

On the basis of the Article 95 item 3 of the Constitution of Montenegro I hereby issue

DECREE PROMULGATING THE LAW ON OBLIGATIONS

I hereby promulgate the Law on Obligations, adopted by the Parliament of Montenegro at the seventh sitting of its first ordinary session in 2008 on 29 July 2008

No: 01-1540/2
Podgorica, 4 August 2008
President of Montenegro
Filip Vujanovic, sign-manual

THE LAW ON OBLIGATIONS

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PART ONE GENERAL PART

Title I BASIC PRINCIPLES

Contents of the Law Article 1

The present Law regulates the obligation relations originating on the ground of contract, the fact of causing damage (torts), acquiring without proper grounds, management of another's affairs, unilateral declaration of intention, and other facts as laid down by law.

Parties to Obligation Relations Article 2

- (1) Parties to the obligation relations may be physical and legal persons.
- (2) Parties to obligation relations shall be equal in terms of law.

Freedom of Regulating the Obligation Relations Article 3

Parties to the obligation relations shall be free to arrange their relations at their discretion, within the limits of mandatory legislation and morals of the society.

Good Faith and Honesty Article 4

- (1) In establishing obligation relations and realizing rights and duties out of these relations, the parties shall adhere to the principles of good faith and honesty.

- (2) The principles of good faith and honesty may not be excluded or limited.

Duty to Cooperate

Article 5

Parties to obligation relations shall co-operate for the purpose of full and orderly performance of the liabilities and achievement of rights in such relations.

Prohibition of Misuse of Rights

Article 6

The realization of a right arising from obligation relations contrary to the purpose established or recognized by law regarding such right, shall be prohibited.

Prohibition of Creation and Misuse of a Monopoly Position.

Article 7

In establishing obligation relations the parties shall not create rights and duties by which a monopoly position is created or used by anyone in the market.

The Principle of Equal Consideration

Article 8

(1) In establishing and fulfillment of bilateral (synallagmatic) contracts parties shall adhere to the principle of equality of mutual considerations.

(2) Cases shall be determined by law where violation of this principle invokes legal consequence.

Prohibition of Causing Damage

Article 9

Everyone shall be bound to refrain from an act which may cause damage to another.

Duty to Perform the Obligations

Article 10

(1) Parties to obligation relation shall be bound to carry out their obligations and shall be responsible for their performance

(2) An obligation may be extinguished only by mutual consenting wills of the parties to the obligation relations or on the basis of law.

Due Diligence

Article 11

(1) In carrying out its obligation, a party to obligation relations shall be bound to act with the care required in legal transactions of the same kind as the obligation relations involved (the care of a good master of the house, or respectively the care of a good businessman).

(2) In carrying out obligations pertaining to one's professional activity, parties to obligation relations shall be bound to act with increased care according to professional rules and usage (the standard of care of a good expert).

(3) In realizing its rights, a party to obligation relations shall be bound to refrain from acts which could hinder the performance of the obligation of the other party.

Resolving Disputes in a Peaceful Way **Article 12**

Parties to obligation relations shall endeavor to settle disputes by mutual adjustment, mediation or in some other peaceful way.

Non - Imperative Character of the Provisions of the Present Law **Article 13**

Parties may regulate their obligation relations in a way different from the one determined by the present Law, unless otherwise follows from a particular provision of the Law, or from its meaning.

Applicability of Fair Trade Custom and Usage **Article 14**

(1) Parties to obligation relations shall be bound to proceed in engaging in legal transactions in accordance with fair trade custom and mutually developed usage.

(2) Trade practices shall be applicable to obligation relations if the parties to the obligation relations have stipulated such application, or if relevant circumstances imply such intent.

Proceeding in Accordance with General Acts **Article 15**

(1) In establishing obligation relations legal persons shall proceed in accordance with their general acts.

(2) However, a contract entered into, or some other legal action taken, contrary to these acts shall remain effective, unless the other party was aware, or should have been aware, of such fact or unless otherwise provided by the present Law.

Applicability of other Special Laws **Article 16**

Provisions of the present Law shall apply to obligation relations regulated by other special laws in matters not regulated by such laws.

Applicability of Particular Provisions Article 17

(1) Provisions of the present Law relating to contracts shall apply to all kinds of contracts, unless something else is provided relating to contracts entered into by business organizations and sole proprietors (commercial law contracts).

(2) In the present Law contracts entered into by business organizations and sole proprietors shall mean contracts concluded between business organizations and other legal persons engaging in economic activity, as well as sole proprietors, in exercise of activities constituting object of their business or connected with such activities

Applicability of Rules to other Legal Transactions Article 18

Provisions of present Law relating to contracts shall apply accordingly to other legal transactions.

Title II ORIGIN OF OBLIGATIONS

SUBTITLE 1 CONTRACT

Section 1 CONCLUDING A CONTRACT

I. CONSENTING MINDS

When a Contract Is Concluded Article 19

A contract shall be concluded when the contracting parties have consented as to the essential constitutive elements (terms) of the contract.

Mandatory Conclusion and Mandatory Contents of a Contract Article 20

(1) Should someone be under a legal duty to conclude a contract, the person interested may claim that such contract be immediately concluded.

(2) Legislative provisions partially or entirely determining the contents of contracts shall be integral parts of such contracts, so as to supplement or replace terms of contract which are not in compliance with them.

Declaration of Intention (Will) **Article 21**

- (1) Intention (will) to conclude a contract may be declared by words, usual signs or other conduct, on the grounds of which one may safely conclude of its existence.
- (2) Declaration of intention (will) must be made freely and seriously.

Permit and Approval **Article 22**

- (1) Should consent of a third person be required to conclude a contract, such consent may be declared prior to concluding of the contract, as permission, or after its conclusion, as approval, unless otherwise provided by law
- (2) Permission or approval must be declared in the form prescribed for contracts whose conclusion depends on permission or approval.

Negotiations **Article 23**

- (1) Negotiations preceding the concluding of a contract shall not be binding, and each party shall at any moment be free to interrupt them.
- (2) However, a party conducting negotiations without intending to conclude a contract shall be liable for damage caused by conducting such negotiations.
- (3) A party conducting negotiations with an intention to conclude a contract, but afterwards withdrawing from them without a justified reason, thus causing damage to the other party shall be equally liable for damage.
- (4) Unless otherwise agreed, each party shall bear their own expenses relating to preparations for concluding of a contract, while joint expenses shall be shared equally between the parties.
- (5) Should, during negotiations, one party provide confidential information or enable access to such information to the other party, such other party may not make such information accessible to third persons or use it for its own interests, regardless of whether the contract was subsequently entered into or not.
- (6) Liability for violation of duty referred to in the paragraph 5 of present Article may consist of redress of damages incurred and restitution to the aggrieved party of the benefit achieved by the tort-feaser by committing such violation.

Time and Place of Entering into Contract **Article 24**

- (1) A contract shall be concluded at the moment the offeror receives the statement of the offeree accepting the offer.

(2) A contract shall be considered concluded at the place where the offeror had his seat of business that is his permanent residence, at the moment of making the offer.

Offer Article 25

(1) An offer shall be a proposal for concluding a contract made to a specific person and containing all essential constitutive elements of the contract, so that its acceptance would amount to concluding of a contract.

(2) Should contracting parties, after reaching agreement as to essential constitutive elements of contract, leave out some secondary points to be decided upon at a later time, the contract shall be considered concluded, while such secondary points – should contracting parties themselves fail to reach agreement thereof – shall be determined by the court, which shall take into account preliminary negotiations, established practice between the contracting parties, and usage.

General Offer Article 25

A proposal to conclude a contract made to an unspecified number of persons and containing essential constitutive elements of contract envisaged by the proposal shall be valid as an offer, unless something else follows from circumstances of the case or usage.

Display of Merchandise Article 26

Display of merchandise with a price indicated shall be considered as offer, unless something else follows from circumstances of the case or from usage.

Sending Catalogues and Advertisements Article 28

(1) Sending catalogues, price - lists, tariffs and other information, as well as advertisements published in the press, leaflets, by radio, television or in some other way, shall not be considered as an offer to enter into contract, but only as an invitation to make an offer under the terms announced.

(2) However, a sender of such an invitation shall be liable for damage suffered by the offeror, after failing, without a justified reason, to accept the offer.

Effect of Offer Article 29

(1) An offeror shall be bound by his offer unless his obligation to honor the offer is excluded, or unless such exclusion may be implied from the circumstances of the business transaction involved.

(2) An offer may be revoked only if the offeree receives the revocation prior to receiving the offer or simultaneously with it.

How Long an Offer is Binding **Article 30**

- (1) An offer with an indication of the time limit for its acceptance shall be binding on the offeror until the expiration of that time limit.
- (2) Should the offeror indicate the acceptance time limit by letter or telegram, it shall be held that such time limit has commenced to run from the date indicated in the letter, or respectively, from the day of delivering the telegram to the post-office.
- (3) In the case of an undated letter, the acceptance time limit for the offer shall run from the day of delivering the letter to the post-office.
- (4) An offer made to an absent person, without indication of the acceptance time limit, shall be binding for the offeror in the course of a period usually needed for the offer to reach the person offered, for his considering it, for making his decision, and for the answer confirming the acceptance to reach the offeror.

Form of Offer **Article 31**

- (1) An offer of a contract falling within special statutory requirements regarding its form, shall be binding on the offeror only if made in such a form.
- (2) The rules on form shall also apply to acceptance of the offer.

Offer Made by Unauthorized Person **Article 32**

- (1) Written offer shall be binding on the offeror even if not signed by the authorized person only in case: if offer is made on paper with printed or imprinted designations of the offeror, used in his ordinary business; if the offer bears stamp or seal of the offeror and is signed in the ordinary manner; if the offer relates to business regularly conducted by the offeror and does not exceed the normal volume of his business and if the offered was not aware that the offer was signed by an unauthorized person.
- (2) Legislation regulating form shall also apply to acceptance of the offer.

Offer Made by Telephone or Telegram **Article 33**

- (1) Offeror shall be bound to confirm the offer made by telephone or telegram by registered letter to the offeree to be sent at latest on the following working day.
- (2) Failure to send the offer in writing shall not affect the validity of the contract concluded by telephone or by sending telegram, but the party who failed to give confirmation shall be responsible to other party for damage incurred.
- (3) Provisions of paragraphs 1 and 2 of present Article shall also apply to acceptance of offer.

Acceptance of Offer Article 34

- (1) An offer shall be accepted when the offeror receives a statement from the offeree that he accepts the offer.
- (2) An offer shall also be accepted when the offeree delivers the thing or pays the price, or does anything else which on the grounds of the offer, or former practice between the interested parties, or usage, may be construed as a statement of acceptance.
- (3) Acceptance may be revoked if the offeror acknowledges a statement of revocation prior to the statement of acceptance, or simultaneously with it.

Acceptance of a Direct Offer Article 35

- (1) An offer made to a person present shall be considered rejected if not accepted immediately, unless the circumstances of the case indicate that the offeree was entitled to a certain time for considering the offer
- (2) An offer made by telephone, or through direct radio communication, shall be considered as offer made to a person who is present.
- (3) An offer sent by fax shall not be considered as offer made to a person who is present.

