with a view to covering the deficit.
- (6) A clause that limits or excludes the right of withdrawal is void.

Article 1353. Grounds for Dissolving an Undeclared Partnership

- (1) A undeclared partnership shall be dissolved for the followings:
 - a) expiry of term for which it was concluded;
 - b) partners' resolution;
 - c) initiation of procedure of judicial liquidation of the patrimony of an undeclared partnership;
 - d) impossibility of further pursuit of the goal.
- (2) Unless otherwise agreed, the following may also serve as grounds for dissolution of the undeclared partnership:
 - a) death of one of the partners;
 - b) initiation of the procedure of judicial liquidation of the patrimony of one of the partners;
 - c) incapacity of one of the partners;
 - d) termination.

Article 1354. Effects of Dissolution of Undeclared Partnership

- (1) An undeclared partnership is to be liquidated upon dissolution. Unfolding acts must be finalized. An inventory shall be drafted and the partners shall debate about the patrimony.
- (2) In the course of debates about the patrimony, undeclared partnership's debts must be defrayed. Where the patrimony is not sufficient, the partners are bound to cover the deficit proportionate to their shares in the patrimony. Eventual surplus amounts shall be distributed between partners in proportion to their shares.

CHAPTER XXIX: JOINT RIGHTS

Article 1355. Regulations Applicable to Joint Rights

Where a right belongs to several persons jointly (joint owners), the provisions of this Chapter apply, unless the law provides otherwise.

Article 1356. Presumption of Equality of Joint Owners

Unless specially stipulated otherwise, shares shall be deemed distributed equally between the joint owners.

Article 1357. Distribution of Fruits

- (1) A fractional part of the fruits accrues to each participant in proportion to his share.
- (2) Each joint owner is authorized to use the common object insofar as the use by other participants is not thereby interfered with.

Article 1358. Common Right of property Disposal

- (1) The disposal of the common property belongs to the owners jointly.
- (2) Each participant is entitled to take any measure necessary for the preservation of the property without the consent of the other owners.

Article 1359. Order of Management and Use

- (1) By a majority vote, the joint owners may decide upon the management and use of the common property, depending on its properties. The majority vote shall be determined in accordance with the size of the shares.
- (2) Each joint owner may, if the management and use are not regulated by an agreement or majority decision, demand management and use according to a fair assessment, taking into account the interests of all the participants.
- (3) The participant's right to a fraction in the fruits proportionate to his share may not be prejudiced without his consent.

Article 1360. Effectiveness of Order of Management and Use to Successors

If the joint owners established the management and use of the common property, the regulations made are also effective as against successors in title.

Article 1361. Disposal of Share

Each participant may dispose of his share.

Article 1362. Charges over Common Object

Each participant is bound as against the other participants, to bear the charges over the common property, as well as preservation, management and common use costs, in proportion to his share.

Article 1363. Right to Demand Dissolution of Community

- (1) Each participant is entitled to demand dissolution of the community anytime.
- (2) If the right to demand dissolution is excluded by agreement the dissolution may, nevertheless, be demanded if there is a good reason.
- (3) An agreement whereby the right to demand dissolution is excluded or limited contrary to para.(2) is void.

Article 1364. Division in Kind

The dissolution of the community is carried out by division in kind, if the common property can be divided without diminution of value, in accordance with the shares of the joint owners. The distribution of equal shares among the participants is made by lot.

Article 1365. Sale of Common property

(1) If division in kind is impossible, the dissolution of the community is performed by sale of the common property, in compliance with the rules concerning sale of pledged property, in the case of a land plot - by auction, and by distribution of the proceeds. If alienation of the common property to a third party is not permitted, the property shall be sold by auction among the joint owners.

(2) If the attempt to sell the object has no result, each joint owner may demand a second attempt. he shall, however, bear the costs if the second attempt fails.

Article 1366. Sale of Joint Claims

The joint claim may be sold before its performance was requested. Where the claim may be realized, every joint owner may realize it on behalf of all joint owners.

Article 1367. Debt Coverage on Account of Joint property

(1) If the joint owners are liable as joint and several debtors for an obligation, which they have to perform in proportion to their shares, in conformity with article 1362 of this Code, or where they agreed on performing such an obligation, each owner may, upon dissolution of the community, require that the debt be satisfied out of the common property.

(2) Where a sale of the common object is necessary for the satisfaction of a debt, it shall be made under Article 1365.

Article 1368. Satisfaction of Participant's Debts from Common property

If one participant has a claim, which is based on the community, against another participant, he may, upon dissolution of the community, require satisfaction of his claim out of the part of the common property accruing to the debtor.

Article 1369. Warranty in Case of Conveyance of Property to Joint Owner

If, upon dissolution of the community, a common object is allotted to one of the participants, each of the other participants shall be liable for defects in the property pertaining to his share, in the same manner as a seller.

Article 1370. Non-Prescriptible Character of Claim to Dissolve Community

The claim for dissolution of the community is not subject to a periods of limitation.

CHAPTER XXX: PUBLIC PROMISE OF REWARD

Article 1371. Obligation to Pay Reward

- (1) A person, who announces by public notice a reward for the performance of a licit act specified in the announcement, within a certain period of time, is bound to pay such reward to any person who performed the act under the set terms, even where that person has not acted with a view to receive the reward.
- (2) An obligation to pay reward shall arise when the person who announced the reward can be determined with certainty. A person who intends to perform the act in consideration of the promised reward is entitled to demand written confirmation of this promise, otherwise bearing the risk of the possibility that the author of the promise is not the person specified in the announcement.
- (3) Where a public promise of reward does not specify the amount of reward, this shall be established jointly with the promissor or by the court, in case of dispute.
- (4) Where it does not follow otherwise from the reward announcement or from the character of the action set, the conformity of the performed action with the terms set forth in the announcement shall be determined by the person who promised the reward or by the court, in case of a dispute.

Article 1372. Distribution of Reward

- (1) Where different persons have performed an act for which a reward had been promised, it belongs to the one who has performed it firstly.
- (2) If the act specified in the announcement is performed by more than one person and it is impossible to establish who performed it firstly or if several persons have performed it simultaneously, the reward shall be equally divided among them or otherwise as decided by virtue of a mutual agreement. If the reward is indivisible in its nature, or if under the terms of the promise only one person is to receive it, the decision shall be taken by lot.
- (3) Where more than one person contributed to performance of the act for which the reward is promised, it shall be divided between them by the promissor subject to the degree of participation of each of them and, in case of dispute, the reward shall be parted by the court.

Article 1373. Contest

- (1) The public promise of reward in the form of an award for the best execution of a work is valid only if the term for work execution is fixed.
- (2) The modification of the terms of the contest to the detriment of the competitors is impermissible.
- (3) The right to decide on the correspondence of the contest realized within the term set to the public promise of reward (terms of contest) or on the establishment of the winning work belongs to the person specified in the announcement, or, if such person is not specified, to the person that announced the reward. The decision is mandatory in relation to all participants in the contest.
- (4) Where the works submitted have the same value, provisions of Article 1372 para.(2) shall be applied to awarding the prize.
- (5) The promissor of the reward may demand to be conveyed the right of ownership over the works executed under the terms of contest only if such clause was included in the public announcement. The copyrights belong to the author of the work in any case.
- (6) The person that announced the contest is bound to return the works to the participants in the contest if the announcement regarding the contest did not provide otherwise.

Article 1374. Revocation of Public Promise of Reward

- (1) A person who publicly announced the granting of a reward may revoke it in the same manner, save for cases when:
 - a) such announcement excludes expressly or impliedly its revocation;

- b) a period of time has been set forth, during which the action for which the reward is promised must be performed;
 - c) when the promise is revoked, the action specified by the announcement is already performed and its author claims the promised reward.
- (2) Persons who answered to the announcement are not deprived by the revocation of the public promise of reward of their right to claim compensation, subject to the amount of the announced reward, for costs incurred in performing such action.

CHAPTER XXXI: GAMBLING AND BETTING

Article 1375. Validity of Contract concerning Gambling and Betting

- (1) The contract on gambling and betting is valid only in cases expressly provided by law.
- (2) The contract is valid if it refers to licit exercises and games, which require physical skills and exercises from the participants, save for cases when the amounts in the game are excessive under the circumstances, as well as in relation to parties' condition and capabilities.

Article 1376. Contract of Lottery and Other Similar Contracts

- (1) The contract of lottery and other contracts for similar games produce legal effects only if the lottery or the game has state authorization.
- (2) Relations between organizers of sweepstake lotteries (mutual bets) and other games of chance who obtained license in the manner established by law, and the participants in the games shall be set in the respective contract.
- (3) In cases provided by the rules of game organization, the contract between the organizer of the game and the participant shall be concluded by issuance of a lottery ticket, a receipt or another document by the organizer to the participant.
- (4) The proposal to conclude a contract provided at para.(1) must contain clauses regarding the term of carrying out the game, the order of determining the gains and their amount.
- (5) Where the organizer refuses to carry out the game within the established term, the participants to the game are entitled to demand compensation for real damage caused by postponement or termination of the game.
- (6) The gains obtained by the person that, according to game terms, is recognized as winner, must be awarded to that person by the organizer of the game, in the amount, form and within the terms provided by game conditions, or, if there is no fixed term for payment of gains, not later than 12 days from announcing the results of the game.

Article 1377. Futures Bargain

If a contract for delivery of goods or securities is entered into with the intention that the difference between the prices agreed upon in the contract and the stock exchange or market price at the time of delivery shall be paid by the losing party to the winning party, the contract shall be deemed to be a gambling contract. This also applies if only one of the parties intended to pay the difference, while the other party knew or should have known of this intention.

CHAPTER XXXII: MANAGEMENT WITHOUT MANDATE

Article 1378. Duties of Person that Manages Affairs of another Person

(1) A person (agent) who takes care of some matters for another (principal) without having received a mandate from him or being otherwise bound to do so and without the knowledge of the latter, is under an obligation to act with the diligence of a good owner and guided by the principal's best interests, having regard to his actual or presumptive wishes.

(2) Where an agent was or should have been aware that he acted contrary to the actual or presumptive will of the principal, he shall be bound to compensate for damage caused by management of affairs even if he has no other fault. This rule shall not apply where, contrary to the will of the principal, the obligation of maintenance of other persons, whom he is bound to provide maintenance, is performed.

Article 1379. Duty to Notify Principal

(1) An agent shall notify the principal as soon as practicable of the management undertaking and continue the acts started, as long as the principal needs for taking over the management.

(2) Where the agent cannot notify the principal about the management undertaking, the former is bound to finalize the acts started.

Article 1380. Consequences of Acceptance of Acts Performed by Principal

If the principal tacitly or explicitly accepts the management of his affairs, provisions regarding mandate shall apply accordingly.

Article 1381. Consequences of Non-Acceptance of Acts Performed by Agent

(1) Acts performed by the agent after being notified of their non-acceptance by the principal do not generate obligations for the principal, either in relation to the agent, or in relation to third parties.

(2) With a view to prevent a danger threatening the life of a person, acts may be performed even without that person's consent, while performance of maintenance obligations may take place contrary to the will of those that are bound by such an obligation.

Article 1382. Reimbursement of Costs Incurred by Agent

(1) The agent may demand from the principal reimbursement for costs relating to management, inasmuch as these are deemed necessary and useful, under the circumstances.

(2) The agent is entitled to reimbursement of costs even if he did not manage to preserve the property and defend principal's interests, although the acts undertaken have been useful and he had no fault in the loss.

(3) Reimbursable costs may not exceed the value of the property for the preservation of which they have been made.

(4) Costs incurred by the agent in relation to the acts performed after acceptance shall be reimbursed in accordance with the rules regarding mandate.

Article 1383. Refusal to Reimburse Agent's Costs

The agent may not claim reimbursement of costs if the management acts were made contrary to the will of the principal or if they do not correspond to his interests, save for cases when the will of the principal is contrary to legal provisions.

Article 1384. Compensation for Damage Caused to Agent

Where the agent suffered damage as a consequence of undertaking actions to avert a danger threatening principal's patrimony, the agent may claim compensation from the principal or the one who caused the danger.

Article 1385. Agent's Liability

The agent is liable towards the principal only for damage caused by willful conduct or by gross negligence.