Acceptance of Offer with a Proposal to Alter it Article 36

- (1) Should the offeree declare his intention to accept the offer, at the same time proposing to modify or supplement it, the offer shall be considered rejected by him, and that he has made his own offer to his former offeror.
- (2) The response to the offer, containing acceptance to the offer, but with supplements or modifications, which do not materially alter it, shall mean acceptance, unless the offeror immediately objects to it.
- (3) If he fails to act so, the contract shall be concluded in accordance with the content of the alteration contained in the declaration of acceptance.
- (4) It shall be considered that the offer is materially altered if the supplements or modifications relate to the price, payment, quality or quantity of the goods, place and time of the delivery, scope of responsibility of one party towards the other.

Silence of the Person Offered Article 37

- (1) Silence of the person offered shall not mean the acceptance of an offer.
- (2) A provision in an offer according to which silence of the person offered, or other omission on his part (his failure to refuse the offer within the indicated time limit, or to

restitute within the indicated time limit the delivered thing which is to be subject of the contract offered to be concluded, and the like) can be considered as acceptance, shall not be effective.

(3) However, if the person offered is in permanent business relations with the offeror with regard to specific merchandise, he shall be considered to have accepted the offer concerning such merchandise, unless he rejects it immediately, or within the indicated time limit.

(4) Person offering to carry out another's orders concerning the performance of specific transactions, as well as a person whose professional activity includes carrying out such orders, shall be bound to carry out the orders received, unless he has immediately refused to do so.

(5) Should, in the case specified in the paragraph 4 of this Article, the offer, i.e. the order, not be refused, the contract shall be considered to have been entered into after the offer, i.e. the order, has reached the offeree.

Late Acceptance and Late Notification of Acceptance **Article 38**

(1) Delayed acceptance of an offer shall be treated as a new offer made by the offeree.

(2) Should notification of acceptance made on time reach the offeror after the expiration of the time limit for acceptance, when the offeror knew, or should have known, that such notification was made on time, the contract shall be concluded.

(3) The contract in such a case shall not be considered concluded, should the offeror, immediately after receipt of the statement of acceptance or on the following workday at the latest, or even prior to such receipt and after the expiration of the time limit for acceptance of the offer, notify the offeree that, due to the delay, he does not consider himself bound by his own offer.

Death or Incapacity of One Party **Article 39**

An offer shall not lose effect if, prior to its acceptance, the death or loss of capacity of one party occurred, unless otherwise results from the intention of the parties, usage, or the nature of the transaction.

Preliminary Contract **Article 40**

(1) A preliminary contract is a contract by which a duty is assumed to conclude another, principal, contract, at a later time.

(2) Legislative rules on the form of the principal contract shall apply to the preliminary contract as well, should the prescribed form be a prerequisite for the validity of the contract.

(3) A preliminary contract shall be binding if it contains the essential constitutive elements of the principal contract.

(4) At the request of an interested party, a court shall order the other party refusing to conclude the principal contract, to act accordingly within the time limit which it shall order to such party.

(5) Conclusion of a principal contract may be requested within a six month period, beginning with the expiration of a time limit provided for its conclusion, and should such time limit not be provided for, beginning with the day on which, according to the nature of the transaction and circumstances of the case, such contract was supposed to be entered into.

(6) A preliminary contract shall not be binding should circumstances after its conclusion change to a degree that such preliminary contract would not have been concluded at all if such circumstances had existed at the time.

II. SUBJECT

What Must Be a Subject of Obligation Article 41

(1) A contractual obligation may consist of giving, acting, refraining from act, or toleration.

(2) Contractual obligation must be possible, permitted, and either specified, or determinable.

Subject as a Cause of Void Contract Article 42

Should a subject of an obligation be impossible, unlawful, undefined or not definable, the contract shall be void.

Subsequent Possibility Article 43

A contract concluded under condition subsequent or conditional upon expiry of time limit shall be valid, should the subject of obligation, being impossible at the beginning, become possible prior to occurrence of such condition or expiration of the time limit.

Unlawful Subject of obligation Article 44

A subject of obligation shall not be permitted if it is contrary to mandatory legislation and morals of the society.

Definability of the Subject Article 45

(1) A subject of obligation shall be deemed definable if the contract contains the data by which it can be determined, or if the parties have left such determination to be effected by a third party

(2) Should the third party be unwilling or unable to define the subject of obligation, the contract shall be void.

III. GROUNDS

Permitted Grounds

Article 46

(1) Every contractual obligation must have a permitted ground.

(2) Grounds contrary to mandatory legislation or morals of the society shall not be permitted.

(3) An obligation shall be presumed to be founded although its grounds are not expressed.

Nullity of Contract Because of Ground

Article 47

Should there be no ground, or should it not be permitted, the contract shall be void.

Motive for Concluding of a Contract

Article 48

(1) Motive for concluding a contract shall not affect its validity.

(2) However, if a prohibited motive has substantially influenced the decision of one contracting parties to conclude a contract, and if other contracting party was aware or should have been aware of such fact, such contract shall have no effect.

(3) A contract without consideration shall have no legal effect even if the other contracting party was not aware that the prohibited motive substantially influenced the decision of other contracting party.

IV. CAPACITY

A Contract of a Person without Business Capacity

Article 49

(1) In order to enter into a valid contract a contracting party must have business capacity, otherwise required for concluding such a contract.

(2) A person with limited business capacity may conclude without approval by his legal representative, only contracts the conclusion of which is permitted to such person under the law.

(3) Other contracts of such persons, if concluded without his legal representative's approval, shall be voidable, but can be made valid by his subsequent approval.

Right of Other Party to a Contract with Person without Business Capacity Article 50

- (1) A party to a contract with a person without business capacity, who was not aware of the fact of business incapacity, may desist from the contract entered into with such person without approval by such person's legal representative.
- (2) The party to a contract with a person without business capacity who was aware of such person's business incapacity, but was deceived by such person into believing that he had the approval of the legal representative shall also have the right from the paragraph 1 of present Article.
- (3) The right from paragraphs 1 and 2 of present Article shall expire thirty days after one contracting party becomes aware of the business incapacity of the other party, or of the lack of legal representative's approval; it shall also expire at an earlier date should the legal representative approve the contract prior to the expiration of such time limit.

Invitation to a Legal Representative to Make a Declaration Article 51

- (1) A party to a contract with a person having no business capacity, who concluded a contract without such person's legal representative's approval, may invite the legal representative to declare the approval of such contract.
- (2) Should the legal representative fail to declare within thirty days after such invitation to approve the contract, it shall be considered that his approval has been denied.

The Case of a Contracting Party Acquiring Business Capacity after Concluding of a Contract Article 52

A person having business capacity may request avoidance of a contract, if concluded by him without necessary approval, only if an action is filed within three months from the day of such person's acquiring the full business capacity.

V. DEFICIENCIES OF WILL

Threat or Coercion Article 53

- (1) Should a contracting party or a third person provoke by unlawful threat the justified fear of the other party, so that the latter because of that enters into contract, the other party may request that such contract be avoided.
- (2) A fear shall be considered justified if it is evident from the circumstances of the case, that there was a serious danger threatening the life, body or other important value of the contracting party or the third person
- (3) A contract concluded by use of force towards other contractual party shall be null and void.

Substantial Mistake Article 54

(1) A mistake shall be substantial if it is relating: to substantial properties of the subject; to the person with whom the contract is to be concluded, if the contract is concluded in respect of that particular person; as well as to circumstances considered decisive according to trade usage, or according to the intention of parties to consider such circumstances decisive, if the mistaken party would not otherwise have concluded a contract of such contents.

(2) A party mistaken may request avoiding of contract on the ground of substantial mistake, unless when entering into the contract, he did not act with the care required in concluding legal transactions.

(3) Should a contract be voided because of mistake, the other party, who was in good faith, shall be entitled to claim damages for loss sustained, regardless of lack of fault for the mistake on the part of the mistaken party.

(4) A party mistaken shall not invoke such mistake after the other party became ready to perform the contract as if the mistake had not come about.

Mistake Relating to Motive in Case of Contract without Consideration Article 55

A mistake about the motive if it was decisive in assuming the obligation shall also be considered substantial in case of contract without consideration.

Misunderstanding Article 56

Should parties believe they agree, while in fact a misunderstanding exists between them regarding the nature of contract or the ground or subject of obligation, the contract shall not take place.

Indirect Declaration Article 57

A mistake of a person acting as agent in declaring the intention (will) of a party, shall be considered a mistake of his principal.

Fraud Article 58

(1) Should one party mislead or keep other party in misconception with the intention of inducing misled party to conclude the contract, the misled party may request voidance of the contract even if the mistake was not of a substantial nature.

(2) A party who concludes a contract as victim of fraud shall be entitled to claim damages for loss sustained.

(3) Fraud being an act of a third person shall affect the contract if the other contracting party was aware, or should have been aware, of the fraud at the time of concluding of contract.

(4) A contract without consideration may be voided even if the fraud is an act of a third person, regardless of whether the other contracting party at the time of entering into contract was aware, or should have been aware, of it.

Apparent Contract Article 59

(1) Apparent contract shall have no effect amongst contracting parties.

(2) But, should the apparent contract simulate another contract, that other dissimulated contract shall be valid if the conditions for its legal validity have been met.

(3) The apparent character of a contract may not be raised against a third person who acted in good faith.

VI. FORM OF CONTRACT

Informality of Contract Article 60

(1) Concluding of a contract shall not be subject to any form, unless otherwise specified by law.

(2) Any statutory requirement for the conclusion of contract in a specific form shall apply also to all subsequent alterations and amendments to the contract.

(3) However, subsequent oral amendments regarding incidental matters, not mentioned in the formal contract, shall be valid, unless contrary to the purpose of prescribing the form.

(4) Subsequent oral agreements by which liabilities of one or the other party are reduced or facilitated shall be valid, should the specific form be prescribed only in the interest of contracting parties.

Form of a Contract on Transfer of Real Estate Article 61

Contract on the basis of which the ownership right to real estate is transferred or any other real right over real estate is established must be concluded in written form and certified in accordance with the legislation.

Rescission of Formal Contracts Article 62

Formal contracts may be rescinded by informal agreement, unless otherwise specified in certain cases by law, or unless the purpose for prescribing the form at concluding the contract requires the rescission of contract to be effected in the same form.

Form Agreed Upon Article 63

- (1) Contracting parties may agree that a specific form be a condition for validity of their contract.
- (2) A contract for the conclusion of which specific form is agreed may be rescinded, amended or altered in some other way by informal agreement.
- (3) Should contracting parties foresee specific form only to serve as evidence of their contract, or to reach some other purpose, the contract shall be entered into after agreement has been reached as to its contents, while the contracting parties shall at the same time be bound to provide the contract with the foreseen form.

Sanction for Absence of Required Form Article 64

- (1) A contract not concluded in the prescribed form shall have no legal effect, unless something else follows from the purpose of the regulations providing for the form.
- (2) A contract which is not concluded in the agreed upon form shall have no legal effect if the parties have made the validity of contract dependent on the specific form.

Presumption of Completeness of Document Article 65

- (1) Should a contract be concluded in specific form, either on the ground of law or by intention of the parties, the only valid part shall be the one made in this form.
- (2) However, the simultaneous verbal agreements concerning incidental items which are not mentioned in the contract shall also be valid, unless contrary to its contents or the reason for which the form was prescribed.
- (3) Also valid shall be the simultaneous verbal agreements by which obligations of one or both parties are reduced or eased, should the specific form be prescribed only in the interest of the contracting parties.