Article 1386. Duty to Return property Received as Result of Management

The agent is bound to provide to the principal a report on his acts, as well as to deliver and hand over all that he received as a result of management.

Article 1387. Rights and Duties Arising from Acts without Mandate

Rights and duties arising from necessary and useful acts performed in the interest of another person without mandate are effective with regard to the person in whose interest they have been performed.

Article 1388. Non-application of Rules on Management of Affairs

The rules of this Chapter do not apply to actions performed in the interest of another person by the one who acted with the belief that he manages his own affairs and neither to actions undertaken by public authorities where such acts are included in their terms of reference.

CHAPTER XXXIII: UNJUST ENRICHMENT

Article 1389. Duty to Demand Return of Performance

(1) The person who, without legal or contractual grounds, acquires something through an act performed by another (performer), or accomplished savings in any other manner at the expense of the latter, is bound to return to the performer what he has received or saved. The fact that the unjust enrichment occurred as a result of the conduct of one of the parties or a third party or as consequence of an event independent from their will is irrelevant.

(2) The person that undertook an act of performance with a view to perform an actual or a future obligation may claim return of performance if:

- a) The grounds for the obligation have disappeared afterwards;
- b) The obligation is barred by an exception that excludes the possibility of execution for a long me.

(3) The claim of return is barred if:

- a) The performance was in accordance with a moral obligation;
- b) The recipient proves that the performer was aware of the non-existence of the obligation, but performed anyway or that he performed for philanthropic and charity purposes;
- c) The claim to return what was performed for performing a void contract would contradict the protective character of the norm that instituted the voidance.

Article 1390. Return of Conditional Performance

(1) The one who makes a performance towards another person not for the purpose of performing an obligation, but with the intention, acknowledged by the acceptor, to determine the latter to have a certain conduct, may claim return of performance if the recipient did not have the conduct desired by the one who performed.

(2) The claim for return of conditional performance is excluded when:

- a) Achievement of the goal was impossible from the very beginning and the performer was aware of this;
- b) Contrary to the principle of good faith, the performer impeded the achievement of the goal.

Article 1391. Return of Performance Made under Threat or Constraint

The person who performs not for the purpose of performing an obligation, but under threat or constraint, may claim return of performance, save for the case when the recipient proves that he was entitled to the performance.

Article 1392. Restitution in Kind of Unjust Enrichment

(1) The property acquired by unjust enrichment shall be returned in kind.

(2) The recipient is liable to the injured person for any deficiency or deterioration of unjustly acquired property, including accidental deterioration, if they occurred after the recipient obtained knowledge or should have obtained knowledge of the unjust enrichment. Until that moment, he is liable only for willful conduct or gross negligence.

Article 1393. Compensation for Value of Unjust Enrichment

(1) If it is impossible to return the unjustly acquired property in kind, then the recipient shall compensate the injured person for the real value of that property as of the time of its acquisition and for the losses caused by later diminution in property's value, unless the recipient has compensated for its value immediately after he obtained knowledge of the unjust enrichment.

(2) A person, who has unjustly and temporarily used another's property, having no intention to acquire it, or another's services, must compensate the injured person for what has been saved through such use, at the price which existed at the time when the use ended, and at the place where the use came about.

Article 1394. Effect of Unjust Assignment of Right

A person, who has transferred his right to another person by assignment or in any other manner, on the basis of a non-existent or invalid obligation, is entitled to demand restoration of the previous condition, including return of documents that confirm the transferred right.

Article 1395. Fruits of Performance

(1) The person that unjustly acquired property is bound to convey or to compensate the entitled person for the fruits that he obtained or should have obtained as of when he became or should have become aware of the absence of grounds for the received performance.

(2) Interest accrues on the amount owed under para.(1), as provided for in Article 619.

Article 1396. Reimbursement of Costs on Property Subject to Return

With the return of the unjustly received property or replacement of its value, the recipient is entitled to demand that the performer reimburses him for the necessary and useful costs incurred for property maintenance and preservation as of the moment the recipient became bound to return the income, having regard of the profit earned by him. The right to reimbursement for costs is lost when the recipient willfully retains the property subject to return.

Article 1397. Disposal by Person without Title

(1) If a person without title to a property disposes of it, and the act may be set up against the person having title, the former is bound to hand over to the latter what he has obtained by such act of disposal. If the disposal is made gratuitously the same obligation is imposed upon the person who acquires a legal advantage directly through such act of disposal.

(2) If an act of performance, effective against the person entitled, is done for the benefit of a person not entitled thereto, the former is bound to hand over to the latter the value of such performance.

CHAPTER XXXIV: OBLIGATIONS ARISING FROM CAUSATION OF DAMAGE

Section 1: General Provisions on Obligations Arising from Infliction of Damage

Article 1398. Grounds and General Conditions of Liability

(1) A person who commits an illegal and imputable act towards another person is bound to compensate him for damage caused to patrimonial damage, and, in cases provided by law, also for the moral damage.

(2) The damage caused through legal acts or without fault shall be compensated for only in cases expressly provided by law.

(3) A person other than the author of the damage shall be bound to compensate for it only in cases expressly provided by law.

(4) The damage shall not be compensated for, were it was caused upon the request or with the consent of the damaged person and if author's deed does not contradict the norms of ethics and morality.

Article 1399. Liability between Contracting Parties

The provisions of this Chapter also apply in the case of damage caused in contractual relations, save for situations when provisions regarding debtor's liability for nonperformance of contract and special rules for certain contractual relations are applied.

Article 1400. Prevention of Damage

(1) The danger of future damage gives grounds to prohibit acts that may generate such danger.

(2) Where the existence of a danger is a consequence of the exploitation of an enterprise, an installation or of a productive activity that continues to cause damage or to pose a threat of new damage, the court may bind the defendant to cease the activity, if the cease does not contravene to public interests.

Article 1401. Damage Caused in State of Legitimate Defense

- (1) The damage caused by a person in state of legitimate defence is not subject to compensation if the limits of legitimate defence are not exceeded.
- (2) Where in the course of defending against an unjust attack damage was caused to a third party, the damage is to be compensated for by the attacker.

Article 1402. Damage Caused in State of Extreme Necessity

- (1) Damage caused to a person in state of extreme necessity shall be compensated for by that person.
- (2) Having regard of the circumstances under which the damage was caused, the court may bind the third party in whose interest the author of the damage has acted to compensate for the damage or to liberate both the author and the third party from the obligation of compensation, in whole or in part.
- (3) The damage caused as a consequence of extinguishing or localizing a fire shall be compensated by the one responsible for starting the fire.

Article 1403. Principal 's Liability for Act of Agent

- (1) The principal is liable for the damage caused by imputable act of his agent during exercise of the functions that have been entrusted to him.
- (2) The principal keeps only a right of recourse against the agent. The agent may liberate himself if he proves that he complied exactly with principal's instructions.

Article 1404. Liability for Damage Caused by Public Authority or by Official

- (1) Damage caused by an illegal administrative act or by non-solving of a request within the legal term by the public authority or an official from that authority shall be compensated for in whole by the public authority. The official shall be jointly and severally liable in case of willful conduct or gross negligence.
- (2) Natural persons are entitled to demand compensation for moral damage caused by actions shown at para.(1).
- (3) The obligation to compensate for the damage does not arise inasmuch as the injured person omitted, willfully or by gross negligence, to remove the damage through legal means.
- (4) Where the public authority has an obligation imposed by an act adopted with a view to ensuring protection against the danger of causation of certain damage, the authority shall be held liable for damage of this kind, caused or not prevented by failure to perform the obligation, save for cases when the public authority proves that it attempted to perform with reasonable diligence.
- (5) The public authority does not bear liability for damage caused by adoption of a normative act or omission to adopt it, or by omission to put a law into application.

Article 1405. State's Liability for Damage Caused by Actions of Bodies of Criminal Investigation, Preliminary Inquiry, Prosecutor's Office and Courts

- (1) The damage caused to the natural person by illegal conviction, illegal imputation of criminal liability, illegal application of preventive measures under the form of preventive arrest or written declaration not to leave the respective locality, by illegal application of arrest or correctional labor as administrative sanction, shall be compensated for entirely by the state, regardless of the fault of officials from the bodies of criminal investigation, preliminary inquiry, prosecutor's office or courts.
- (2) The state shall be exonerated from liability where the injured person willfully and voluntarily contributed to the causation of damage by confession.

Article 1406. Liability for Damage Caused by Minor under Age of 14

- (1) Damage caused by a minor under the age of 14 shall be compensated for by the parents (adoptive parents) or by the guardian, unless they prove absence of fault in supervising or educating the minor.
- (2) Where the minor under 14 caused the damage while being under the supervision of an educational or medical institution or of a person bound to supervise the minor under contract, these entities shall be liable for the damage caused, unless they prove that the causation of damage is not imputable to them.
- (3) The obligation to compensate for the damage caused binding on the parents (adoptive parents), guardians, educational or medical institutions does not cease upon minor's attaining full age or upon acquisition by the minor of property sufficient to cover the damage.

Article 1407. Liability for Damage Caused by Minors between 14 and 18 Years of Age

- (1) The minor between 14 and 18 years of age bears personal liability for damage caused, in accordance with the general rules.
- (2) Where the minor between 14 and 18 years of age does not have property or income sufficient to compensate for the damage inflicted, this should be compensated for, in whole or in the uncompensated part, by the parents (adoptive parents) or the trustee, unless they prove that the occurrence of damage is not imputable to them.
- (3) The obligation to compensate for the damage binding on the parents (adoptive parents) or the protector ceases when the minor attains full age, as well as if, before attaining full age, the minor acquires property or income sufficient to compensate for the damage.

Article 1408. Liability for Damage Caused by Incapable Person

- (1) Where an incapable person caused damage, liability shall lie on the guardian or the institution bound to supervise that person, unless they prove that the causation of damage is not imputable to them.
- (2) The obligation to compensate for the damage caused by an incapable person binding on the guardian or the institution does not cease where that person reacquired legal capability.
- (3) Where the guardian brought to account in conformity with para.(1) for injury caused to life and health, has died or does not dispose of means sufficient to compensate for the damage, while the author of the damage has such means at his avail, the court, having regard of the material state of the injured person and of the author of damage, as well as other circumstances, is entitled to decide on total or partial compensation for such damage on account of the author.

Article 1409. Liability for Damage Caused by Person while Unable to Realize or Direct Own Actions

- (1) The capable person that caused damage while being unable to realize or direct his own actions is not liable for that damage.
- (2) Where the damage concerns the life or health of a person, the court is entitled, having account of the material state of the injured person and of the author of the damage, as well as of other circumstances, to bind the latter to compensate for the damage in whole or in part.
- (3) The author of the damage shall not be liberated from liability if being himself responsible of getting into such a state due to consuming alcohol, drugs or other substances affecting mental functions or due to any other cause.

Article 1410. Liability for Damage Caused by Source of Increased Danger

(1) Persons whose activity is related to a source of increased danger for those around it (exploitation of vehicles, installations, mechanisms, use of electric energy, explosives, construction works etc.), are bound to compensate for the damage caused by the source of increased danger, unless they prove that the damage is due to a force majeure (save for cases when the damage occurred as a consequence of exploitation of air vehicles) or to the fault of the injured person.

(2) The obligation to compensate for the damage pertains to the person that possesses the source of increased danger based on the right of ownership or on other legal grounds, or to the person that undertook surveillance of the source of increased danger.

(3) The possessor of the source of increased danger shall not be liable for the damage caused, if he proves that the source of increased danger got out of his possession as a consequence of illegal acts of third parties. In such case, the liability pertains to the person that illicitly acquired the source of increased danger. Inasmuch as the fact that the source of increased danger got out of the possession of the legal holder is imputable to him, he shall be liable for the damage jointly and severally with the person that obtained illegal possession of the property.

(4) The possessors of sources of increased danger are jointly and severally liable for the damage caused to a third party by interaction of those sources (collision of vehicles etc.).

(5) The damage caused to the possessors of sources of increased danger as a result of interaction of those sources shall be compensated for in accordance with Article 1398.

Article 1411. Liability for Damage Caused by Animals

(1) The owner of an animal or the person that is using an animal during work is liable for the damage caused by it, either if he were under his surveillance or escaped from it. The obligation to compensate does not arise where the damage was caused by a domestic animal designated for professional activity, for business activity or for obtaining means for owner's maintenance and the owner has ensured due care for animal's surveillance, while the damage would have been caused even in case of such due care.

(2) The person that undertook to supervise the animal, by a contract concluded with its possessor, shall be liable for the damage caused by the animal, unless he proves that the damage is not imputable to him.

Article 1412. Liability for Damage Caused by Collapse of Building

(1) The owner is bound to compensate for the damage caused by general or partial collapse of a building, where the collapse is due to the lack of according maintenance or a defect in construction.

(2) The person that undertook by contract with the owner to ensure building's maintenance in an adequate state, by virtue of the right of use that has been accorded to him, shall be jointly and severally liable for the damage caused by the collapse of the building or of a part of it.

Article 1413. Liability in Case of Falling or Spill from Building

Where the damage has been caused due to the fact that something fell or spilt from the building, the person having the building in possession shall be held liable. This rule shall not apply in the case when the damage was caused by force majeure or due to the fault of the injured person.

Article 1414. Liability for Jointly Caused Damage

(1) Where the damage was caused jointly by several persons, they shall bear joint and several liabilities.

(2) Liability for damage is borne not only by the author of the deed that caused the damage, but also by the one who instigated the former or supported him, as well as by the one that knowingly benefited from the damage caused to another person.

(3) Where it is impossible to determine the compensation shares owed by the joint and several debtors in accordance with para.(1) and (2), they shall be liable in equal shares.

Article 1415. Right of Recourse towards One Who Caused Damage

(1) The person that compensated for the damage caused by another person is entitled to a recourse action against the latter, within the limits of compensation amount paid to the injured person, unless the law or the contract provide otherwise.

(2) In case of compensation for damage under Article 1405, the state has a right of recourse against officials from bodies of criminal investigation, preliminary inquiry, prosecutor's office or from the court, inasmuch as their fault is proved by judicial sentence.

(3) Parents (adoptive parents), guardians or protectors, as well as organizations provided at Article 1406-1408 that compensated for the damage caused by a minor or an incapable person do not have a right of recourse against those persons.

Article 1416. Order of Compensation for Damage

(1) The court establishes the type of compensation contingent on the circumstances. The court shall take a decision differing from the injured person's request only for good reasons.

(2) While adopting the decision regarding compensation for damage, the court will bind the author of the damage to deliver a property of the same type and quality, to repair the property that he has deteriorated or to compensate in money the entire damage caused.

(3) The court shall establish the amount of compensation in money equivalent, contingent on the extent of the damage on the date of judgement issuance.

(4) The compensation for damage in monetary equivalent shall be made by collection of a lump sum in favor of the injured person or by establishing a periodical payment. Where periodical payments are set, the debtor may be bound to provide guaranties.

Article 1417. Consideration of Fault of Injured Person upon Calculating Amount of Compensation

(1) The damage caused by will of the injured person shall not be compensated for.

(2) Where the gross negligence of the injured person contributed to the occurrence of the damage or to its aggravation, the compensation shall be reduced according to the degree of the fault of the injured person.

(3) The gross negligence of the injured person shall not constitute grounds for reducing the compensation in cases provided for by Article 1405 and neither in the cases when the damage has been caused by a minor under the age of 14 or by an incapable person.

Article 1418. Liability for Damage Caused by Bodily Injury or Other Injury to Health

(1) In case of bodily injury or other injury to health, the author of the damage is bound to offer compensation to the injured person for salary or income lost as a result of loss or reduction of the work ability, as well as for costs incurred in relation to health injury – treatment, additional food, prosthesis, care, procurement of a special vehicle, professional retraining etc.

(2) The calculation of the salary (income) lost due to bodily injury or other injury to health shall be calculated in accordance with legal provisions.

(3) The pension for invalidity, established to the injured person in relation to the bodily injury or injury to health, as well as other indemnifications or amounts paid as social state insurance, shall not be taken into account while calculating the lost salary (income).

(4) The volume of compensation pertaining, in accordance with this article, to the injured person may be increased by law or contract.

Article 1419. Liability in Case of Death of Injured Person

(1) In case of death of the person as a consequence of grave bodily injury or other injury to health, the right to compensation belongs to:

- a) Persons without work capability to whom the deceased provided maintenance or who were entitled to maintenance, on the date of his death;
- b) The child of the deceased, born after his death;
- c) one of the parents, the spouse or another member of the family of the deceased, regardless of whether he is able for work, but who does not work and takes care of the children, brothers and sisters for whom maintenance was provided by the deceased and who have not reached 14 years of age or who, although reached such age, need care due to health reasons, according to the conclusion of competent medical bodies;
- d) Persons that have been provided maintenance by the deceased and who became unable for work within 5 years from the death of the latter.

(2) The right to compensation is recognized to:

- a) Minors, until they reach 18;
- b) pupils and students that reached 18, until completion of studies (except for instruction by correspondence) in educational institutions, but at the most until they reach 23;
- c) Women that reached the age of 55 and men that reached 60 years of age – for life;
- d) Disabled persons – for the duration of their disability;
- e) one of the parents, the spouse or another member of the family that takes care of the children, brothers and sisters that were provided maintenance by the deceased, until they reach 14 years of age or until their health improvement, confirmed by the conclusion of the competent medical bodies.

(3) The calculation of the amount of compensation for loss of breadwinner shall be made in accordance with the law.

(4) Persons bound to compensate for the damage caused by death shall be obligated to provide compensation for the necessary funeral costs to the person that incurred such costs, having regard of the social position of the deceased and the local customs.

Article 1420. Compensation for Damage Caused by Bodily Injury or Other Health Injury or by Death

(1) The payment of compensation for damage caused by bodily injury, by other health injury or by death shall be made in monthly installments.

(2) Compensation for costs to be incurred due to bodily injury, other health injury or death may be set beforehand, based on the conclusion of the competent medical body, including costs for payment in advance for necessary goods and services, as are sanatorium ticket, travel tickets, special transportation means etc.

(3) Upon request of the person entitled to receive compensation for the damage caused by bodily injury, by other health injury or by death, the court may establish payment of compensation as a lump sum for a maximum period of 3 years, if there are good reasons and having regard of the possibilities of the liable person.

(4) In case of liquidation of the legal entity liable for damage caused by bodily injury, by other health injury or by death, the respective amounts shall be capitalized in accordance with the legal provisions.

Article 1421. Alteration of Amount of Compensation for Damage Caused by Bodily Injury, by Other Health Injury or by Death

(1) Where, due to bodily injury or other health injury, the work capacity later decreased as compared to the work capacity which the injured person had as of the moment of compensation awarding, the person is entitled to demand an according increase in compensation amount.

(2) The person bound to pay compensation provided at para.(1) is entitled to demand its according reduction where the work capacity of the injured person as compared to the work capacity at the moment of compensation awarding.

(3) Amounts owed as compensation for damage caused by bodily injury, by other health injury or by death shall be indexed in accordance with the law.

Article 1422. Compensation for Moral Damage

(1) Where the person were inflicted moral damage (mental or physical suffering) by acts that attempted to his extra-patrimonial rights, as well as in other cases provided by law, the court is entitled to bind the liable person to compensate for damage in monetary equivalent.

(2) The moral damage shall be compensated regardless of the existence and extent of material damage.

(3) Compensation for moral damage shall be awarded even if the illicit deed is not imputable to its author, where the damage has been caused by illegal conviction, illegal imputation of criminal liability, illegal application of preventive measures under the form of preventive arrest or written declaration not to leave the respective locality, by illegal application of arrest or correctional labor as administrative sanction and in other cases provided by law.

Article 1423. Amount of Compensation for Moral Damage

(1) The amount of compensation for moral damage shall be determined by the court contingent on the type and gravity of mental and physical suffering caused to the injured person, the degree of the faultiness of the author of the damage where the fault is a condition of liability, and the extent to which such compensation may bring satisfaction to the injured person.

(2) The type and gravity of mental or physical suffering shall be assessed by the court, having regard of the circumstances under which the damage was caused, as well as the social status of the injured person.

Article 1424. Period of limitation

(1) The action for damage compensation shall extinguish upon the lapse of 3 years starting with the moment when the injured person became or should have become aware of the damage and of the person liable to compensate for it.

(2) Where the person liable to compensate for damage and the injured person negotiate in relation to the damage that must be compensated for, the course of the statute of limitation shall be suspended until one of the parties abandons negotiations.

(3) Where the person liable to compensate for the damage acquired something as a consequence of the illicit act, on account of the injured person, the former is bound to return what he has acquired, in accordance with the rules regarding unjust enrichment, even if the statute of limitation has lapsed.

Section 2: Liability for Damage Inflicted by Defective Products

Article 1425. Grounds for Liability for Damage Caused by Defective Products

(1) The producer incurs liability for the damage caused by a defective product, even in the absence of his fault, except where:

- a) he did not put that product into circulation;
- b) having regard to the circumstances, it is probable that the defect which caused the damage did not exist at the time when the product was put into circulation;
- c) the product was manufactured neither for sale, nor for any other form of distribution for economic purposes, and is not being sold in the course of producer's professional occupation;
- d) the defect consists in the fact that at the moment when the producer put it into circulation, the product complied with mandatory legal norms;
- e) the state of scientific or technical knowledge at the time when the product has been put into circulation was not such as to identify the defect.

(2) The liability of the producer of a component is also excluded if the defect is attributable to the order of assemblage (construction) of the product into which the component has been fitted, or to the additions and connections made by the manufacturer of the final product. This provision shall also apply accordingly to the producer of raw materials.

(3) The producer's duty to make compensation may be reduced or disallowed, when the damage is caused both by a defect in the product and by the fault of the injured person or of any person for whom the injured person is responsible.

(4) The liability of the producer shall not be reduced where the damage is caused both by a defect in the product and an act of a third party.

Article 1426. Producer and Product

(1) For the purpose of this Section, 'product' means any movable, even when it is incorporated into another movable or immovable thing. Electric power is also regarded as product. Agricultural, soil-grown, zoo-technical, beekeeping or fish-farming products (natural agricultural products) that have not been subject to primary processing, as well as game, shall not be regarded as products.

(2) For the purpose of this Section, 'producer' means the manufacturer of a finished product, of raw material or of a component of a product. The person that presents himself as producer by putting his name, trade marks or other distinguishing signs on the product shall also be regarded as producer under this Section.

(3) Any person that imports or procures a product for sale, lease or distribution in any other manner, in the course of his business activity and within the sphere of regulation of this Section, shall also be deemed producer.

(4) Where the producer cannot be identified, each supplier shall be treated as producer, unless, within a month from the day when he became aware of the claims arising from product's defects, he provides information about the identity of the producer or of the person who has delivered that product to him. The same shall apply in the case of an imported product, if it is impossible to identify persons mentioned at para.(3), although the producer's name is known.

Article 1427. Defective Product

(1) A product is defective when it does not provide the expected safety, taking into account all circumstances, including:

- a) presentation of the product;

b)use which the product could be reasonably expected to put to;

c)time when the product was put into circulation.

(2) A product shall not be deemed defective for the sole reason that a better product is subsequently put into circulation.

Article 1428. Burden of Proof

The injured person shall be required to prove the damage, the defect, and the casual relationship between those.

Article 1429. Joint and Several Liability

If the duty to compensate for the same damage is imposed upon several producers, they shall be liable as joint and several debtors.

Article 1430. Terms for Compensation for Damage

(1) Where no term is fixed for paying the compensation for damage, the damage shall be compensated if it occurs within 10 years as of product manufacturing.

(2) Claims under Article 1425 shall prescribe in three years as of when the injured person obtained or should have obtained knowledge of the damage and of the person bound to compensate therefor.

Article 1431. No Exclusion or Limitation of Liability Beforehand

Producer's liability for defective products may not be excluded or limited beforehand. Agreements to the contrary are void.

BOOK FOUR: INHERITANCE LAW

TITLE I: GENERAL PROVISIONS ON INHERITANCE

Article 1432. Inheritance

(1) Inheritance is the conveyance of the property of a deceased natural person (decedent) to his heirs.

(2) Inheritance is a transmittal of rights mortis causa, having a universal, unitary and indivisible character.

(3) Inheritance may operate by virtue of will (testamentary succession) and by virtue of legal provisions (statutory succession).