Making a Document Article 66

- (1) Should making a document in order to conclude a contract be necessary, the contract shall be concluded after such document is signed by all persons assuming obligations under it.
- (2) An illiterate contracting party shall put his fingerprint on the document, followed by verification by two witnesses or by the court, or by some other agency.
- (3) In concluding a bilateral (synallagmatic) contract it shall be sufficient for both parties to sign one document, or for each party to sign a copy of the document intended for the other party.

(4) The requirement of the written form shall be met by the parties by exchanging letters, or by their coming to agreement by way of other medium enabling the exact determination of the contents of their statements and of their identities.

Conclusion of Agreement by Electronic Communication Article 67

(1) Agreement shall be concluded by way of electronic communication when both parties have consented as to the essential constitutive elements (terms) of the contract.

(2) An offer made by means of electronic communication shall be considered an offer given to present person if in that specific case a statement made can be followed by immediate counter-statement.

(3) The use of electronic signature at concluding of contract shall be regulated by special legislation.

In Case of Performing a Contract Lacking the Form Article 68

A contract the conclusion of which is subject to the written form shall be considered valid although not entered into in such form, after contracting parties have performed, entirely or substantially, the obligations arising from such contract, unless something else obviously results from the purpose of prescribing the form.

VII. CONDITIONS

Conditions and their Effect Article 69

(1) A contract shall be held conditionally concluded should its origination or termination depend on an uncertain fact

(2) After being concluded under a condition precedent and after such condition is satisfied, the contract shall take effect from its conclusion, unless something else follows according to the law, nature of transaction, or the intent of the parties.

(3) If it is concluded under a condition subsequent, the contract shall cease to be valid after such condition is satisfied.

(4) A condition shall be deemed satisfied should its realization, contrary to the principle of good faith and honesty, be prevented by the party to whose disadvantage such condition is imposed, whereas it shall be deemed not satisfied should its realization, contrary to the principle of good faith and honesty, be caused by the party to whose advantage such condition is provided for.

Prohibited or Impossible Conditions Article 70

(1) A contract shall be void if it contains a condition precedent or condition subsequent contrary to the mandatory legislation, or morals of the society.

(2) A contract concluded under an impossible condition precedent shall be void, while an impossible condition subsequent shall be considered as non-existent.

Securing of a Right Subject to Condition

Article 7

In the case of a contract concluded under a condition precedent, the creditor whose right is thus made contingent, may request adequate security for such right should its realization become impaired.

VIII. TIME LIMIT

Computation of Time

Article 73

(1) A time limit specified in days shall commence to run on the first day after the event from which the computation of the period begins, and shall end with the expiry of the last day of the period.

(2) A time limit specified in weeks, months or years shall end on the day and date coinciding with the day of occurrence of event from which the time limit begins to run, and should there be no such day in the last month, the end of the time limit shall fall on the last day of that month.

(3) Should the last day of the time limit fall on the day determined by law as a non-working day, the following workday shall be counted as the last day of the time limit.

(4) The beginning of the month shall be the first day of the month, the middle – the fifteenth, and the end – the last day of the month, unless something else follows from the intent of the parties, or the nature of the contractual relationship.

Application of Rules Relating to Condition

Article 74

Where a contract becomes effective at a specified time, the rules relating to the condition precedent shall apply accordingly, while should the contract cease to be valid after the expiration of the specified time limit, the rules relating to condition subsequent shall apply accordingly.

IX. EARNEST AND RESCISSION FEE

1. Earnest

Paying Back and Taking the Earnest in the Account

Article 75

(1) Should at the moment of concluding a contract one party pay or give to the other a certain amount of money or certain quantity of other substitutable things, as a sign that the contract is concluded (an earnest), the contract shall be considered concluded after the earnest is deposited, unless something else has been agreed.

(2) If the contract is performed, the deposit must be paid back or accounted for in the fulfillment of the obligation.

(3) Unless otherwise agreed, the party who has paid the earnest may not desist from the contract leaving the earnest to the other party, while the other party may not desist by paying back the double amount of deposit.

Nonperformance of Contract Article 76

(1) Should a party who has given the earnest be responsible for nonperformance of contract, the other party may claim, at his choice, the performance under the contract, should this still be possible, or claim damages, whereby earnest would be credited against such recovery, or pay it back, or stay satisfied with earnest received.

(2) Should the party who received the earnest be responsible for nonperformance of the contract, other party may, at his choice, claim performance of the contract, should this still be possible, or claim damages and repayment of the earnest money, or claim payment of the double amount of earnest money.

(3) In any case, if the other party claimed performance under the contract, such party shall be entitled also to damages for loss caused by the delay.

(4) On request by the interested party, the court may reduce an excessively high amount of earnest.

In Case of Partial Performance of Obligation Article 77

(1) In case of partial performance of an obligation, the creditor may not retain an earnest but shall instead be entitled to claim performance of the remaining part of the obligation and compensation of damages caused by delay, or may claim compensation of damages for defective performance; in both cases, however, the earnest shall be credited against the amount of damages.

(2) Should the creditor rescind the contract and return what he has received as partial performance, he may choose between remaining claims to which a party is entitled where a contract is not performed through fault of the other party.

2. Rescission Fee

The Role of a Rescission Fee Article 78

(1) Contracting parties may agree that one or both parties shall be authorized to repudiate the contract by paying a rescission fee.

(2) After a party to whose benefit the rescission fee was agreed communicates to the other party of his intention to pay the rescission fee, such party may no longer claim performance of the contract.

- (3) A party authorized to repudiate shall be bound to pay the rescission fee simultaneously with a declaration of repudiation.
- (4) Should contracting parties fail to determine the time limit by which the authorized party may repudiate the contract, such party may take such action until the expiration of the time limit determined for the performance of his obligation.
- (5) The right to repudiate the contract shall also expire after the party to whose benefit it was agreed, begins to perform his duties arising from the contract, or begins to accept performance by the other party.

Earnest as a Rescission Fee Article 79

- (1) Should the right to repudiate the contract and the earnest be both agreed upon, the earnest shall be considered as a rescission fee, and each party shall be entitled to repudiate the contract.
- (2) In such a case, should a party who paid the earnest repudiate, such party shall lose it, while should a party who received the earnest repudiate, such party shall be obliged to pay back a sum double the amount of the earnest.

Section 2 AGENCY

I. GENERALLY ON AGENCY

Possibility of Agency Article 80

- (1) A contract as well as any other legal transaction may be undertaken through an agent.
- (2) Authority for agency shall be based on law, general acts of a legal person, an act of a competent state body, or on declaration of will of the person represented (authorization).

Effects of Agency Article 81

- (1) A contract concluded by an agent on behalf of his principal (the person represented), and within the limits of his authority, shall be directly binding for the person represented, and for the other contracting party.
- (2) Under the same conditions, other legal transactions of the agent shall produce legal effect directly for the person represented.
- (3) An agent shall be obliged to inform the other party that he acts on behalf of his principal, but even after failing to do that, the contract shall still be legally effective in respect of the principal, and the other party, should the latter party be aware or was able, on the ground of relevant circumstances, to conclude that the former person has been acting as an agent.

Transferring Authority Article 82

- (1) An agent shall not transfer his authority to another, unless entitled accordingly by law or contract.
- (2) As an exception he may do the above if prevented from personally performing the transaction, provided the interests of his principal required an immediate undertaking of the legal transaction.

Exceeding the Limits of Authority Article 83

- (1) Should an agent exceed the limits of authority, his principal shall be bound only if he approves such exceeding.
- (2) Should a principal fail to approve the contract within the time limit usually necessary for considering and assessing such kind of contract, the approval shall be considered denied.
- (3) An approval specified in the preceding paragraph shall have retroactive effect, unless the parties decide otherwise.
- (4) Should the other party not be aware, or should not have been aware, of the transgression of authority, he may, immediately after becoming aware of the excess of limits authority, without waiting for the statement of the principal concerning the contract, declare that he does not consider himself bound by the contract.
- (5) Should the principal deny the approval, the agent and the principal shall be jointly and severally liable for loss caused to the other party, provided such party was not aware, or should not have been aware, of the excess of authority.

Concluding of a Contract by Unauthorized Person Article 84

- (1) A contract concluded by a person, as agent, on behalf of another and without his authorization, shall be binding for the principal represented without authority only after his subsequent approval of the contract.
- (2) A party to a contract concluded in such a way may request from the principal represented without authority to affirm within an appropriate time limit whether he approves the contract.
- (3) Should a principal represented without authority fail to approve the contract even in the indicated time limit, the contract shall be considered as not concluded.
- (4) In such case a party to the contract may claim damages from the person who, as an agent, concluded the contract without proper authorization, when, at the moment of concluding the contract, that party was not aware, or should not have been aware, that such person had no authority to enter into contract.

II. AUTHORIZATION

Issuing an Authorization

Article 85

- (1) An authorization shall be a power of agency issued by the person granting the authority by way of legal transaction, to the authorized person (proxy).
- (2) Existence and scope of authorization shall be independent of any legal relationship serving as a ground for issuing the authorization.
- (3) A legal person may also be authorized to act as a proxy.

Particular Form of Authorization

Article 86

The form prescribed by law for a contract or some other legal transaction shall apply also to the authorization for concluding such contract, or engaging in such transaction.

The Scope of Authority

Article 87

- (1) An authorized person (proxy) may undertake only those legal transactions which fall within the scope of his authorization
- (2) An authorized person supplied with general authorization may undertake only those legal transactions which fall within the sphere of regular business
- (3) A transaction not falling within the sphere of regular business may be undertaken by the authorized person only after his being particularly authorized to undertake such transaction that is such kind of business transactions.
- (4) An authorized person shall not assume, without special authority given for each and every case, an obligation relating to bills of exchange, surety, settlement, arbitration tribunal, or waiver of a right without consideration.

Revocation and Restriction of Authorization

Article 88

- (1) The person granting the authority may freely restrict or revoke the authorization, even after renouncing such right by contract.
- (2) Revocation and restriction of any kind of authorization may be done by statement without particular form.
- (3) Should revocation or restriction of authorization cause breach of a contract creating an order, or contract for specific services, or some other kind of contract, the person authorized shall be entitled to damages for loss suffered.

Effect of Termination and Restriction of Authorization Regarding Third Persons Article 89

- (1) Revocation or restriction of authorization shall have no effect regarding a third person who has concluded a contract with the authorized person, or effected some other legal transaction, and who was not aware, or should not have been aware, of the fact that the authorization has been revoked or restricted.
- (2) In such a case a person granting the authority shall be entitled to claim damages for loss from the proxy, sustained through the above, unless the proxy was not aware, or should not have been aware, of the revocation, or restriction of the authorization.
- (3) The provisions of the paragraph 1 and 2 of this Article shall also apply in other cases of termination of the authorization.

Other Cases of Termination of Authorization Article 90

- (1) An authorization shall be terminated with the termination of a legal person authorized by it, unless otherwise prescribed by law.
- (2) An authorization shall be terminated in case of death of the authorized person.
- (3) An authorization shall be terminated with the termination of a legal person, or death of a person granting it unless a transaction already commenced became impossible to interrupt without damage to legal successors, or should the authorization continue to be valid also in case of death of the person granting it, either according to his intention or due to the nature of the transaction.

III. BUSINESS AUTHORIZATION

Granting of Authorization and its Contents Article 91

- (1) A business authorization may be granted within the limits of law by a business organization, or by other legal person, thus authorizing the proxy to conclude contracts and engage in other transactions which are usual in exercising of their business activity.
- (2) A business proxy shall not sell or encumber real estate, assume obligation under bill of exchange, or obligations of surety, take loans and conduct litigation in court, unless particular authorization covering each of these transactions has been obtained.
- (3) A business authorization may be restricted to the specific kind of business transactions, or to specified transactions, but these restrictions shall affect a third person only should such person was aware, or was supposed to be aware, of them.