Article 1433. Heirs

(1) The following persons may be heirs, in the case of:

a) testamentary succession, those living at the time of decedent's death, as well as persons conceived while the decedent was still alive and born alive after his decease, regardless of whether these are his children, as well as legal entities having civil legal capacity at the moment of decease of the person that left the inheritance;

b) statutory succession, those living at the time of decedent's death, as well as children of the decedent, conceived when he was alive and born alive after his death.

(2) The state has testamentary heir capacity, as well as capacity to inherit by escheat.

Article 1434. Unworthy Heir

(1) The following persons may not become testamentary nor statutory heirs:

a) persons who committed a willful criminal offense or an immoral deed against decedent's last will, expressed in the will or against the decedent himself, where such circumstances have been concluded upon by court judgment;

b) persons who deliberately impeded the realization of decedent's last will and thus favored their own vocation to inheritance or the vocation of persons close to them or to the increase of the inheritance share of the persons mentioned.

(2) Parents deprived of their parental rights, which were not restored upon the date of inheritance accrual, may not become statutory heirs of their children, as well as the parents (adoptive parents) and adult children (including adopted children) that eluded in bad faith to perform the obligation of decedent's maintenance, where this circumstance is found by the court.

Article 1435. Deprivation of Right to Inherit

The circumstance that constitutes a ground for deprivation of the right to inherit must be ascertained by court. The action may be filed by the person, in whose regard the deprivation of unworthy heir of his right to inherit brings about material consequences.

Article 1436. Pardon of Unworthy Heir

The person guilty of committing actions entailing deprivation of the right to inherit may be, nevertheless, called to inheritance, if the decedent has pardoned that person, stating this explicitly in the will.

Article 1437. Duties of Person Declared as Unworthy Heir

Where, after receiving inheritance, the person is declared as unworthy heir by court, he shall be bound to return all that he received as inheritance, including fruits collected.

Article 1438. Term for Filing Action on Declaration of Heir's Unworthiness

The action for declaring a person as unworthy heir must be filed by the interested person within a year from the date of inheritance accrual.

Article 1439. Inheritance Share of Person Deprived of Right to Inherit

The inheritance share of the person deprived of the right to inherit shall be divided equally between all remaining heirs.

Article 1440. Opening of Succession

(1) Succession opens by death of a natural person or declaration of his death by court.

(2) The moment of opening of succession is that of decedent's death or the date when the court judgment on declaration of death became final.

Article 1441. Concomitant Death of Persons Having Vocation to Inherit in Relation to Each Other

(1) Persons with reciprocal or unilateral vocation to inherit who died without the possibility of establishing whether one was survived by another shall be presumed to have died concomitantly.

(2) Property of each of the persons that died concomitantly shall be inherited by their own heirs.

Article 1442. Opening of Succession after Declaration of Person's Death

The effect provided for in art.1441 also ensues in the event of declaration by court of the death of several persons, as a consequence of their disappearance under the same circumstances. In such a case, the moment when the court judgment declared the death of those persons is not relevant.

Article 1443. Place of Opening of Succession

The place of opening of succession is at the last decedent's domicile. If the last domicile is unknown, the place of inheritance accrual shall be the place where the inheritance estate is located. Where the inheritance assets are located in different places, the place of inheritance accrual shall be deemed that where the most valuable part of immovable assets is situated. Where there are no immovable assets, the place of inheritance accrual shall be the place where the most valuable part of the movable assets is situated.

Article 1444. Inheritance Estate

(1) The inheritance estate includes both property rights (assets of inheritance), as well as property obligations (liabilities of inheritance) pertaining to the decedent at the moment of his death.

(2) Where there are several heirs, their inheritance shares shall belong to all of them as a single estate, until the receipt of the certificate of inheritance.

(3) The inheritance estate includes decedent's share in joint property or its value, where the partition is not possible.

Article 1445. Future Assets

The testator may include into the will provisions regarding assets that he did not own at the moment of will drafting, but which must come into his property upon accrual of inheritance.

Article 1446. Inadmissibility of Conveyance by Inheritance of Personal Rights and Obligations

The inheritance estate shall not include property rights and obligations with personal character and which may belong only to the decedent, as well as rights and obligations, provided for in contract or law, which are valid while the decedent is alive and cease upon his death.

Article 1447. Protection of Decedent's Non-Property Rights

Decedent's non-property rights that are not included in the inheritance estate may be exercised and protected by the successors as provided by law.

Article 1448. Right to Claim Asset from Inheritance Estate

(1) Where the testator has bequeathed an asset that belongs to another person, the latter has the right to claim the asset in accordance with the general principles.

(2) Where decedent's property contains assets that belong to another person, the establishment of this part of property and its transmittal to the person entitled is mandatory.

TITLE II: TESTAMENTARY SUCCESSION

CHAPTER I: GENERAL PROVISIONS ON TESTAMENTARY SUCCESSION

Article 1449. Will

- (1) The will is a solemn, unilateral, revocable and personal transaction by virtue of which the testator disposes of all his property or of a part of it on a gratuitous basis.
- (2) Only a competent person may be testator.
- (3) Making a will through an agent is not allowed.

Article 1450. Determination of Share by Testator

- (1) In his will, the testator may determine the shares of the appointed heirs or specify which property shall be inherited by each of the heirs. If the will lacks such specification, the heirs shall inherit in equal shares.
- (2) If several heirs are appointed by will and only the portion of one heir is specified there, the other heirs inherit the remaining property in equal portions.

Article 1451. Replacement Heir

- (1) The testator is entitled to appoint another heir (replacement heir) in the will, in contemplation of the possibility that the heir appointed by him will die before the inheritance accrual, will disclaim the inheritance or will be deprived of the right of inheritance.
- (2) Disclaimer of inheritance by testamentary heir is admitted only when he does not specify in favor of whom he relinquishes.

Article 1452. Distribution of Inheritance among Testamentary Heirs

If several heirs are appointed by will and the portion allotted to one heir includes the entire estate, all testamentary heirs shall receive equal shares.

Article 1453. Inheritance of Non-Bequeathed Property

If the shares of the testamentary heirs do not exhaust the whole inheritance, the remaining property is subject to legal succession or escheat, which also pertains to those statutory heirs to whom a part of the estate was bequeathed, unless the will provides otherwise.

Article 1454. Impossibility of Exact Identification of Heirs

If the testator has identified the heir with such characteristics that fit several persons and it is impossible to determine whom the testator had in mind, they all are deemed to be heirs entitled to equal shares.

Article 1455. Disinheritance by Will

- (1) The testator may by will disinherit one, several or all statutory heirs and is not bound to motivate his act.
- (2) A person disinherited by direct indication in the will may become statutory heir neither to that part of the property which is not included in the will, nor when the testamentary heirs have disclaimed the inheritance.

Article 1456. Reservation of Right of Inheritance

The statutory heirs not mentioned in the will reserve the right of inheritance to the non-bequeathed part of the estate; they shall also receive the property specified by the will if by the time of accrual of the inheritance none of the testamentary heirs is living or all of them have disclaimed the inheritance.

Article 1457. Impermissibility of Statutory Succession

If the entire inheritance has been distributed among the testamentary heirs according to the will, and, by the time of accrual of the inheritance, one of the heirs is not living, statutory succession shall not take place and the other testamentary heirs will receive his portion of the estate in equal shares.

CHAPTER II: FORM OF WILL

Article 1458. Form of Will

The will may be drawn only in one of the following forms:

- a) holographic will – written personally by testator, dated and signed by him;
- b) notary-certified will – will certified by notary, and the will equated to that certified by notary;
- c) secret will – written, dated, signed and sealed by testator, and presented to the notary, who makes the certification inscription on the envelope signed by testator and notary.

Article 1459. Will Equated with Notary-Certified Will

(1) The following persons are equated with notary with regard to certification of will:

- a) head physician, head of the medical department, their deputies, doctor on duty at the civil or military hospital, another medical institution or sanatorium, director or head physician of the rest home, if the testator undergoes treatment or lives at that institution; head of the search-party, geographical or similar expedition, if the testator is on such an expedition;
- b) captain of the ship or airplane, if the testator is on the board of the ship or airplane;
- c) commander (head) of the military unit, alliance, institution or college, if there is no notary at the stationing of the military unit and if the testator is a serviceman or an official at the military unit, a civilian or a member of his family;
- d) head of the penitentiary if the testator is kept there in confinement.

(2) The will certified as stipulated in par.(1) shall be sent not later than the day following the certification to one of the notaries at the place where the respective institutions are located.

Article 1460. Signing of Will by Another Person

If, for any reason, the testator is not able to sign the will with his own hand, then, at his request, another person may sign the will in the presence of at least 2 witnesses, the testator and the notary. In this case, it is necessary to specify the reasons for testator's inability to sign the will with his own hand. The witnesses also have to sign the will.

Article 1461. Will of Illiterate or Disabled Person

The will of an illiterate or disabled person is made without fail in the presence of 2 witnesses and of a person that can communicate with the testator, confirming by signature his declaration of will.

Article 1462. Witnesses to Will

Minors declared incompetent, disabled persons, testamentary heirs, their ascendants and descendants, sisters, brothers, spouses and recipients of the legacy (legatees) may not become testamentary witnesses.

Article 1463. Secrecy of Will

The notary, or another person who certifies a will, the witness, and the persons who sign the will for the testator, have no right, before inheritance accrual, to disclose information concerning the content of the will, the process of its making, amendment and revocation.

Article 1464. Date of Making of Will

The will must bear the date of its making. Absence of date entails invalidity of the will only when the doubts about the competence of the testator at the time of making, amendment or revocation of the will are not dispelled or when there are several wills.

CHAPTER III: AMENDMENT, REVOCATION OR CANCELLATION OF WILL

Article 1465. Amendment or Revocation of Will

A testator may amend or revoke the will:

- a) by making a new will that directly revokes the previous will or that part of it which is contradictory to the new will;
- b) by submitting an application to a notary's office;
- c) by destroying all copies of the holographic will.

Article 1466. Impermissibility of Restoration of Revoked Will

The will, revoked by another will made later, may not be restored even when the later will is revoked by submittal of an application.

Article 1467. Multiple Wills

If the testator has made several wills but they supplement and do not completely replace each other, all wills remain in force. The previous will remains in force inasmuch as its provisions are not altered by the subsequent will.

Article 1468. Grounds for Declaration of Invalidity of Will

A will becomes invalid if:

- a) the person in whose favor the will was made dies;
- b) the only heir disclaims the inheritance;
- c) the devised property is lost during testator's lifetime or is alienated by him;
- d) to the extent of violation of compulsory portion.

Article 1469. Invalidity of Will

- (1) A will is declared invalid in the presence of circumstances that entail invalidity of transactions in general.
- (2) Testamentary dispositions that are contradictory to the law or public interests, as well as conditions that are unclear or contradictory to each other, are invalid.
- (3) The will, which is made without consideration of form established by law, is invalid.
- (4) Invalidity of will shall be declared by court.

Article 1470. Invalidity of Particular Testamentary Dispositions

- (1) A testamentary disposition is invalid if it serves as grounds for inheriting a thing that is absent from the inheritance.
- (2) A testamentary disposition is invalid if it cannot be carried out for reasons of health condition or for other valid reasons.

Article 1471. Effects of Loss of Legal Force or Invalidity of Testamentary Disposition

If one of several testamentary dispositions are invalid or lose effect and the testator has not left any other dispositions, the other testamentary dispositions remain in force.

Article 1472. Inheritance in Case of Invalidity of Will

If the will is declared invalid, the heir who is deprived of the right of inheritance by that will is entitled to receive the inheritance according to the general procedure.

Article 1473. Disputing of Validity of Will

The validity of a will may be disputed by statutory heirs and other interested persons on the basis of circumstances which entail invalidity of the transaction.

Article 1474. Term for Lodging Claim

- (1) A claim for invalidation of the will may be lodged within one year from the day of accrual of the inheritance
- (2) The statute of limitations does not extend to owner's claim if the testator has wrongfully devised another's property as his own to the heir.

CHAPTER IV: EXECUTION OF WILL

Article 1475. Executors of Will

If the will does not specify the executor thereof, the execution is assigned to the testamentary heirs. The heirs may, by mutual consent, entrust the execution of the will to one of them or to another person.

Article 1476. Appointment of Executor

For the purpose of exact execution of the testamentary dispositions, the testator may appoint by his will one or more executors, either out of the number of testamentary heirs or other persons

who are not heirs. In the latter case, it is necessary to obtain executor's consent, which he may give by making a note on the will or by attaching a declaration to it.

Article 1477. Refusal to Execute Will

The executor of the will is entitled at any time to refuse the duty imposed on him by the testator, whereof he must give notice to the testamentary heirs.

Article 1478. Appointment of Executor by Third Party

(1) The testator may assign the appointment of the executor to a third party who, after inheritance accrual, must immediately appoint the executor and notify the heirs to that effect. The third party is entitled to refuse to carry out that assignment, whereof he must immediately notify the heirs.

(2) The assignment of executor is made by submitting a request by the third person to the notary of the place of inheritance accrual.

(3) The executor notifies his approval by submitting a request to the notary of the place inheritance accrual.

Article 1479. Complete or Partial Execution of Will

The executor may be assigned by testator to execute the will in full or in its particular dispositions.

Article 1480. Protection and Administration of Inheritance

From the moment of inheritance accrual, the executor must undertake protection and administration of the inheritance; he is authorized to perform all acts necessary for the execution of the will. Within the limits of this empowerment, the heirs lose their right to administer the inheritance.

Article 1481. Protection and Administration of Inheritance by Multiple Executors

If there are several executors, performance of individual acts is permissible only for the purpose of protecting the inheritance; otherwise consent among executors is required.

Article 1482. Reimbursement of Outlays on Execution

(1) The executor performs his duties on a gratuitous basis, although he may receive remuneration, insofar as the will provides for this.

(2) The executor has the right to reimbursement out of the inheritance for the outlays incurred on protection and administration of the estate.

(3) The executor, if not an heir, has no right to make other expenses out of the inheritance, except for the cases provided by art.1551 of this Code.

Article 1483. Executor's Report

After the execution of the will, the executor is bound to provide the heirs with a report on his activity upon their request. The executor performs his functions until all heirs accept the inheritance.

Article 1484. Removal of Executor

An interested person may take a legal action for removal of the executor from his office if there are valid reasons for this.

Article 1485. Liability of Executor

If the executor, deliberately or by gross negligence, deviates from the performance of the duties imposed upon him by will and by doing so causes damage to the heirs, he shall bear liability for that damage.

CHAPTER V: LEGACY

Article 1486. Legacy

A testator may charge a person by will with a legacy without appointing him as heir.

Article 1487. Object of Legacy

The object of a legacy may consist in transfer of the ownership, use, or any other real right in bequeathed things to the receiver of the legacy (legatee), in acquisition and transfer of non-bequeathed property to him, in producing of certain works, rendering of services, etc.

Article 1488. Use of Living Accommodation on Basis of Legacy

A testator is entitled to charge the heir, who inherits the dwelling house, apartment or other living accommodation, with the obligation to transfer the right of lifelong use of the accommodation, or of a certain part of it, to one or more persons. The right of lifelong use remains effective in case of subsequent assignment of the ownership of the living accommodation.

Article 1489. Inalienability of Right to Lifelong Use of Living Accommodation

- (1) The lifelong use of a living accommodation may not be alienated and transferred to the heirs of the legatee.
- (2) The lifelong use of a living accommodation creates no legal grounds for residence of the legatee's family members in that living accommodation, unless the will provides otherwise.

Article 1490. Scope of Execution of Legacy

The heir charged with a legacy shall execute it to the extent of the real value of the bequeathed inheritance, with deduction of testator's debts, which accrue to this heir, unless the will provides otherwise.

Article 1491. Execution of Legacy by Other Heirs

- (1) If the heir charged with a legacy dies before the accrual of the inheritance or disclaims the inheritance, the duty to execute the legacy passes to the other heirs who have received his share.
- (2) If several heirs are charged with a legacy, each of them is charged in proportion to his share in the inheritance.

Article 1492. Time of Execution of Legacy

The legatee is entitled to demand execution of the legacy within 6 months from the day of inheritance accrual, unless the will provides otherwise.

Article 1493. Termination of Execution of Legacy

The legacy terminates if the legatee:

- a) has not requested execution in terms specified in art. 1492;
- b) dies before the date of accrual of inheritance.

Article 1494. Legacy in Case of Compulsory Portion

If a testamentary heir charged with a legacy is also entitled to the compulsory portion, he shall execute the legacy only within that part of the bequeathed estate, which he receives in excess of his compulsory portion.

Article 1495. Liability of Legatee

The legatee shall not be held liable for testator's debts.

Article 1496. Disclaim of Legacy and Discharge from Legacy Execution

- (1) A legatee is entitled to disclaim the legacy. In this case, the respective share in the inheritance is due to the heir who was charged with the execution of legacy.
- (2) If the legatee disclaims the legacy, the heir who was charged with the execution of legacy is discharged from the duty to execute it.

Article 1497. Devolution of Legacy

If the legatee dies after inheritance accrual and fails to give his consent to the acceptance of the legacy, the title to this legacy devolves to his heirs if the legacy has no connection with legatee's personal features.

Article 1498. Legacy for Public Benefit

- (1) A testator may charge his heir with the performance of an act intended for public benefit, which can be either of property or non-property nature.
- (2) If the act to be performed concerns property, the provisions for legacy apply.
- (3) In the event of death of the heir charged by the will with performance of an act intended for public benefit, the duty to fulfill this obligation devolves to other heirs who received his inheritance share.
- (4) The executor of the will is entitled to demand that the heir perform the act he is charged with; if there is no executor, the demand may be made by any heir as well as by other interested persons.

TITLE III : STATUTORY SUCCESSION

CHAPTER I: GENERAL PROVISIONS ON STATUTORY SUCCESSION

Article 1499. Statutory Succession

(1) Statutory succession, that is the devolution of decedent's property to persons stipulated by law, is applied in the following cases:

- a) there is no will left by the testator;
- b) the will was declared invalid;
- c) the testamentary heir died at the same time with the testator;
- d) the testamentary heir is unworthy.

Article 1500. Statutory Heirs

(1) In statutory succession, the following heirs are entitled to inherit in equal shares:

- a) in the first instance – descendants (sons and daughters of the testator, the decedent's posthumous child, as well as the adopted children), surviving spouse and privileged antecessors (parents, adoptive parents) of the decedent;
- b) in the second instance – collateral relatives (brothers and sisters) and regular antecessors (grandparents, both on the father's and the mother's side) of the decedent;
- c) in the third instance – regular collateral relatives (uncles and aunts) of the decedent.

(2) The regular antecessors are called to inheritance in the order of proximity (closeness) to the testator, respectively grandparents replace great-grandparents etc., regardless sex and line of relationship.

(3) The right of representation is applied to descendants and collateral relatives as follows:

a) to descendants – ad infinitum;

b) to collateral relatives – by the fourth level of kinship inclusively (privileged collateral relatives – nephews and nieces from brother or sister, grand-nephews and grand-nieces; regular collateral relatives - first cousins).

(4) Representations are put in effect in accordance with provisions of art.1504.

(5) An adopted person and his descendants may not inherit after the death of their natural parents, other natural ascendants, blood brothers and blood sisters.

Article 1501. Precedence in Statutory Succession

Heirs of subsequent instance are called to statutory succession only if there are no heirs of preceding instances or if these do not accept or refuse the succession. They are called to succession if all heirs of preceding instances have been deprived of the right of inheritance.

Article 1502. Deprivation of Right of Inheritance in Case of Divorce

The court may deprive a spouse of the right of inheritance if it is proved that the marriage with the decedent was actually terminated at least three years before the accrual of the inheritance, and the spouses lived separately.

Article 1503. Loss of Right of Inheritance in Consequence of Annulment of Marriage

The surviving spouse loses the right of inheritance if there were grounds for annulment of the marriage and the decedent brought a suit.

Article 1504. Right of Representation

(1) If the heir dies before the testator, successors stipulated in art.1500 par.(3) receive the inheritance share that pertains to the deceased heir, by virtue of representation.

(2) Representation triggers transfer of rights from the represented to the representatives.

(3) Representation of person whose inheritance was disclaimed, of the person that disclaimed the inheritance and of the unworthy heir is not allowed.

CHAPTER II: COMPULSORY PORTION

Article 1505. Compulsory Portion

Regardless of the content of the will, the successors of first instance inherit a compulsory share, which must constitute at least a half of the share due to them by statutory succession (compulsory portion).

Article 1506. Rise of Claim to Compulsory Portion

The claim to the compulsory portion arises from the moment of inheritance accrual. Such claim devolves by inheritance.

Article 1507. Determination of Compulsory Portion

The entire amount of the compulsory portion is determined on the basis of the whole estate, including the property provided for performance of the legacy.

Article 1508. Determination of Compulsory Portion to Each Reserve Heir

In determining the compulsory portion of each heir, all statutory heirs, who would be called to inheritance, if there were no will, shall be taken into consideration. The testamentary heirs shall be disregarded if they are not statutory heirs.

Article 1509. Effects of Disclaimer of Legacy

A person, who is entitled both to the compulsory portion and legacy, may demand the compulsory portion, provided that he disclaims the legacy. If he does not disclaim the legacy, he loses the right to the compulsory portion to the extent of the value of the legacy.

Article 1510. Allotment of Compulsory Portion from Non-Bequeathed Property

If the will does not exhaust the whole inheritance, the compulsory portion is allotted first out of the non-bequeathed property, and if this is not sufficient, it is replenished out of the devised property.

Article 1511. The Right of the Reserve Heir to Claim for Replenishment

If the property bequeathed to a person entitled to the compulsory portion is less than half of the share which he would have received by statutory succession, he may demand compensation for the difference between the testamentary share received by him and the half of the share which he would have received by statutory succession.

Article 1512. Disclaimer of Compulsory Portion

(1) An heir entitled to the compulsory portion may reject it, without specifying in whose favor, but this does not entail the increase in the compulsory portions of other co-heirs. His share passes to the testamentary heirs proportionally.

(2) Acceptance or disclaimer of the compulsory portion must be effected within the period of time fixed for acceptance or disclaimer of the inheritance.

Article 1513. Deprivation of Compulsory Portion

(1) Deprivation of the title to the compulsory portion is possible under the circumstances that entail deprivation of the right of inheritance in general.

(2) Deprivation of the title to the compulsory portion may be carried out by the testator in his lifetime by a legal action.

(3) The court decision on deprivation of the title to compulsory portion comes into effect from the time of accrual of the inheritance. The same is valid, if the testator instituted the legal action during his lifetime, but the judgment was delivered after his death.

Article 1514. Passing of Compulsory Portion to Testamentary Heirs

The share of an heir deprived of the title to the compulsory portion passes to the testamentary heirs.

TITLE IV: ESCHEAT

Article 1515. Passing of Heirless Property to State Treasury

(1) If there are neither statutory, nor testamentary heirs, or if none of the heirs has accepted the inheritance, or if all the heirs are deprived of the right of inheritance, the heirless property shall pass to the state treasury.

(2) The state receives the inheritance property by issuing an escheat certificate.

(3) The inheritance order and escheat property registration, as well as its devolution to state treasury are established by law.

TITLE V: LEGAL REGIME OF HEIR

CHAPTER I: OPTION OF INHERITANCE

Article 1516. Acceptance of Inheritance

(1) The heir called to succession receives the inheritance, having the right to refuse it.

(2) An heir shall accept the inheritance regardless of whether he is a statutory or a testamentary heir.

(3) The inheritance is deemed accepted by the heir when he submits an application for acceptance of the inheritance to the notary's office at the place of inheritance accrual, or enters into possession or administration of the property.

(4) If the heir has actually entered into the possession of a part of the inheritance, it is deemed that he has accepted the inheritance in full, regardless of its nature and location.

Article 1517. Term for Acceptance of Inheritance

The inheritance must be accepted within six months from the day of its accrual.

Article 1518. Special Term for Acceptance of Inheritance

If the right to receive the inheritance arises when the other heirs do not accept the inheritance, then the inheritance must be accepted within the remaining time of the term fixed for acceptance of the inheritance, and if this time is shorter than three months, it is extended to three months.

Article 1519. Extension of Term for Acceptance of Inheritance

(1) The term fixed in art.1517 can be extended by the court to maximum 6 months. Upon the expiration of the term, the inheritance may be accepted without legal recourse if the other heirs who accept the inheritance accede to this.