Business Authorization of an Individual Entrepreneur Article 92

- (1) Provisions concerning business authorization shall apply accordingly to business authorization of an individual entrepreneur.

(2) A business authorization shall not be terminated in case of individual entrepreneur's death, nor in case of his losing business capacity.

IV. AUTHORITY OF TRAVELLING SALESMAN

Article 93

(1) A travelling salesman of a business organization or individual entrepreneur shall be empowered to undertake only transactions relating to the sale of goods, and those listed in the authorization granted to him by such business organization.

(2) In case of doubt, a travelling salesman shall be considered not empowered to enter into contracts but only to collect orders; however, a contract concluded by him shall remain valid should the party granting the authorization approve of it subsequently.

(3) A travelling salesman authorized to sell goods, shall not be empowered to collect payment or sell on credit, unless having particular authority to sell on credit.

(4) A travelling salesman shall be empowered to accept in the name of his principal complaints due to defects of the goods, as well as other statements relating to the performance of contract concluded through his mediation, including the taking of necessary measures on behalf of the principal, in order to preserve latter's rights stemming out of such contract.

V. AUTHORITY OF PERSONS PERFORMING PARTICULAR TASKS

Article 94

Persons engaged in such tasks which imply concluding and performance of specific contracts, such as salesmen in stores, persons providing specific services in hospitality industry, persons engaged to work in counter services in post office, banks and similar, shall be authorized by that very fact to enter into and to perform such contracts.

Section 3

INTERPRETATION OF CONTRACT

Implementation of Terms and Interpretation of Controversial Terms

Article 95

(1) Terms of a contract must be implemented in the way they are worded

(2) In interpreting controversial provisions one should not follow the literal meaning of the terms employed, but inquire instead into the joint intention of contracting parties and understand the provision in accordance with principles of the law of obligations, as set out by the present Law.

Intention of the Contracting Parties Article 96

- (1) Common intention of contracting parties shall be established according to what one of the parties actually declared and how other party was supposed to understand it.
- (2) Should it be impossible to establish common intention of the contracting parties one should inquire into intention which reasonable persons of same kind would regularly have in the same situation.
- (3) Should it be established that one of the parties intended the contract to have a particular meaning, and at the time of the conclusion of the contract the other party could not have been unaware of the first party's intention, the contract is to be interpreted in the way which is in accordance with the intention of the former party.

Circumstances Relevant for Interpretation Article 97

In interpreting the contract regard shall be had, in particular to: circumstances in which it was concluded, preceding negotiations, conduct of the contracting parties subsequent to the conclusion of the contract, nature and purpose of the contract, interpretation which was already been given to similar clauses by parties and the practices they have established between themselves, meaning commonly given to provisions and expressions in specific profession or branch of activity, as well as the principle of good faith and fair dealing

Unclear Provisions in Particular Cases Article 98

Should a contract be concluded in conformity with a form printed in advance, or prepared and proposed in some other way by one of the contracting parties, unclear provisions shall be interpreted so as to benefit the other party.

Supplementary Rule Article 99

Unclear provisions in a contract without consideration should be interpreted in the way less burdensome for the debtor, while in case of an onerous contract – in the way which establishes an equitable relation between mutual considerations.

Out-of- Court Interpretation of Contract Article 100

- (1) Contracting parties may provide that a third person shall interpret the contract in case of disagreement concerning the meaning and scope of terms of contract.
- (2) In such a case, unless otherwise specified by contract, the parties may not file an action with the court or other competent agency, prior to obtaining interpretation of the contract, unless the third person should refuse to provide interpretation of the contract.

Section 4 INVALID CONTRACTS

I. NULL AND VOID CONTRACTS

Nullity Article 101

(1) A contract contrary to mandatory legislation or morals of the society shall be null and void unless the purpose of the rule violated refers to another sanction, or unless the law provides for something else in the specific case.

(2) Should entering into a particular contract be prohibited to one party only, the contract shall remain in force, unless otherwise provided by law for the specific case, while the party violating the statutory prohibition shall suffer corresponding consequences.

Consequences of Nullity Article 102

(1) In case of nullity of contract each contracting party shall restate to the other that what is received on the ground of such a contract, and should this be not feasible, or should the nature of that what has been performed prevent restituting, an adequate compensation in money shall be given according to prices at the time of passing the court decision, unless otherwise provided by law.

(2) However, should a contract be void because of its contents or purpose being contrary to mandatory legislation or morals of the society, the court may, entirely or partially, deny the claim of the party who acted in bad faith for the restitution of that what has been given to the other party; the court may also direct the other party to hand over the value received on the ground of the prohibited contract, to a suitable humanitarian organization or institution in whose territory such party has its seat of business, residence or domicile.

(3) In deciding, the court shall consider the good faith of each and both parties, the significance of endangered good or interests, as well as the existing conceptions of morality.

Partial Nullity Article 103

(1) Nullity of a contractual provision shall not imply nullity of the contract itself, if it can stand without the null provision and should such provision be neither a requirement for contract nor a motive decisive for making it.

(2) But the contract shall remain effective even should the null provision be a requirement or a decisive motive of contract, in case if the nullity was established exactly in order for the contract to be exempted from such provision and to become valid without it.

Conversion Article 104

Should a null contract meet the requirements for validity of some other kind of contract, such other contract shall be valid as between the contracting parties, should this prove conformity with the purpose envisaged by the contracting parties at the moment of concluding the contract, and should it be possible to presume that they would enter into such contract had they been aware of the nullity of their contract.

Subsequent Disappearance of the Cause of Nullity Article 105

- (1) A null and void contract shall not become valid if the prohibition or other cause of nullity subsequently disappeared.
- (2) However, nullity shall not be claimed should the prohibition be of minor importance and after the contract has been performed.

Responsibility of Person at Fault for Nullity of Contract Article 106

A contracting party at fault for conclusion of null and void contract shall be liable to the contracting partner for loss suffered due to nullity of contract, if the latter was not aware or, according to circumstances, should not have been aware, of the existence of the cause of nullity.

Claiming Nullity Article 107

- (1) The court shall ex officio take account of potential nullity; nullity may be claimed by every person interested.
- (2) The State Prosecutor shall also have a right to request the establishment of nullity.

Unlimited Right to Claim Nullity Article 108

The right to claim nullity shall not become extinguished.

II. VOIDABLE CONTRACTS

Conditions for Voidability of Contract Article 109

A contract shall be voidable if it is concluded by a party having a limited business capacity, should there be any defects in respect of will (intention) of parties, or when so provided by the present Law or a special legislation.

Voidance of a Contract Article 110

- (1) A contracting party in whose interest the possibility of voiding was provided for, may claim the contract to be voided .

(2) Contracting partner of a party from the paragraph 1 of present Article may claim from such party to declare, within a specified period of time not shorter than thirty days, as to whether such party is going to honor the contract or not, since in the contrary case that partner shall consider the contract as voided.

(3) Should the contracting party being addressed fail to declare its position within the above period of time, or should such party state that he shall not honor the contract, the contract shall be considered voided.

Consequences of Voidance Article 111

(1) Should on the ground of nullified voidable contract a portion of commitment be honored, the restitution shall be effected, and should this prove not feasible, or should the nature of that what has been honored be incompatible with the restitution, a compensation in money shall be given.

(2) Compensation in money shall be effected at the prices applicable at time of restitution, that is, at the time of rendering of decision by the court.

Restitution and Compensation in Case of Voidance of a Contract of a Person with Limited Business Capacity Article 112

After a contract is nullified due to limited business capacity of one contracting party, the contracting partner of such person may claim only the restitution of that part of the honored commitment which belongs to the assets of the person with limited business capacity, or which was used to his benefit, as well as the restitution of that what was intentionally destroyed or transferred to another.

Responsibility for Voidance of a Contract Article 113

A contracting party who caused the voidance of a contract shall be liable to his contracting partner for loss sustained due to the contract being annulled if he was not aware or ought not have been aware of existence of the cause of voidability.

Responsibility of a Person with Limited Business Capacity Article 114

A person with limited business capacity shall be liable for loss caused by nullifying a contract after persuading his contracting partner, by false misrepresentation, that he was a person with full business capacity.

Extinguishment of Rights Article 115

(1) A right to claim nullity of a voidable contract shall be extinguished one year after becoming aware of the ground for voiding of a contract, or after cessation of coercion.

(2) Such right shall in any event be extinguished after expiry of a three year period from the day of conclusion of contract.

Section 5 BILATERAL (SYNALLAGMATIC) CONTRACTS

I. RESPONSABILITY FOR MATERIAL AND LEGAL DEFECTS OF THING

Article 116

(1) Each party of a contract with consideration shall be responsible for material defects of its performance.

(2) A contracting party shall also be responsible for legal defects of performance, and shall be bound to protect the other party against third persons' rights and claims, which might exclude or restrict that party's right.

(3) Such obligations of the transferor shall be accordingly subject to application of the provisions of the present Law concerning the responsibility of the seller for material and legal defects of performance, unless otherwise set out for a particular case.

II. A DEFENSES OF NON-PERFORMANCE OF CONTRACT

Rule of Simultaneous Performance

Article 117

(1) In bilateral reciprocal contracts no party shall be bound to perform his obligation unless the other party performs or is prepared to simultaneously perform, unless otherwise is agreed or set out by the law, or unless otherwise results from the nature of the transaction.

(2) However, should one party claim at court that he is not bound to perform the obligation until the other party performs, the court shall order him to meet his obligation when the other party has met that other party's obligation.

In Case of Uncertainty as to Performance of Obligation by One Party

Article 118

(1) Should it be stipulated that one party shall be first to perform his obligation and should, after conclusion of the contract, the economic standing of the other party deteriorate to such extent that it becomes uncertain whether such party will be able to perform his obligation, or if such uncertainty is implicated by other serious reasons, the party who promised to perform his obligation first may postpone the performance until other party performs that other party's obligation, or until that other party supplies sufficient security for performance.

(2) Provisions of the paragraph 1 of present Article shall apply also in the case if the economic standing of the other party was equally grave even prior to conclusion of the contract, if the other contracting partner was not aware of this, or should not have been aware.

(3) The party who, within the meaning set out by paragraphs 1 and 2 of present Article, promised to be the first to perform his obligation may request that the security is provided to him within suitable time limit, and should such time limit expire without result, such party shall be entitled to rescind the contract.

III. RESCINDING OF A CONTRACT DUE TO NON-PERFORMANCE

Rights of One Party after the Other Fails to Perform His Obligation

Article 119

In case of bilateral reciprocal contracts, if one party fails to perform his obligation, the other party, unless something else has been determined, may request performance of the obligation or, under the conditions specified by present Law, may rescind the contract by simple statement, should rescission of contract not occur by very operation of law, and in any case, such party shall be entitled to damages.

Where Performance within a Time Limit is an Essential Element of Contract

Article 120

(1) Should performance within a time limit be an essential element (term) of contract, and the debtor fails to perform his obligation within such time limit, the contract shall be rescinded by operation of law.

(2) However, the creditor may maintain the contract in effect by informing the debtor, immediately after the expiration of the time limit, that he claims performance of the contract.

(3) If the creditor claimed performance, but performance was not rendered to him within reasonable period of time, he may declare his intention to rescind the contract.