(2) In the case specified by par.(1), the heir receives his portion in kind from what is left, and if transfer in kind is impossible, he will receive the monetary value of the remaining part of the property due to him.

Article 1520. Impermissibility to Dispose of Inheritance Estate

The heir who has entered into possession or administration of the inheritance estate has no right to dispose of the inheritance before the expiry of the inheritance option term or before he obtains a certificate of the title to the inheritance.

Article 1521. Right to Proceeds Drawn before Bringing Action

If a testamentary heir did not know about the modification or revocation of will, or if a statutory heir who did not know about the existence of the will enters in the possession of the inheritance, or if statutory and testamentary heirs did not know about the existence of other statutory heirs of a prior class or about the existence of another will, they shall retain the proceeds drawn from the inheritance before the action was brought; they are also entitled to reclaim the entire capital invested by them in the inheritance.

Article 1522. Effects of Alienation of Certain Assets from the Inheritance Estate

If in cases stipulated in art.1521, the assets included in the inheritance are sold before bringing a suit, the sale shall be deemed valid and remain in force, and the proceeds drawn from the sale of the assets shall pass to the effective heir.

Article 1523. Hereditary Transmission

(1) If an heir dies after the accrual of the inheritance but before the acceptance of inheritance, the right to his share in the inheritance passes to his heirs (hereditary transmission). The heirs of the deceased heir must accept the inheritance within the period of time remaining till the end of the term fixed for acceptance of the inheritance. If that period is shorter than three months, it shall be extended to three months.

(2) If the term specified in par.(1) expires, decedent's successors may be declared by the court as having accepted the succession if the court decides that the reasons for delay are well-founded.

(3) The right of heir to receive a part of inheritance as part of compulsory portion is not transferred to his heirs.

Article 1524. Consequences of Disclaimer of Inheritance by Hereditary Transmission

- (1) Disclaimer of the inheritance devolving by hereditary transmission does not bar heir's right to receive the inheritance which was directly due to the deceased heir.
- (2) In the event of disclaimer of the inheritance devolving by hereditary transmission, the property passes to the persons who were called to succession together with the deceased heirs.

Article 1525. Measures for Preservation of the Inheritance Estate

An heir is entitled to demand that measures for preservation of estate be taken, for which purpose a six-months' period shall be fixed as part of the general term fixed for acceptance of the inheritance.

Article 1526. Disclaimer of Inheritance

- (1) An heir may disclaim an inheritance within 6 months from the date of inheritance Accrual even if he has accepted inheritance by entering on the possession.
- (2) The heir may disclaim an inheritance in favor of other statutory or testamentary heirs.
- (3) It is not allowed to disclaim the inheritance in favor of the person who has been declared unworthy heir or disinherited by a direct testamentary disposition.

Article 1527. Impermissibility of Partial Acceptance of Inheritance

- (1) Partial acceptance or partial disclaimer of the inheritance under any condition or for any period of time is not allowed.
- (2) If an heir disclaims a part of the inheritance or stipulates any condition, it is deemed that he disclaims the inheritance.

Article 1528. Acceptance of Several Shares of Inheritance

- (1) If, for different reasons, several shares of the inheritance are owed to an heir, he may accept only one share and disclaim another.
- (2) If the call to succession is made for one and the same reason, the acceptance or the disclaim of a share is applicable to the other share too. The call to succession is deemed to have the same reason if the disposition is contained in different wills.
- (3) If the testator left to his heir several shares of inheritance, he may authorize him through testamentary disposition to accept a share and disclaim another.

Article 1529. Disclaim of a Part of the Inheritance Share

An heir is entitled to disclaim a part of the inheritance, which belongs to him by right of accession, regardless of the remaining part of the inheritance.

Article 1530. Accession

If an heir disclaims the inheritance without declaring in whose favor he has done so, his share shall be added to the share of the statutory heirs called to legal succession (accession), and if the entire inheritance is distributed by will, his share shall be united with that of the testamentary heirs and distributed among them in proportion to their shares, unless the will provides otherwise.

Article 1531. Disclaimer of Inheritance by Sole Heir

If the heir who has disclaimed the inheritance is the sole heir of his class, the inheritance passes to the heirs of the next instance.

Article 1532. Disclaimer in Favor of Several Heirs

If an heir disclaims the inheritance in favor of several persons, he may specify the share of each of them. If there is no such disposition, his share is equally divided among the heirs in whose favor the disclaimer of the inheritance has been made.

Article 1533. Disclaimer of Inheritance in Favor of Heirs Called by Representation

Disclaimer of the inheritance in favor of those called by representation is allowed, provided that at the day of inheritance accrual the represented person, who would have been an heir to the decedent, is not living, or that the heir called by representation (in case of legal succession) is a testamentary heir.

Article 1534. Inadmissibility of Disclaimer of Inheritance by State's Representative

State representative is not entitled to disclaim the inheritance devolving to it.

Article 1535. Inadmissibility of Disclaimer after Submission of Declaration to the Notary's Office

The heir may not disclaim the inheritance after he submits a declaration of acceptance of the inheritance to the notary's office at the place of inheritance accrual.

Article 1536. Irrevocability of Disclaimer of Inheritance

- (1) The heir's declaration of disclaimer of the inheritance is irrevocable.
- (2) If the heir is incompetent or with limited capability, inheritance disclaimer shall be made by court judgement.

Article 1537. Devolution of Right of Disclaimer

- (1) The right to disclaim the inheritance devolves by descent.
- (2) If the heir dies before the expiration of the term fixed for disclaimer of the inheritance, this term does not end until the expiration of the time remaining after the death of the heir.
- (3) Each heir of the deceased heir may disclaim only his portion.

Article 1538. Term for Challenging the Inheritance Option

Acceptance or disclaimer of the inheritance may be challenged within two months from the day when the interested person learnt about the existence of the appropriate grounds.

Article 1539. Term for Onset of Legal Effects of Acceptance of Inheritance

The legal effects of acceptance or disclaimer of the inheritance come into force from the time of inheritance accrual.

CHAPTER II: HEIRS' RESPONSIBILITY FOR THE LIABILITIES OF THE INHERITANCE

Article 1540. Heirs' Liability to Creditors

- (1) The heirs shall be bound to satisfy the claims of the decedent's creditors in proportion to the share of each of them in the received assets.
- (2) If the decedent was a joint debtor for the liabilities, which have passed to the heirs, they bear joint and several liability.
- (3) The heirs who receive the compulsory portion are also liable for decedent's debts.

Article 1541. Burden of Proof

The heir must prove that the decedent's debts exceed the value of inheritance assets, except when there is an inventory of the inheritance taken by a notary.

Article 1542. Imposing of Debts upon Heirs

The testator may impose payment of a debt in full or in part upon one or several heirs.

Article 1543. Duty to Inform Creditors of Inheritance Accrual

The heirs are bound to inform decedent's creditors of the inheritance accrual, provided that they have knowledge of decedent's debts.

Article 1544. Term of Lodging Creditors' Claims

- (1) The decedent's creditors must, within six months from the day when they obtain knowledge of inheritance accrual, lodge their claims against the heirs who have accepted the inheritance, regardless of the maturity of the claims.
- (2) If the decedent's creditors did not know about the inheritance accrual, they must lodge the claims against the heirs within a year from the day when the claims fall mature.
- (3) The creditors lose their claims if they fail to comply with the rules specified in par.(1) and (2).

Article 1545. Application of General Statute of Limitations

- (1) The terms for lodging claims by the creditors does not cover claims for reimbursement of outlays incurred on care and treatment of the decedent during his last illness, payment of wages, funeral, protection and administration of the inheritance, as well as third parties' claims for acknowledgement of the ownership of property and claims of the property which belongs to them.
- (2) The general statute of limitations shall apply to claims specified in par.(1).

Article 1546. Postponement of Fulfillment

If the creditor lodges a claim before maturity, the heir is entitled to postpone performance until it is due. Upon maturity, the creditor is entitled to demand performance within the general statute of limitations.

Article 1547. Precedence of Decedent's Creditors

In satisfaction of claims, the decedent's creditors take precedence over heir's creditors.

Article 1548. State's Liability

When the heirless property passes to the state, the latter is liable for decedent's debts in the same manner as an heir.

Article 1549. Effects of Inheritance Receipt by Creditor

If a decedent has bequeathed his property to the creditor, this cannot be deemed as set-off of the creditor's claim.

Article 1550. Satisfaction of Creditors

The heirs shall satisfy creditor's claims by lump sum payment, unless their agreement provides otherwise.

Article 1551. Expenses Made on Account of Inheritance Estate

Before partition of inheritance among heirs, claims for outlays for decedent's care and treatment during his last illness, funeral, protection and administration of the inheritance, execution of will, as well as the remuneration of testamentary executor or custodian of the inheritance shall be reimbursed from the inheritance estate. These debts shall be paid from inheritance prior to all other debts, including those secured by pledge.

CHAPTER III: PROTECTION OF INHERITANCE ESTATE

Article 1552. Protection of Inheritance Estate

For the purpose of protecting the interests of heirs, legatees or of public interests, the notary at the place of inheritance accrual, at the initiative of interested persons or of the executor of the will, or at his own initiative, shall take the necessary measures to protect the inheritance estate until the term fixed for acceptance of the inheritance expires.

Article 1553. Notary's Duties regarding Protection of Inheritance Estate

If the inheritance or a part of it is not at the place of inheritance accrual, the local notary assigns the notary at the place where the estate is located to take measures to protect this property.

Article 1554. Inventory of Inheritance Estate

For the purpose of protecting the estate, the notary takes the inventory of the inheritance and charges an heir or a custodian appointed by him with care for the estate, meanwhile taking measures to find the heirs who are not present at the place of inheritance accrual.

Article 1555. Appointment of Custodian

The notary appoints a custodian of the estate if the property requires management or if the heir's creditors lodge a claim. The custodian is not appointed if at least one heir has entered into possession of the inheritance or if an executor of the will has been appointed.

TITLE VI: CONFIRMATION OF RIGHT OF INHERITANCE

Article 1556. Certificate of Inheritance

The persons acknowledged as heirs may demand that a certificate of inheritance be issued by the notary at the place of inheritance accrual.

Article 1557. Term for Issuance of Certificate of Inheritance

(1) The certificate of inheritance may be issued to the heirs at any time upon the expiration of six months from the day of inheritance accrual.

(2) The certificate of inheritance may be issued before the expiration of six months if the notary has information that there are no other heirs except those who demand the certificate.

Article 1558. Issue of Certificate of Heirship

(1) If there is no proof of existence of certain assets in the property of the deceased or the determination of these requires lingering operations and if the heirs demand only establishment of their status, a certificate of heirship may be issued.

(2) The certificate of heirship stipulates that it is not equivalent to a certificate of inheritance and may be used only for obtaining documents needed to prove the existence of assets constituting inheritance property; the certificate of inheritance shall be issued afterwards. The heirship can be proved only in case of acceptance of inheritance within the specified term; otherwise the heir is dismissed from inheritance by non-acceptance.

Article 1559. Issue of Certificate of Escheat

If there are no testamentary nor statutory heirs, the notary declares upon the request of the state agent that the inheritance is escheated and issues the certificate of escheat upon the expiration of the legal term for accepting the inheritance.

TITLE VII: PARTITION OF INHERITANCE ESTATE

Article 1560. Partition

The partition of inheritance shall be done as agreed by the heirs after receiving the certificate of inheritance.

Article 1561. Determination of Procedure for Partition of Inheritance by Testator

The testator may establish by will the procedure for inheritance partition, in particular entrust the partition to a testamentary executor. The decision of the testamentary executor is not binding upon the heirs if it is obviously unfair. In that case, the division shall be made by a court decision.

Article 1562. Allotment of Share in Kind out of Inheritance

Each heir may demand that his share be allotted in kind either out of the movable or the immovable property, insofar as such allotment is possible, does not prejudice the economic destination and is not prohibited by law.

Article 1563. Suspension of Inheritance Partition

The heirs may agree, in written form, that the partition of property is suspended for an undetermined period of time.

Article 1564. Joint Ownership by Shares of Indivisible Property

Unless the agreement between all heirs who accept the inheritance provides otherwise, the property, the partition of which entails complete or partial loss of its economic destination, shall not be subject to partition and becomes joint property of the heirs according to their shares.