(4) These rules shall apply both in the case of contracting parties stipulating that the contract shall be deemed rescinded unless performed within the specified time limit, and in the case where performing the contract within the specified time limit is an essential element of contract according to the nature of transaction.

Performance within Time Limit as Non Essential Element of Contract

Article 121

(1) Should performance of obligation within a specified time limit not be an essential element (term) of contract, the debtor shall preserve the right to perform his obligation even after the expiration of the time limit, while the creditor may claim its performance.

(2) Should creditor, however, want to rescind the contract, he shall leave the defaulter an appropriate subsequent time limit for performance.

(3) Should the debtor fail to perform his obligation within the subsequent time limit, the same consequences shall take place as are otherwise applicable in the case of a time limit being an essential element of contract.

Rescinding of Contract without Leaving a Subsequent Time Limit Article 122

A creditor may rescind the contract without leaving the debtor a subsequent time limit for performance, should the debtor's conduct indicate that he will not perform his obligation even in course of subsequent time limit.

Rescinding of Contract Prior to Expiration of the Time Limit Article 123

Should prior to the expiration of the time limit for performing the obligation it become obvious that one party is not going to meet his contractual obligation, the other party may rescind the contract and claim damages.

Rescinding of Contract with Consecutive Obligations Article 124

(1) Should in a contract with consecutive obligations one party fail to perform one obligation, the other party may, within a reasonable time limit, rescind the contract regarding all future obligations, should existing circumstances obviously indicate that they, too, are not going to be performed.

(2) That party may rescind the contract not only regarding future obligations, but also regarding obligations already performed should their performance alone be of no interest to him.

(3) The defaulter may preserve the contract after supplying an adequate security.

Duty of Notification Article 125

Creditor intending to rescind the contract due to the debtor's failure to perform his obligation, shall be bound to notify the debtor immediately.

When Contract may not be Rescinded Article 126

A contract may not be rescinded due to non-performance (breach) of a minor portion of obligation.

Effect of Rescission Article 127

(1) After a contract is rescinded both parties shall be released from their obligations, except the obligation of compensating potential damage incurred.

(2) Party who performed a contract entirely or partially shall be entitled to restitution of that what he has given.

- (3) Should both parties be entitled to claim restitution of what has been given, mutual restitution shall be effected according to the rules for performance of bilateral (reciprocal) contracts.
- (4) Each party shall owe to the other compensation for benefits enjoyed in the meanwhile on the ground of what such party is obliged to retribute, that is to compensate.
- (5) A party paying back money shall be obliged to pay interest on arrears from the day of receiving the payment.

IV. ALTERATION OR RESCISSION OF CONTRACT DUE TO CHANGED CIRCUMSTANCES (HARDSHIP)

Prerequisites for Alteration or Rescission Article 128

- (1) Should after concluding of the contract such circumstances emerge which could not have been predicted and which hinder the performance of the obligation of one party to such extent that the performance of the obligation would be too burdensome or would incur too large loss to such party, the court may, following the claim of such party alter or rescind such contract.
- (2) Alteration or rescission may not be claimed if the party setting up the changed circumstances had a duty, at the time of concluding of the contract, to take into account such circumstances, or if such party could have avoided or overcome them.
- (3) A party claiming alteration or rescission of the contract may not refer to circumstances emerging after the expiration of time limit determined for the performance of that party's obligation.
- (4) A contract shall not be rescinded should the other party offer or accept that the relevant terms of contract be altered in an equitable way.
- (5) After pronouncing rescission of contract, the court shall, at the request of the other party, impose a duty against the party claiming it, to compensate to the other party an equitable part of the loss sustained due to rescission.

Duty of Notification Article 129

A party authorized due to changed circumstances to claim rescission of contract shall have a duty to notify the other party on his intention to claim rescission immediately after becoming aware of the emergence of such circumstances, and in case of not acting accordingly, the former party shall be liable for loss sustained by the later party as a result of not being informed on the claim in due time.

Circumstances Relevant for Court Decision Article 130

In deciding on alteration or rescission of contract, the court shall be guided by principles of good faith and honesty, while particularly taking into consideration the purpose of the

contract, the normal risk involved with such contracts, effects and duration of extraordinary circumstances as well as the balance of the interests of both parties.

**Disclaim by Reason of Hardship
Article 131**

The parties may disclaim in advance in their contract the right to claim changed circumstances, unless that is contrary to the principles of good faith and fair dealing.

V. IMPOSSIBILITY OF PERFORMANCE

**Impossibility of Performance Not Attributable to either Party
Article 132**

(1) Should performance of obligation by one party in a bilateral (reciprocal) contract become impossible due to an event not attributable to either party, the other party's obligation shall be extinguished too, while a party performing part of his obligation may request restitution according to the rules of restitution in case of acquiring without proper grounds.

(2) Should partial impossibility of performance be due to events not attributable to either party, one party may rescind the contract should partial performance not suit that party's needs; otherwise the contract shall remain in effect, while the other party shall be entitled to claim proportionate reduction of his obligation.

**Impossibility of Performance Attributable to the other Party
Article 133**

(1) Should performance of obligation by one party in a bilateral (reciprocal) contract become impossible due to an event attributable to other party, the former party's liability shall be extinguished, while he shall maintain his claim against the latter party; such claim, however, must be reduced by an amount equal to the potential benefit resulting from being released from duty.

(2) In addition, such party shall renounce to the other party all rights against third persons relating to the subject of his obligation whose performance has become impossible.

(3) Should the impossibility of performance of reciprocal contract occur due to the event attributable to the party who is obliged to perform, other party may, at his choice, claim damages incurred through non-performance, or repudiate the contract and claim damages.

VI. EXCESSIVE LOSS

Article 134

(1) Should at the time of concluding the contract an obvious disproportion exist between commitments of contracting parties in a bilateral (reciprocal) contract, the party suffering loss may claim that the contract be voided if such party was unaware, or should not have been aware, at the time, of the real value thereof.

- (2) The right to claim avoidance of contract shall expire one year after its (ie. the contract's) conclusion.
- (3) Waiving such right in advance shall have no legal effect.
- (4) The avoidance of a contract may not be claimed if said disproportion exist no more at the time of filing of an action with the court.
- (5) The contract shall remain effective if other party offers to supplement the consideration up to a proper value.
- (6) Such disproportion shall give no ground for avoiding a business contract, contract relating to games of chance, public auctions, settlement, as well as where a higher price for the thing has been paid out of particular favor.

VII. USURY CONTRACT

Article 135

- (1) A contract shall be null and void by which someone, taking advantage of another person's predicament, poor economic situation, inexperience, lack of sound judgment or dependence, stipulates for himself, or in favor of a third person, the benefit which is in obvious disproportion to that what has been given or done, or what he has promised to give or do in exchange to such person.
- (2) Provisions of the present Law on consequences of nullity and partial nullity of contract shall apply accordingly to the usury contract.
- (3) Should a person sustaining damage claim his obligation to be reduced to a fair amount, the court shall meet such claim favorably should this be possible, and in such a case the contract with the corresponding alteration shall remain in effect.
- (4) A person sustaining damage may file a claim for reducing the obligation to a just amount within five years from concluding the contract, and in case of the underlying criminal act, until expiry of right to prosecution.

VIII. ADHESION CONTRACTS (STANDARD FORM CONTRACTS)

Notion Article 136

By adhesion contract (standard form contract) one party determines terms and conditions of a contract in advance by means of a general and permanent offer (general terms and conditions) while other party simply adheres to an offer so made.

Binding Character Article 137

- (1) General terms and conditions shall supplement special agreements as established between contracting parties in the same contract, and by rule have the same binding effect as the former.
- (2) General terms and conditions of contract must be published in a usual way.

- (3) General terms and conditions shall be binding on a contracting party if they were known, or should have been known to such party at the moment of entering into contract.
- (4) In case of discrepancy between general terms and conditions and special agreements, the latter shall.

Nullity of Certain Provisions of General Terms and Conditions

Article 138

- (1) Provisions of the general terms and conditions shall be null and void if contrary to the very purpose of contract which is concluded, or to fair business usage, even after such general terms and conditions containing them have been approved by the competent agency.
- (2) The court may deny application of specific provisions of the general terms and conditions precluding the other party to raise defenses, or of those on the ground of which such party waives rights or time limits for certain performances on the basis of contract, or provisions which are otherwise unfair or excessively strict towards such party.

IX. ASSIGNMENT OF CONTRACT

Conditions of Assignment

Article 139

- (1) Each party in a bilateral (reciprocal) contract may, after obtaining the other party's consent, assign the contract to a third person who thus becomes a holder of all of his rights and obligations arising from that contract.
- (2) By assignment of a contract, the contractual relationship between the assignor and the other party shall be transferred to the assignee and the other party at the moment of acceptance by the other party of the assignment, and if the other party has extended his consent in advance, at the moment of his being notified about the assignment.
- (3) An assent to assignment of the contract shall be valid only after being expressed in the form prescribed by statute for the contract assigned.
- (4) Provisions concerning secondary rights connected to the contract of debt assumption shall apply accordingly to the assignment of contracts.

Responsibility of Assignor

Article 140

- (1) An assignor shall be liable to the assignee for the validity of the contract assigned.
- (2) Assignor shall not guarantee that the other party shall perform his obligations under the assigned contract, unless assuming specific duty thereof.
- (3) Assignor shall not guarantee to the other party that the assignee shall perform the obligations out of the assigned contract, unless assuming specific duty thereof.

Defenses
Article 141

The other party may raise against the assignee all objections arising from the contract assigned, as well as those he is entitled to out of their other mutual relationship, but excluding objections he is entitled to against the assignor.

Section 6
GENERAL EFFECTS OF CONTRACT

I. CREATION OF OBLIGATIONS FOR CONTRACTING PARTIES

Effects of Contract as between Contracting Parties and their Legal Successors
Article 142

- (1) A contract shall create rights and obligations for contracting parties.
- (2) A contract shall also affect universal legal successors of the contracting parties, unless something else is contracted or something else result from the nature of contract.
- (3) A right in favour of a third person may be instituted by contract.

II. A CONTRACT IN FAVOUR OF THIRD PERSON

Direct Right of Third Person
Article 143

- (1) Should someone stipulate in his own name a claim in favor of a third person, such third person shall acquire his own and direct right towards the debtor, unless something else be stipulated or something else results from circumstances of the transaction.
- (2) A contracting party shall be entitled to claim that the debtor performs what is contracted in favor of such third person.

Revocation of Benefit for a Third Person
Article 144

- (1) A party to a contract in favour of a third person may revoke or alter the benefit thereof only until the third person declares his acceptance of what has been contracted in his favour.
- (2) Should it be stipulated that the debtor shall perform his obligation to the benefit of the third person only after the death of the contracting party, that party may until then, and even by his will, revoke the benefit contracted in favour of the third person, unless something else result from the contract itself or from relevant circumstances.

Defenses of Debtor against a Third Person Article 145

A debtor may raise against a third person all defenses he is otherwise entitled to against a contracting party on the ground of a contract by means of which the benefit for the third person has been stipulated.

Refusal of a Third Person Article 146

Should a third person refuse the benefit stipulated for him, or should the contracting party revoke it, the benefit shall belong to such contracting party, unless something else be stipulated or result out of the nature of transaction.

Promise of Acting of a Third Person Article 147

(1) A promise given to other person that a third person shall do or shall refrain from doing something, shall not be binding for the third person, while the promissor shall be liable for potential loss sustained by the other person because the third person is not willing to assume the obligation or take or refrain from a specific action.

(2) A promissor shall not be liable if he promised to the other that he shall only intervene with the third person to make him assume a duty to do or refrain from something, if he is not successful in spite of all efforts on his part.

SUBTITLE 2 COMPENSATION OF DAMAGES (TORTS)

Section 1 GENERAL PRINCIPLES

Grounds of Liability Article 148

(1) Whoever causes injury or loss to another shall be liable to compensate it, unless he proves that the damage was caused without his fault.

(2) Liability shall ensue regardless of fault for injury or loss caused by objects of property (things) or activities generating increased danger for the environment.

(3) Liability for injury or loss regardless of fault shall ensue also in other cases specified by law.

Injury or Loss Article 149

Injury or loss shall be a diminution of someone's property (simple loss) and preventing its increase (profit lost), as well as inflicting on another physical or psychological pain or

causing fear, as well as violation of rights of person and reputation of legal entity (non-material damage).

Claim to Remove a Danger of Injury or Loss Article 150

(1) Everyone may demand from another that he removes a source of danger threatening considerable damage to him or to an unspecified number of persons, as well as to refrain from an activity causing disturbance or danger of loss, should the resulting disturbance or loss be impossible to prevent by adequate measures.

(2) On the claim of an interested person, the court shall order the taking of adequate measures to prevent the emergence of damage or disturbance, or to eliminate the source of danger – at the expense of the holder of the source of danger, should he himself fail to act accordingly.

(3) Should loss occur in the course of an activity undertaken in the interest of the general public, and otherwise permitted by a competent agency, the only recovery which may be claimed shall concern loss exceeding normal limits.

(4) In the case described in the paragraph 3 of present Article, it shall also be possible to claim taking socially justified measures in order to prevent the emergence of damage or to reduce it.

Demand to Cease with Violation of Individual Rights Article 151

(1) Everyone shall be entitled to claim that the court or other competent agency order the cessation of an action by which the integrity of human person, personal and family life and other rights pertaining to his person are violated, as well as reputation of legal entity.

(2) The court or the other competent agency may order cessation of the action by threatening the payment of a certain amount of money, determined as a lump sum or per time unit, to the benefit of the person suffering damage.

Section 2 LIABILITY ON THE GROUND OF FAULT

Existence of Fault Article 152

Fault shall exist if a person caused injury or loss intentionally or out of negligence. In assessing whether a person causing injury or loss is at fault, the court shall take account of regular course of events, and how reasonable and careful man would be expected to act in given circumstances.

Non-responsible Persons Article 153

(1) A person who, due to mental illness or retarded mental development, or for some other reason, is incapable to reason, shall not be liable for loss or injury caused to another.

(2) Whoever causes loss or injury to another being in the state of temporary mental incompetence, shall be liable for it, unless being able to prove that he was not to be blamed for coming into such state.

(3) Should he have come into such a state through fault of another, the person who brought him into such state shall be liable for damages.

Liability of Minors Article 154

(1) A minor of up to seven years of age shall not be liable for loss or injury caused by him.

(2) A minor of from seven to fourteen years of age shall not be liable for loss, unless it is proved that he was capable to reason while causing the damage.

(3) A minor of fourteen years of age shall be liable according to general rules of tort liability.

Justifiable Self-Defense, State of Necessity, Warding-off Danger from Another Article 155

(1) Whoever in a justifiable self-defense causes loss or injury to an assailant shall not be liable to redress it, except in case of exceeding justifiable defense.

(2) Should someone cause loss or injury in a state of necessity, the person sustaining loss may claim recovery from the person at fault in creating the danger of loss or injury, or from persons from whom loss or injury have been removed – but from the latter not more than up to the amount of benefit they have obtained through such removal.

(3) Whoever suffers damage while removing a danger of injury or loss from another, shall be entitled to recover from him for the loss which he has reasonably exposed himself to.

Permitted Self-Help Article 156

(1) Whoever in case of permitted self-help inflicts loss or injury to a person provoking the need for self-help shall not be liable to redress it.

(2) Permitted self-help shall mean the right of every person to remove violation of a right in face of an imminent danger, should such protection be necessary and should the way of removing of the violation of right correspond to circumstances of emerging danger.

Assent of Person Sustaining Loss or Injury Article 157

(1) Whoever to his own detriment permits another to take certain action, may not claim from him recovery of damage caused by such action.

(2) A statement of a person sustaining injury or loss by which he has agreed that harm be done to him through an action forbidden by law shall be null and void.

Section 3 LIABILITY FOR ANOTHER

Persons Mentally Ill and Retarded (Mentally Handicapped) Article 158

(1) Liability for loss caused by a person who, due to mental illness or retarded mental development, or for some other reasons, is not capable to reason, shall be borne by the person under a duty to take care of him on the ground of law or decision by competent authority, or on the ground of a contract.

(2) Person referred to in the paragraph 1 of present Article person may exempt himself from liability after proving that he exerted due supervision, or that loss or injury would have ensued even in a case of diligent conduct of supervision.

Liability of Parents Article 159

(1) Parents shall be liable for loss or injury caused to another person by their child of up to seven years of age, regardless of their fault.

(2) They shall be exempted from liability should grounds exist for exclusion of liability according to the rules of liability, regardless of fault.

(3) They shall not be liable should loss or injury occur while the child was committed to another person's care and if such person was liable for loss or injury.

(4) Parents shall be liable for loss or injury caused by their child of over seven years of age, unless proving that the loss or injury took place without their fault.

Joint and Several Liability Article 160

Should, besides parents, a child also be liable loss and injury, their liability shall be joint and several.

Liability of another Person for a Minor Article 161

(1) Liability for loss or injury caused to another by a minor, while under supervision of a guardian, school or another institution, shall be borne by the guardian, the school, or the other institution, unless they prove that they duly conducted supervision, or that loss or injury would have ensued even in case of diligent supervision.

(2) Should a minor also be liable for loss or injury, liability shall be joint and several.

Particular Liability of Parents Article 162

(1) Should a duty of supervision of a minor be held not by his parents, but on some other person, the party who sustained injury or loss shall be entitled to claim recovery from the parents should damage be due to bad upbringing of the minor, sinful habits or bad examples transferred to him by his parents, or if the injury or loss can be attributed to the fault of parents in any way.

(2) A person who in such a case is bound to conduct supervision shall be entitled to request from the parents recovery of the amount (of damages) paid, if he has compensated the person suffering loss or injury.

Liability on the Ground of Fairness Article 163

(1) Should loss or injury be caused by a person, who is not liable, and recovery can not be obtained from the person having a duty to supervise him, the court may – should fairness so require and particularly due to material situation of the tort-feasor and the person suffering damage – order the tort-feasor to pay damages, entirely or partially.

(2) Should loss or injury be caused by a mentally competent minor unable to redress it, the court may – should fairness so require and, especially, with a view to economic standing of parents and the person suffering loss or injury – oblige the parents to pay damages, entirely or partially, although not being at fault.

Section 4 LIABILITY OF BUSINESS ORGANIZATIONS AND OTHER LEGAL PERSONS TOWARDS THIRD PARTIES

Liability of a Business Organization or Individual Entrepreneur Article 164

(1) The business organization or individual entrepreneur (employer) in which a wrongdoer is employed at the moment of causing the loss or injury, shall be liable for such damage or loss which are caused by such employee in the course of work or in relation to work to a third person, unless it is proved that such employee, in given circumstances, had proceeded as he should have.

(2) A person sustaining loss shall also be entitled to claim recovery directly from the employee, if he caused the damage intentionally.

(3) The provision specified in paragraph 1 of the present article shall not affect the rules of liability for loss or injury arising from a dangerous object of property or dangerous activity.

(4) Employer who redressed damages to the person who suffered it shall be entitled to claim recovery from the employee of the compensation he gave, should the latter have caused injury or loss intentionally or out of gross negligence.

(5) The right from paragraph 4 of present Article shall expire within six months from the date when the damage was redressed.

Liability of Other Persons Article 165

- (1) Provisions specified in the Article 164 of present Law shall also apply to other employers in relation to liability for loss or injury caused by their employees in the course of work or in relation to work.
- (2) A person who compensate damages to a person who has suffered injury or loss caused by an employee, intentionally or in gross negligence, shall be entitled to recover from such employee the amount paid.
- (3) The right from paragraph 4 of present Article shall expire six months after the payment of damages.

Liability of a Legal Person for Damage Caused by its Body Article 166

- (1) A legal person shall be liable for damage caused by its body to a third person in exercising or in connection to exercising of its functions.
- (2) Unless otherwise specified by the law for specific cases, a legal person shall be entitled to recover against a person being at fault for injury or loss inflicted intentionally or by gross negligence.
- (3) The right referred to in paragraph 2 of present Article right shall expire six months after the payment of damages.

Section 5 LIABILITY FOR LOSS OR INJURY CAUSED BY DANGEROUS OBJECT OR DANGEROUS ACTIVITY

I. GENERAL PROVISIONS

Notion of Dangerous Object or Dangerous Activity Article 167

- (1) Movable or non – movable things whose position in space, or utilization, or qualities, or the very existence represent increased hazard for surrounding environment shall be deemed dangerous objects.
- (2) Activities which constitute increased hazard for surrounding environment shall be deemed dangerous activities.

Presumption of Causality Article 168

Injury or loss occurring in relation to a dangerous object or dangerous activity, shall be treated as originating from such object or activity, unless proven that these were not the cause of injury or loss.

Who is Liable for Injury or Loss Article 169

The holder of a dangerous object shall be liable for injury or loss caused by it while the person exercising a dangerous activity shall be liable for injury or loss caused by such activity.

Unlawful Deprivation of the Holder of a Dangerous Object Article 170

Should an owner be deprived of a dangerous object in an unlawful way, he shall not be held liable for ensuing injury or loss, but on the one depriving him of the dangerous object, should the holder be not responsible for that.

Handing over of an Object to a Third Person Article 171

(1) Instead of a holder of object, a person to whom the holder entrusted the object for use or a person otherwise bound to supervise it, although not being employed by holder, shall be liable in the same way.

(2) In addition to person from paragraph 1 of present Article, the holder of the object shall also be liable, should injury or loss arise from some hidden defect or hidden quality of the object of which he was not made aware.

(3) In such case the person liable who has paid damages to the aggrieved person, shall be entitled to claim from the holder the entire amount paid.

(4) A holder of a dangerous object who entrusts it to a person not trained or not authorized to handle it, shall be liable for injury or loss arising from such object.

Exemption from Liability Article 172

(1) A holder shall be exempt from liability after proving that injury or loss took place due to a cause outside of the object, whose effect could not have been foreseen, avoided or eliminated.

(2) A holder of an object shall also be exempt from liability after proving that injury or loss occurred entirely through an act of the aggrieved person or a third person, which act could not have been foreseen by holder and whose consequences he was not able to avoid or eliminate.

- (3) A holder shall be exempt from liability only partially if the person sustaining injury or loss partially contributed to the occurrence of injury or loss.
- (4) Should injury or loss be partially due to an act of a third person, such person shall be liable to the person suffering injury or loss jointly and severally with the holder of an object, and shall also be bound to participate in amount of compensation proportionally to the degree of his fault.
- (5) A person being instrumental in holder's use of an object shall not be considered as third person.