Article 1565. Partition of an Agricultural Plot of Land

(1) If the owner of an agricultural plot of land where the farm is located has devised it to several heirs or if the will has not been made and there are several statutory heirs, then the agricultural plot of land with the farm located on it may be divided among the heirs, provided that the piece of land given to each heir as a result of partition ensures the existence of a viable farm.

(2) The partition is permissible only if one of the heirs intends to establish and run his agricultural business. If none of the heirs wishes to establish his agricultural business, then, by their agreement, the plot of land with the farm located on it may be sold and the heirs shall receive their shares in money.

Article 1566. Impermissibility of Partition of an Agricultural Plot of Land

If the agricultural plot of land may not be divided, the plot of land shall be given to the heir who lives at the farm and who used to run the business together with the decedent; if there is no such heir, it shall be given to the heir who is capable and willing to run the business.

Article 1567. Compensation for Share from the Agricultural Plot of Land

An heir who may not receive the piece of land shall receive the respective portion out of other property, and if the other property is insufficient, he shall receive the respective compensation according to the established procedure.

Article 1568. Share of Conceived Heir upon Partition of Inheritance Estate

If an heir is conceived but not born yet, the partition is permissible only after his birth, under the stipulations of art.1560. The other heirs are entitled to part the inheritance only after the separation of the conceived heir's share.

Article 1569. Imposition of Liabilities upon Heir

By agreement of the co-heirs, complete settlement of all liabilities may be imposed upon one of the heirs in exchange for a respectively increased share in the inheritance.

Article 1570. Pro rata Reduction of Share

If the total amount of all testamentary shares exceeds the inheritance, the share of each heir is reduced proportionally.

Article 1571. Settlement of Disputes in Partition of Inheritance Estate

If the co-heirs fail to agree on partition of the inheritance estate, the dispute shall be settled by court, which in parting the estate, must consider the nature of the property subject to partition, the occupation of each of the heirs, and other specific circumstances.

Article 1572. Termination of Preemption Right

The right of preemption on a share of inheritance terminates after the transfer of the share.

Article 1573. Satisfaction of Creditors in Case of Alienation of Share

In case of alienation of a share, the duty to satisfy creditor's claim passes to the acquirer in proportion to the acquired share.

Article 1574. Obligation to Determine Heir's Whereabouts

If the whereabouts of some heirs are unknown, the other heirs are bound to take reasonable measures to locate them and call them to succession.

Article 1575. Compensation by Installments

Upon the request of the heirs who have priority, the court is entitled, considering the amount of compensation, to allow its payment by installments but not more than within ten years.

BOOK FIVE: INTERNATIONAL PRIVATE LAW

TITLE I: GENERAL PROVISIONS ON INTERNATIONAL PRIVATE LAW

Article 1576. Determination of Law Applicable to Civil Relations with Elements of Internationality

(1) The law applicable to civil relations containing elements of internationality shall be determined on the basis of international treaties the Republic of Moldova is a party to, this Code, other laws of the Republic of Moldova, and international customs recognized by the Republic of Moldova.

(2) If it is impossible to determine the applicable law as provided by par.(1), the law most closely connected with the civil relations with elements of internationality shall be applied.

Article 1577. Qualification of Legal Concepts

(1) In determining the law applicable to civil relations with foreign elements, account shall be taken of qualification of legal concepts in accordance with the law of the Republic of Moldova, unless statutes and international treaties, to which the Republic of Moldova is a party, provide otherwise.

(2) If legal concepts requiring legal qualification are not known to the law of the Republic of Moldova or are known under another name or with other content and cannot be determined by interpretation under the law of the Republic of Moldova, then the law of a foreign country may be applied for their legal qualification, unless civil rights are thus limited or civil liability measures are thus established.

Article 1578. Establishment of Substance of Foreign Law Norms

- (1) In the application of foreign law the court shall establish the substance of its norms by means of confirmations received from the bodies of the foreign state that has passed the law, having regard of its official interpretation and practice of application in the respective foreign country.
- (2) For the purposes of establishing the substance of norms of a foreign law, the court may request their interpretation by the competent bodies of the Republic of Moldova or abroad, or may involve experts in the field.
- (3) The party relying on a foreign law may be bound by court to give proof of its substance.
- (4) Where it is impossible to establish the substance of the foreign law, the law of the Republic of Moldova shall apply.

Article 1579. Application of Law of a Country with Multiple Legal Systems

In cases when the law of a country in which several legal systems are in effect is applicable, and it is impossible to determine which of the legal systems is to be applied, the legal applicable provisions shall be determined by the law of that state or by the legal system to which the given relationship is most closely connected with shall be applied.

Article 1580. Principle of Reciprocity

(1) The court shall apply foreign law regardless of whether the law of the Republic of Moldova is applicable to analogous relations in the respective foreign country, with the exception of cases when the application of foreign law on the principle of reciprocity is provided by a statute of the Republic of Moldova.

(2) If the application of foreign law depends on reciprocity, it shall be presumed that it exists, unless it is proved otherwise.

Article 1581. Provision of Public Order

A norm of foreign law subject to application in accordance with art.1576 par.(1) shall not be applied if the consequences of its application would clearly contradict the legal order of the Republic of Moldova. In such a case, the law of the Republic of Moldova shall be applied.

Article 1582. Application of Imperative Rules

(1) The provisions of this Book shall not prejudice the effectiveness of those imperative rules of the law of the Republic of Moldova that, in view of an indication in the rule itself or in view of their special significance for ensuring the rights and interests of civil law subjects govern the respective relations regardless of the applicable law.

(2) A refusal to apply a norm of foreign law may not be merely based on the difference of the legal, political or economic system of the respective foreign country from that of the Republic of Moldova.

Article 1583. Reference to Foreign Law

Any reference to foreign law in accordance with the provisions of this Book shall be deemed as a reference to the substantive law and not the conflict law of the respective country.

Article 1584. Retortion

The Republic of Moldova may establish similar retaliatory limitations (retortions) with respect to the property and personal non-property rights of citizens and legal entities of those countries where there are special limitations of the property and personal non-property rights of citizens and legal entities of the Republic of Moldova.

Article 1585. Acknowledgement of Rights Acquired in Another Country

Rights acquired in another country shall be acknowledged and observed in the Republic of Moldova, unless they contravene to legal order.

Article 1586. International Treaties

The provisions of this Book shall apply unless otherwise provided for in international treaties.

TITLE II: CONFLICT NORMS

CHAPTER I: STATUS OF NATURAL PERSON

Article 1587. National Law of Natural Person

(1) The civil status and the capacity of the natural person shall be governed by his national law.

(2) By national law of a citizen is understood the law of the country, the citizenship of which this person bears. Citizenship shall be determined in accordance with the law of the country, the citizenship of which is invoked. If a person has two or several citizenships, his national law shall be considered to be the law of the country with which the person is most closely connected.

(3) For a person without citizenship, the law of the country in which this person has his domicile or residence shall be deemed his national law.

(4) The law of the country that has given asylum to a refugee shall be deemed to be the refugee's national law.

(5) The national law of the citizen of the Republic of Moldova, who under foreign law, is deemed to have another citizenship, shall be the law of the Republic of Moldova.

Article 1588. Legal Capacity of Foreign Citizens and Persons without Citizenship

The legal capacity which foreign citizens and stateless persons enjoy in the Republic of Moldova shall be equal to that of the citizens of the Republic of Moldova, except for the cases provided by the Constitution of the Republic of Moldova, the laws of the Republic of Moldova or international treaties the Republic of Moldova is a party to.

Article 1589. Name of Foreign Citizen or Stateless Person

The rights of a foreign citizen or stateless person to his name, its use and protection are subject to his national law. The protection against acts infringing upon the right to one's name committed on the territory of the Republic of Moldova shall be ensured as provided by its legislation.

Article 1590. Capacity to Contract of Foreign Citizens and Stateless Persons

(1) The capacity to contract of foreign citizens or stateless persons shall be determined by their national law.

(2) A person not enjoying capacity to contract under his national law does not have the right to invoke his lack of such capacity if he has it under the law of the place of entering into the legal act, with the exception of those cases when the other party knew or should have known of the lack of capability.

(3) The capacity to contract of a foreign citizen or a stateless person in respect of legal acts in the Republic of Moldova and of obligations arising from torts shall be determined by the law of the Republic of Moldova.

(4) The application of a new law as the national law of a person shall not prejudice the attainment of adult age and its recognition under the law that was previously applicable.

Article 1591. Declaration of Foreign Citizen or Stateless person Incapable or with Limited Capability

(1) The foreign citizen or the stateless person may be declared incapable or with limited capability, in accordance with the law of the Republic of Moldova.

(2) Legal representation of the foreign citizen or of the stateless person deprived of his capability, as well as the assistance granted to the foreign citizen or the stateless person with limited capability, shall be governed by the law regulating legal relations of representation and assistance.

Article 1592. Guardianship and Protectorship

(1) Establishment, modification, effects and termination of relations of guardianship and protectorship over minors, adult persons that are incapable or with limited capability, as well as relations between the guardian or protector and the ward, shall be regulated by the national law of the ward.

(2) Acceptance of guardianship and Protectorship shall be regulated by the national law of the person appointed as guardian or protector.

(3) Relations between guardian or protector and the ward shall be regulated by the law of the state, the authorities of which have appointed the guardian or the protector. Where the person under guardianship or protectorship resides on the territory of the Republic of Moldova, the law of the Republic of Moldova shall apply where it is more favorable with regard to the ward.

(4) The guardianship or protectorship established over citizens of the Republic of Moldova residing outside the territory of the Republic of Moldova shall be acknowledged as valid where the consular office of the Republic of Moldova accredited in the respective country or, absent such office, the embassy, does not produce any legally-grounded objections.

Article 1593. Declaration of Absence or Death of Foreign Citizen or Stateless Person

The court judgement regarding declaration of absence of a foreign citizen or a stateless person shall be adopted or revoked in accordance with his national law. Where the determination of this law is impossible, the legislation of the Republic of Moldova shall apply.

Article 1594. Registration Abroad of Acts of Civil Status of Moldovan Citizens

Consular offices or, absent such offices, embassies of the Republic of Moldova shall conduct registration of civil acts of citizens of the Republic of Moldova residing outside of the Republic of Moldova.

Article 1595. Entrepreneurial Activity of Foreign Citizen or Stateless Person

The status of entrepreneur of a foreign citizen or a stateless person allowing him to conduct a business without creating a legal entity shall be determined by the law of the country where the foreign citizen or stateless person has obtained permission to carry out entrepreneurial activity.

CHAPTER II: STATUS OF LEGAL ENTITY

Article 1596. National Law of Foreign Legal Entities

(1) By national law of a foreign legal entity is understood the law of the country where the legal entity is founded.

(2) On the basis of the national law of a legal entity, there shall be determined, in particular:

- a) the status of the organization as a legal entity;
- b) its legal form of incorporation;
- c) requirements regarding name of the entity;
- d) grounds for entity's creation and termination;
- e) terms of reorganization, including legal succession;
- f) substance of entity's legal capacity;
- g) the procedure for acquisition by the legal person of civil rights and assumption of civil duties;
- h) relations within the legal entity, including relations of the entity with its participants;
- i) liability of legal entity.

(3) The foreign legal entity may not rely upon a limitation of the power of its body or representative to enter into a legal act, which is unknown to the law of the country where the body or representative of the foreign legal entity entered into the legal act, except when it is proved that the other party to the legal act was or obviously should have been aware of this limitation.

Article 1597. Law Applicable to Representation Offices (Divisions) and Branch Offices of Foreign Legal Entities

(1) The legal status of the representation offices (divisions) of the legal entity, located on the territory of another state, shall be regulated by the national law of the legal entity.

(2) The legal status of the branch office of a legal entity, located on the territory of another state, shall be regulated by the law of the state where the branch office has been established, regardless of the national law of the legal entity.

Article 1598. National Regime for Foreign Legal Entities in the Republic of Moldova

The foreign legal entity in the Republic of Moldova shall carry out entrepreneurial and other activity regulated by civil legislation, in compliance with the provisions set by this legislation for a similar activity carried out by the legal entities of the Republic of Moldova, unless the law of the Republic of Moldova provides otherwise in regard of foreign legal entities.