II. LIABILITY IN CASE OF ACCIDENTS CAUSED BY A MOTOR VEHICLE IN MOTION

Liability on the ground of Fault Article 173

- (1) In case of an accident caused by a motor vehicle in motion and provoked entirely through the fault of one holder, the rules of liability on the ground of fault shall apply.
- (2) Should both sides be at fault, each holder shall be liable for the entire injury or loss suffered by them in proportion to the degree of their own fault.
- (3) Should neither party be at fault, the owners shall share the liability in equal portions, unless reasons of equity call for something else.
- (4) Owners of motor vehicles shall be jointly and severally liable for damage inflicted on third persons.

Liability in case of Unauthorized Use of Motor Vehicle Article 174

- (1) Unauthorized user of motor vehicle shall be liable to third persons in the place of owner.
- (2) Beside unauthorized user and jointly and severally with him the owner of motor vehicle shall also be liable, if through his fault or through fault of persons which should have taken care of the vehicle, the unauthorized use of vehicle was made possible.
- (3) Unauthorized user shall be a person who, at the time of event causing injury or loss, was using a motor vehicle without consent of an owner, and is not employed by such owner in relation to operation of that motor vehicle, nor member of his family household, nor was delivered a vehicle into possession by the owner.

III. LIABILITY OF PRODUCER OF DEFECTIVE OBJECTS

Object with Defect Article 175

- (1) Whoever puts in the circulation an object manufactured by him, which due to a defect unknown to him constitutes hazard of injury or loss to persons or other objects, shall be liable for injury or loss which could ensue due to such defect, regardless of the culpability.

- (2) Manufacturer shall be liable for dangerous properties of an object after failing to take all necessary measures to prevent injury or loss, which he was able to foresee, by applying a corresponding warning, safer packaging or some other measure.
- (3) Aggrieved party shall have a duty to prove defectiveness of products, suffered injury or loss and causality between defectiveness of the product and injury or loss

Product
Article 176

- (1) Product is any movable thing as well as an independent part built in into a movable or non-movable thing.
- (2) Electric power and other forms of energy shall also be products.

Defective Product
Article 177

- (1) Product shall be deemed defective if, taking into account all circumstances of the case, and especially how the product is presented, purposes for which it might be used according to reasonable expectations, as well as time when the product was put into circulation, it fails to provide safety reasonably to be expected from such product.
- (2) Product shall not be deemed defective only as a consequence of the fact that more advanced product was put into free circulation at a later point of time.

Manufacturer
Article 178

- (1) A person shall be deemed manufacturer who has produced finished product, raw material, independent or non-independent component built into the finished product, as well as the person, who, through marking the product by placing its trade name, trade mark or some other designation on the product, presented itself as a manufacturer.
- (2) If a product was imported, it shall be deemed that the manufacturer is a person who imported the product for the purpose of sale, renting or any other form of putting of the product into free circulation, and such person shall be jointly and severally liable with the persons listed in the paragraph 1 of present Article.
- (3) Should it be impossible to establish who the manufacturer is, any person who puts the product into free circulation shall be considered as manufacturer, save if such person notifies aggrieved party on the identity of the person from whom it had acquired the product.
- (4) Provision of the paragraph 3 of present Article shall also be applicable in case if it cannot be established who imported the product, even in case if the name, factory or title of the manufacturer are declared on the product.

Joint and Several Liability Article 179

If more than one person is liable for injury or loss caused by defectiveness of the product, their liability shall be joint and several.

Exemption from Liability Article 180

- (1) Manufacturer shall be exempted from liability if he proves:
- that he had not put the product into free circulation;
 - that from the circumstances of the case it results that deficiency and its cause did not exist at the time when he put the product into free circulation
 - that product was not manufactured for sale, rent or any other business purpose, nor manufactured or put into free circulation within his business operation;
 - that defectiveness is a consequence of compliance with mandatory regulations in effect at the time when the product was put into free circulation;
 - that the state of art in scientific field and technical know how at time of putting of the product into free circulation did not allow detection of defectiveness;
 - that the injury or loss were caused exclusively by act of aggrieved person or person for whom he is held liable, or act of third person which the manufacturer could not have predicted and the consequences of which he could not have avoided or eliminated.
- (2) Manufacturer of a component of a product shall be excluded from liability if he proves that defectiveness is caused by construction of the principal product or by instructions received from manufacturer of principal product.
- (3) Manufacturer shall be partly exempted from liability if the aggrieved party or person for whom he is held liable contributed to the occurrence of injury or loss.
- (4) If the third person partly contributed to the occurrence of injury or loss, such person shall be jointly and severally liable with the manufacturer.

Prohibition to Stipulate Exclusion or Restriction of Liability by Contract Article 181

Liability of Manufacturer shall not be excluded or restricted in advance by contract with the party sustaining loss or injury.

Time Limits for Exercising the Rights Article 182

- (1) Claim for compensation of damage caused by defective product expires within three years from the date when the aggrieved party learned or should have learned of the injury or loss, defectiveness and manufacturer.
- (2) The right to compensation of damage caused by defective product is expires within ten years from the date of a product being put into free circulation, unless within such period an action commenced against manufacturer before the court or other competent body for

determination or enforcement of the claim for compensation of damage regulated by present Section.

Section 6

IV. LIABILITY FOR DAMAGE SUSTAINED FROM ANIMALS

Liability of a Keeper of Animal Article 183

- (1) The keeper of animal shall be liable for injury or loss caused by animal, whether animal was with the keeper or had wandered off or run away.
- (2) The keeper shall be liable for injury or loss which agitated animal inflicted on the person who voluntarily attempted to catch or keep it.

Animal Minded by Other Party Article 184

- (1) Liable for damage caused by animals entrusted for keeping or care to persons or institutions who engage in receiving animals for keeping and care shall be such persons and institutions, under same conditions as keeper of animal would otherwise have been.
- (2) The keeper who entrusted animal to another to serve or for keeping or care within the meaning of the paragraph 1 of present Article, shall be bound to make such person aware of defects of animal (if any), otherwise he shall be responsible for the damage.

Animal Caught at Inflicting Damage Article 185

- (1) Aggrieved party is entitled to catch another person's animal which is causing damage to him and to retain it for securing collection of his claim for indemnity.
- (2) Aggrieved party shall be bound to inform without delay the holder of an animal on the fact of damage and of retaining, and in case if he does not know who the holder is, than to inform the competent body of local government.

Section 7

V. LIABILITY FOR DAMAGE FROM STRUCTURES

Article 186

- (1) Holder of a building or any other structure shall be liable for damage caused by demolition of such building or falling down of some of its parts, or in any other manner.
- (2) Holder shall be excluded from liability if he proves that damage occurred as a consequence of force majeure or through fault of aggrieved party.

- (3) Holder shall be entitled to claim recovery from persons at fault for occurrence of damage.
- (4) Provisions of present Article shall also apply to a proprietary possessor.

Section 8 SPECIAL CASES OF LIABILITY

Liability Because of Terrorist Acts, Street Demonstrations or Public Events Article 187

- (1) A State whose agencies, in conformity to existing regulations, were bound to prevent injury or loss, shall be liable for loss due to death, bodily injury or damaging or destroying property of an individual due to terrorist acts, as well as in the course of public demonstrations and public events.
- (2) Organizers, participants, instigators and aides in terrorist acts, public demonstrations and public events which are aimed at subverting constitutional order shall not be entitled to damages on this ground.
- (3) The State shall be entitled and shall have a duty to claim recovery of the amounts paid, against a person who caused the damage.
- (4) That right shall expire due to statute of limitations within the time limits specified by law for the expiration of claims for damages.

Liability of Organizer of Performances Article 188

An organizer of gathering of large number of people in closed or open-air spaces shall be liable for loss inflicted through death, bodily injury or damaged property, suffered by someone due to emergency circumstances which may arise in those situations, such as swaying of masses of people, general disorder, and the like.

Liability due to Refusal to Render Necessary Aid Article 189

- (1) Whoever without exposing himself to danger refuses to render aid to a person whose life or health are obviously threatened, shall be liable for ensuing loss if, according to the circumstances of the case, he should have foreseen such damage.
- (2) The court may, on the ground of equity, exempt such person from duty of compensating for the loss.

Liability Relating to Duty to Conclude a Contract Article 190

A person having a statutory duty to conclude a contract shall be liable for damages, after failing, at the request by an interested person, to conclude such contract immediately.

Liability Relating to Conducting Affairs of General Interest
Article 191

Business organizations and other legal persons or individual entrepreneurs providing a communal service or conducting other activity of similar nature of general interest, shall be liable for loss if they suspend or irregularly provide their service without justified reason.

Section 9
INDEMNITY

I. INDEMNITY FOR DAMAGE TO PROPERTY

Restitution to Previous Condition and Indemnity in Form of Money
Article 192

- (1) A responsible person shall be liable to re-establish the situation existing prior to the occurrence of damage.
- (2) Should restoration of the previous situation fail to remove the damage entirely, the responsible person shall be liable to pay an indemnity in money to cover for the rest of the damage.
- (3) Should re-establishment to the previous condition be impossible, or should the court find it un-necessary for the responsible person to do that, the court shall order such person to pay to the aggrieved party an adequate amount of money as compensation for loss.
- (4) On the claim of the aggrieved party, the court shall award compensation in money to him, unless the circumstances of the specific case justify the restitution to previous condition.

When Duty of Compensation is due
Article 193

Compensation for damage shall be due from the moment of the damage taking place.

Indemnity in Case of Loss of Object Being Unlawfully Taken Away
Article 194

After an object (thing) of which the owner was unlawfully deprived, is lost due to Force Majeure person responsible shall be liable to provide compensation in money.

Indemnity in the Form of an Annuity
Article 195

- (1) In case of death, bodily injury or damage to health, indemnity shall, as a rule, be determined in the form of an annuity, either for the life of the injured person or for a definite period.
- (2) An awarded annuity as a form of damages shall be paid in advance in monthly installments, unless the court provide otherwise.

- (3) The judgment-creditor shall be entitled to demand necessary guarantees for payment of annuities, unless according to circumstances of the case, this would be not justified.
- (4) Should the judgment-debtor fail to supply guarantee ordered by the court, the judgment-creditor shall be entitled to demand payment of a lump sum instead of annuities, of an amount established according to the amount of annuities and probable duration of the judgment-creditor's life, after deducting corresponding interest.
- (5) The judgment-creditor may also, in other justified cases, demand – immediately or subsequently – to be paid a lump sum instead of annuities.

II. SCOPE OF INDEMNITY FOR DAMAGE TO PROPERTY

Common Damage and Profit Lost Article 196

- (1) A person sustaining damage shall be entitled both to indemnity of common damage and compensation of profit lost.
- (2) The amount of damages shall be determined according to prices at the time of the rendering court's decision, unless something else be ordered by law.
- (3) In assessing the amount of the profit lost the profit which could have been reasonably expected according to the regular course of events or particular circumstances, and whose realization has been prevented by an act or omission of the tort-feasor shall be taken into account.
- (4) Where an object is lost or damaged by a criminal offence committed intentionally, the court may determine the amount of indemnity according to the value the object had for the person sustaining damage.

Complete Recovery Article 197

While also taking into account the circumstances after the occurrence of damage, the court shall determine damages in the amount necessary to restore the material state of the person sustaining damage into the state it would have been without the damaging act or omission.

Reducing Indemnity Article 198

- (1) The court may, while taking into account the economic standing of the person sustaining loss, order the person liable to pay an indemnity which is lower than the amount of damages if it was not caused either intentionally or in gross negligence, and if the liable person is in poor economic situation, so that payment of full indemnity would take him into poverty.
- (2) If the person causing damage has inflicted damage while doing something to the benefit of the person sustaining loss, the court may order a lower indemnity, while taking into account the degree of care the person causing damage was otherwise applying in his own affairs.