Article 1599. National Law of Organizations which Are Not Legal Entities under Foreign Law

By the national law of a foreign organization which is not a legal entity under foreign law is understood the law of the country where the organization is founded. The rules of this Code and of other normative acts regulating the activity of legal entities shall apply to the activity of such organizations, unless it follows otherwise from the law or the nature of the legal relation.

Article 1600. Participation of State in Civil Relations with Elements of Internationality

The rules of this Book shall apply to the participation of the state in civil relations with elements of internationality on general bases, unless otherwise provided by law.

CHAPTER III: REAL RIGHTS AND PERSONAL NON-PROPERTY RIGHTS

Article 1601. General Provisions on Law Applicable to Real Rights

(1) The substance of the right of possession, ownership and of other real rights over immovable and movable property, their exercise and protection shall be determined according to the law of the country where this property is located, unless otherwise provided.

(2) The classification of property as immovable or movable, as well as any other legal qualification of property shall be determined according to the law of the country where this property is located.

Article 1602. Acquisition and Termination of Property Rights

(1) The acquisition and termination of the right of ownership and of other real rights over property shall be determined according to the law of the country where this property was located at the time of occurrence of the action or other circumstance which served as the basis for the rise or termination of the right of ownership or of other real rights, unless otherwise provided by the legislation of the Republic of Moldova.

(2) The acquisition and termination of the right of ownership and of other real rights to property that is the object of a legal act shall be determined by the law of the country applicable to the given legal act, unless otherwise established by agreement of the parties.

(3) The acquisition of the right of ownership and of other real rights as a result of acquisitive prescription shall be determined by the law of the country where the property was situated at the time of expiration of the period of acquisitive prescription.

Article 1603. Real Rights over Means of Transportation

(1) Establishment, assignment and extinction of real rights over means of transportation shall be regulated by:

- a) the law of the flag under which the ship or the aircraft is registered;
- b) the law applicable to the legal status of the transport enterprise, in regard of railroad vehicles and motor-vehicles that belong to it.

(2) Provisions of par.(1) shall also apply to:

- a) assets on board composing the technical equipment;
- b) claims pertaining to outlays for technical assistance of the means of transportation.

Article 1604. Real Rights over Assets Subject to State Registration

The right of ownership and other real rights to assets subject to state registration shall be determined in conformity with the law of the country on the territory of which the rights to those assets are entered in the state register.

Article 1605. Property Rights over Movables in course of Transportation

The rise and termination of the right of ownership and of other property rights under a legal act concerning movables in course of transportation shall be determined by the law of the country from which this property has been shipped, unless:

- a) the agreement of the parties provides otherwise;
- b) the assets are personal assets of the passenger. In such a case, the assets are subject to passenger's national law.

Article 1606. Securities

(1) Issuance of securities is regulated by the law governing the legal status of the issuer legal entity.

(2) Terms and effects of security conveyance is subject to:

- a) the law of the place of payment of security by order;
- b) the law of the place of the bearer security at the moment of conveyance;
- c) the law applicable to the legal status of the legal entity of the nominal security.

Article 1607. Personal Non-Property Rights

(1) Acquisition, content and extinction of copyrights over a creative work are governed by the law of the country on the territory of which this work was for the first time made public by exhibition, distribution, publication, representation or by any other method.

(2) The copyrights over a creative work that has not been made public shall be regulated by the author's national law.

(3) The acquisition, content and extinction of intellectual property rights shall be regulated by the law of the state on whose territory those rights are registered.

(4) The claim for compensation of material or moral damage is regulated by the law of the country on the territory of which the copyright or the intellectual property right has been infringed.

(5) Foreign citizens and stateless persons shall be granted on the territory of the Republic of Moldova, national treatment with regard to copyrights and intellectual property rights.

Article 1608. Forms of Publicity

(1) Any form of publicity regarding property is regulated by the law applicable at the date and in the place it is carried out.

(2) Forms of publicity indicated in par.(1) that result in the arising of the rights to immovable assets are governed by the law of the state on the territory of which the assets are, even if the legal grounds of acquisition, conveyance or extinction of the real right or of the real guaranty have arisen under another law.

CHAPTER IV: LEGAL ACTS

Article 1609. Law Applicable to Legal Acts

(1) The formal requirements of legal act shall be determined by the law of the country that governs the substance of the legal act. The legal act concluded outside the territory of the Republic of Moldova shall be deemed valid as to its form, where it fulfills one of the following conditions:

- a) the law of the place where the legal act was drawn up has been complied with;
- b) the requirements of the legislation of the Republic of Moldova have been complied with;
- c) the national law or the law of the domicile of the person that drew up the legal act has been complied with;
- d) the legal act is valid under the law applicable to the authority that examines the validity of the legal act.

(2) The substantive requirements of the legal act are governed by the law chosen by the author or by the law of the country with which the legal act has closest connections with or by

the law of the place where the legal act was concluded. Where the law applicable to the substance of the legal act imposes certification of any kind, this requirement may not be removed, even if the legal act was concluded abroad.

(3) The accessory legal act is governed by the law of the country that regulates the substance of the main legal act, unless otherwise provided by the agreement of the parties.

CHAPTER V: CONTRACTUAL AND EXTRA-CONTRACTUAL OBLIGATIONS

Article 1610. Law Applicable to Substantive Requirements of the Contract

(1) A contract shall be regulated by the law of the country chosen by agreement of the parties.

(2) The parties to a contract may choose the applicable law both for the contract as a whole and for individual parts of it.

(3) The choice of the applicable law must be expressed or follow from the content of the contract or from other circumstances.

(4) The determination of the applicable law may be made by the parties to the contract at any time, both at the conclusion of the contract and later on. The parties may at any time agree on changing the law applicable to the contract.

(5) A choice of applicable law made after the conclusion of the contract shall have retroactive force and is considered effective from the time of its conclusion, without prejudice to the validity of the form of contract or rights acquired by third parties in relation to this contract.

(6) If trade terms accepted in international commerce are used in a contract, then, in the absence of other indications in the contract, it shall be deemed that the parties have agreed on the application to their relations of the trade usages and customs corresponding to those trade terms.

Article 1611. Law Applicable to Contract Absent Parties' Agreement

(1) In the absence of agreement of the contractual parties on the applicable law, the law to be applied shall be that of the country with which the contract has the closest connections. It shall be deemed that such connections exist with regard to the law of the state where, at the moment of conclusion of contract, the debtor of the obligation has his domicile, residence or is registered as a legal entity.

(2) In the absence of agreement of the contractual parties on the applicable law and by derogation from the provisions of par.(1):

a) the law of the country where the property is located shall apply to a contract whose object is immovable property and also to a contract of trust on property;

b) the law of the country where the results envisioned by a contract for construction works and the contract for design and exploratory works shall apply to the respective contracts;

c) the law of the country where the activity of the civil society is carried out shall apply to the contract of civil society;

d) the law of the country on the territory of which the auction of the contest takes place shall apply to the contract concluded by virtue of that auction or contest.

Article 1612. Scope of Applicable Law

(1) The law applied to a contract by virtue of the provisions of this Book shall include in particular:

a) interpretation of contract;

b) rights and duties of the parties;

c) performance of contract;

d) consequences of nonperformance or improper performance of the contract;

e) termination of contract;

f) consequences of nullity or invalidity of contract;

g) assignment of claims and assumption of debt in connection with the contract.

Article 1613. Law Applicable to Formal Requirements of the Contract

(1) The contract shall correspond to the formal requirements set by the law provided for in art.1609 par.(1).

(2) The contract shall be deemed valid where:

a) at the moment of contract conclusion, the contracting parties are located in different countries and the formal requirements set by the legislation of one of those countries have been complied with;

b) the agent of a contracting party complied with the formal requirements set by the legislation of the state on whose territory he was located at the moment of contract conclusion.

Article 1614. Management of Affairs and Unjustified Enrichment

(1) The management of affairs is subject to the law of the place where the manager performs the acts of management.

(2) The obligations arising from unjustified enrichment are subject to the law of the place where it occurred.

Article 1615. Illicit Act

(1) The illicit act shall be qualified as a tort in accordance with the law of the state where it occurred.

(2) The law that governs obligations arising from causation of damage shall set:

a) the tort capacity;

b) forms, terms and extent of tort liability;

c) the conditions for limitation or exemption from tort liability;

d) the nature of damage for which compensation may be claimed;

e) the transmissibility of the right to compensation;

f) the persons entitled to receive compensation.

(3) Where all or part of the damaging consequences of the illicit act occur on the territory of another country than that on which the illicit act occurred, the law of this country shall apply to the respective reparation.

Article 1616. Liability for Personal Damage

Claims regarding compensation for personal damage caused through mass media shall be regulated, at the choice of the injured person, by:

a) the national law of the injured person;

b) the law of the country on the territory of which the injured person has his domicile or residence;

c) the law of the country on the territory of which the damaging consequences ensued;

d) the law of the country where the author of the damage has his domicile or residence.

Article 1617. Liability for Defective Products

(1) Claims concerning compensation for damage caused by defective products shall be regulated, at the choice of the injured consumer, by:

a) the law of the country of the territory of which the injured person has his domicile or residence;

b) the law of the country on the territory of which the product was acquired, contingent on the fact that the manufacturer or the provider proves that the product has been released on the market without his consent.

(2) Claims provided for in par.(1) may be filed only where the products are designated for personal or family consumption.

Article 1618. Liability for Unfair Competition

(1) Claims regarding compensation for damage caused by an act of unfair competition shall be regulated by:

a) the law of the country on the territory of which the damaging result occurred;

b) the law of the country on the territory of which the injured person is registered;

c) the law that governs the substance of the contract concluded by the parties, if the act of unfair competition has been committed and damaged the relations between them.

Article 1619. Conveyance and Extinction of Obligations

(1) The assignment of claim is regulated by the law of the assigned claim, unless the parties agree otherwise. The choice of another law, by agreement between assignor and assignee, shall not be opposable to the debtor, unless he consents to this. The relations between the assignor and the assignee shall be regulated by the law applicable to the legal relation on which the assignment is based.

(2) The contractual subrogation is regulated by the law of the obligation, the creditor of which is substituted, unless otherwise provided by agreement between the parties.

(3) The delegation and novation are regulated by the law applicable to the obligation that forms their substance.

(4) Set-off shall be regulated by the law applicable to the claim that admits extinction by set-off.

Article 1620. Payment Currency

(1) The payment currency shall be determined by the law of the issuer state.

(2) The effects currency exerts over the extent of a debt shall be set by the law applicable to the debt.

(3) The currency of payment shall be set by the law of the state, on the territory of which the payment must be made, unless otherwise agreed by the parties.

CHAPTER VI: RELATIONS OF INHERITANCE WITH ELEMENTS OF INTERNATIONALITY

Article 1621. Law Applicable to Inheritance

The law applicable to inheritance refers to:

- a) the time of inheritance accrual;
- b) the persons entitled to inherit;
- c) legal conditions of the passive capacity to inherit;
- d) exercise of the right of possession over property left by the deceased;
- e) conditions and effects of inheritance option;
- f) extent of the obligation of the heirs to bear the liabilities of the decedent;
- g) rights of the state over the escheat.

Article 1622. Law Applicable to Assets of Inheritance

(1) Inheritance relations regarding movable assets are regulated by the national law in force at the moment of the decease of the person that left the inheritance.

(2) Inheritance relations regarding immovable assets are regulated by the law of the country on the territory of which the assets are located.

Article 1623. Law Applicable to Testamentary Succession

(1) The testator may subject conveyance of his property by inheritance to another law than that provided for in art.1622, contingent on non-removal of application of imperative norms. The chosen law shall apply to situations provided for in art.1621.

(2) The draw up, amendment or revocation of will shall be deemed valid, where the will has complied with the applicable formal requirements, on the date when the will was drawn up, amended or revoked, or on the date of testator's decease, in accordance with either of the following laws:

- a) the national law of the testator;
- b) the law of testator's domicile;
- c) the law of the place where the will has been drawn up, amended or revoked;
- d) the law of the place where the immovable asset that is the object of testamentary inheritance is located;
- e) the law of the court or of the body that accomplishes the procedure of conveyance of inheritance property.

CHAPTER VII: STATUTE OF LIMITATIONS

Article 1624. Law Applicable to Statute of Limitations

The statute of limitations of the right to file action is regulated by the law applicable to the subjective right.