Divided Liability Article 199

- (1) A person sustaining loss who has contributed to the occurrence of loss or to its becoming larger than it would otherwise be, shall only be entitled to a proportionally reduced indemnity.
- (2) Should it be impossible to establish which part of damage comes from an act of the person sustaining it, the court shall award the indemnity while taking into account the circumstances of the case.

III. PARTICULAR PROVISIONS ON REDRESSING PROPERTY DAMAGE IN CASE OF DEATH, BODILY INJURY AND HARM TO HEALTH

Lost Salary and Expenses of Medical Treatment and Funeral Article 200

- (1) Whoever causes another person's death shall be liable to reimburse the usual expenses of that person's funeral.
- (2) He shall be also liable to reimburse expenses of that person's medical treatment for injuries inflicted, as well as other expenses relating to medical treatment, including the salary lost due to disability for work.

Right of a Dependent of the Deceased Article 201

- (1) A person who was supported or regularly assisted by the deceased, as well as the one entitled by law to request maintenance from the deceased, shall be entitled to damages for loss sustained by the loss of support, or assistance.
- (2) Such loss shall be redressed by paying in annuities the amount which shall be established by taking in consideration all the circumstances of the case, but which shall not be higher than the amount which would have been received by the person sustaining damage from the deceased if he were alive.

Redressing Damage In Case of Bodily Injury or Damage to Health Article 202

- (1) One who inflicts to another bodily injury or impairs his health, shall be liable to reimburse his medical expenses, as well as other related necessary expenses, including recovery of the salary lost due to inability to work during medical treatment.
- (2) Should the injured person due to total or partial disability lose his salary, or should his needs become permanently increased, or should possibilities of his further development and advancement be destroyed or reduced, the person liable shall pay to the injured party specific annuities as damages for such loss.

Altering the Indemnity Awarded Article 203

At the request by the person sustaining loss the court may raise the amount of annuities for the future, and it may, at the request by the tort-feasor, reduce or cancel it, should the circumstances be considerably changed which had otherwise been considered by the court in rendering the previous decision.

Non-Transferability of Right Article 204

- (1) The right to indemnity in the form of annuities, due to death of a close relative or due to bodily injury or harm to health, may not be transferred to another person.
- (2) The amounts of damages due may be transferred to another person should the amount of indemnity be determined by written agreement between the parties, or by final court decision.

IV. REDRESSING MATERIAL DAMAGE IN CASE OF INSULT TO ONE'S HONOR AND SPREADING FALSE ALLEGATIONS

Article 205

- (1) Whoever insults another person's honor, or whoever utters or conveys false statements concerning another person's past, knowledge and ability, or concerning anything else of the kind, although person spreading allegations is aware, or should have been aware, that these are untrue, thus causing material damage to such person, shall be liable for damages.
- (2) However, one shall not be liable for the loss caused who makes the false statement concerning another without knowing that it is not true, should he or the one acknowledging the statement have a serious interest in the matter.

V. REDRESSING NON-MATERIAL DAMAGE

Publishing a Sentence or a Correction Article 206

In case of violation of a personal right, the court may order that, at the expense of the tort-feasor, the sentence, or the correction, be made public, or it may order that the tort-feasor take back the statement causing the violation, or order something else which would reach the purpose, otherwise to be achieved by redress.

Pecuniary Indemnity Article 207

- (1) For physical pains suffered, for mental anguish suffered due to reduction of life activities, for becoming disfigured, for offended reputation, honor, freedom or rights of person, for death of a close person, as well as for fear suffered, the court shall, after finding that the circumstances of the case and particularly the intensity of pains and fear, and their

duration, provide a corresponding ground thereof – award fair pecuniary indemnity, independently of redressing the material damage, even if the latter is not awarded.

(2) In deciding on the request for redressing non-material loss, as well as on the amount of such indemnity, the court shall take into account the significance of the value violated, and the purpose to be achieved by such redress, but also that it does not favor ends otherwise incompatible with its nature and social purpose.

(3) For violation of reputation and personal rights of a legal person the court shall, if it assess that the gravity of violation and circumstances of the case provide justification, award to such legal person fair pecuniary indemnity, independently of indemnification of damage of property.

Persons Entitled to Damages in Case of Death or Serious Disability Article 208

(1) In case of death of a person, the court may award to members of his immediate family (spouse, children and parents) equitable damages for their mental anguish.

(2) Such damages may be also awarded to brothers and sisters should a permanent household unit exist between them and the deceased.

(3) In case of a particularly serious disability of a person, the court may award to his spouse, children and parents an equitable pecuniary indemnity for their mental anguish.

(4) The indemnity specified in paragraphs 1 and 3 of the present article may also be awarded to an extramarital partner, if a permanent household unit had existed between the extramarital partner and the deceased, or injured person.

(5) The right to a fair pecuniary compensation also belongs to parents in case of loss of conceived but unborn child.

Compensation in Particular Cases Article 209

A person being induced to unlawful intercourse or lewd act by deceit, coercion or abuse of a relationship of subordination or dependence, as well as a person being a victim of some other criminal offence against sexual freedom shall be entitled to equitable damages for mental anguish suffered.

Recovery of Future Damage Article 210

At the request by a person sustaining loss the court shall also award damages for future general loss if, according to regular course of events, it became certain that it will continue in future.

Inheriting and Assigning Claim for Non-material Damages Article 211

- (1) A claim for redressing of non-material damage shall pass to a successor only after being recognized by a final court decision or by a written agreement.
- (2) Under the same conditions such claim may be the subject of assignment, set-off and enforced execution.

Divided Liability and Reduction of Indemnity Article 212

Provisions on division of liability and reduction of indemnity applicable to material loss shall apply accordingly to non-material loss as well.

Section 10 LIABILITY OF SEVERAL PERSONS FOR THE SAME DAMAGE

Joint and Several Liability Article 213

- (1) Liability for loss or injury caused by several persons shall be joint and several.
- (2) An instigator and aide, as well as one who assisted liable persons in avoiding to be discovered, shall be jointly and severally liable with them.
- (3) Joint and several liability for loss shall also apply to the persons causing it, if acting independently from one another, should their shares in damage caused be impossible to determine.
- (4) Should there be no doubt that damage is caused by two or several persons who are in some way interconnected, and should it be impossible to establish who is liable for damage, such persons shall be liable jointly and severally.

Joint and Several Liability of Principal and Contractor for Works Article 214

A principal and a contractor for works on real property shall be jointly and severally liable for loss inflicted to a third person in relation to the execution of such works.

Recovery of a Payer Article 215

- (1) A judgment-debtor liable jointly and severally who pays off an amount higher than his share of damages may demand from any of the remaining debtors the recovery of what he has paid for them.

(2) The court shall determine the amount of share of individual judgment-debtors, considering the degree of their respective faults and the seriousness of consequences of their acts.

(3) Should it be impossible to establish the amount of shares of the judgment-debtors, each shall bear an equal share, unless equity requires otherwise in proceeding with the specific case.

Section 11

RIGHT OF A PERSON SUSTAINING A LOSS AFTER THE EXPIRY UNDER THE STATUTE OF LIMITATIONS OF HIS CLAIM FOR RECOVERY

Article 216

After his claim for recovery becomes unenforceable under the statute of limitations, the person sustaining loss may request from the person liable to renounce to him, on the basis of rules applicable to acquiring without ground, what he acquired by the act causing the loss.

SUBTITLE 3

ACQUIRING WITHOUT GROUND

Section 1

GENERAL RULE

Article 217

(1) After part of a person's property is transferred in any kind of way to another, and such transfer has no ground in any legal transaction or in the law, the one who acquires property in such a way shall be bound to reconstitute it, and should this be impossible – to compensate for the value of benefits gained.

(2) A person who uses another's property on no ground, shall be under a duty to compensate the value of benefits gained.

(3) The duty of restitution, or compensation shall also arise if something is received on a ground which did not materialize, or which subsequently ceased to exist.

Section 2

THE RULES OF RESTITUTION

Payment prior to Maturity or Prior to Fulfillment of Conditions

Article 218

(1) Payment of the debt prior to maturity shall not constitute a claim for restitution, or to deduction of interest due.

(2) Debtor shall be entitled to claim restitution if he reimbursed the conditional debt prior to a fulfillment of a condition, except if the condition became fulfilled in the meantime.

Twofold Payment of a Debt Article 219

Whoever pays the same debt twice, and even if once on the ground of an enforceable document, shall be entitled to claim reimbursement according to general rules of acquiring without ground.

Fulfillment of a Natural Obligation or a Moral or Social Duty Article 220

That what is given or done as fulfillment of a natural obligation or a moral or social duty may not be claimed.

Scope of Restitution Article 221

In restituting something which is acquired without ground, the relevant obligation shall include fruit and payment of interest on arrears, beginning with the day of acquiring, should acquirer have acted in bad faith, while otherwise beginning with the day of filing the claim.

Reimbursement of Expenses Article 222

The acquirer shall be entitled to reimbursement of necessary and useful expenses, but if he was acting in bad faith, the reimbursement of useful expenses shall be effected only up to the amount representing an increase in value at the moment of restitution.

When the Received May Be Kept Article 223

There shall be no claim of the amounts paid without ground as recovery for loss caused by bodily injury, damage to health or death, after the payment has been made to good faith acquirer.

Use of an Object for the Benefit of Another Article 224

Should someone use his own or another person's object for the benefit of a third person, and conditions for application of rules of management of another's affairs are not met, the third person shall be liable to restitute such object, or should this be impossible, to compensate for its value.

Expenses Incurred for Another Article 225

Whoever pays for expenses or does something else for another person, which otherwise were a statutory duty of such other person, shall be entitled to claim recovery from such person.

Using another Person's Object to One's own Benefit Article 226

Should someone use another person's object for his own benefit, the owner may, independently of the right to damages, or lack thereof, claim that such person compensate for the benefits obtained from such use.

SUBTITLE 4 MANAGEMENT OF ANOTHER'S AFFAIRS

Section 1 GENERAL RULE

Article 227

(1) Management of another's affairs shall be carrying out the transactions of another person, whether legal or material, without order or authorization, but for the account of the one whose transactions are at issue, and for the purpose of protecting that person's interests.

(2) Unsolicited management of another's affair is permitted only in case if the transaction needs to be carried out without delay, because of possible immediate danger of damage or loss of an obvious benefit.

Section 2 DUTIES AND RIGHTS OF A MANAGER OF ANOTHER'S AFFAIRS

Duties of a Manager without Order (Authorization) Article 228

(1) A manager without authorization shall notify the principal of the affairs about his act as soon as possible and shall continue to conduct the business commenced, should this be reasonably possible, until his principal is able to take over the matter.

(2) After completing the business transaction he shall render account thereof and shall hand over everything he has acquired while conducting his affairs to his principal.

(3) Unless otherwise ordered by statute, a manager acting without authorization shall have the duties of a person receiving an order (mandatary).

Due Care and Responsibility Article 229

- (1) While managing another's affairs a manager without authorization shall be bound to be guided by actual or probable intentions and needs of the principal of the affairs.
- (2) He shall be bound to proceed with the care of a good businessman or of a good master of household.
- (3) The court may, having regard to the circumstances of someone's engaging in other person's affairs, reduce his liability or exempt him entirely from liability for negligence.
- (4) Liability of a manager without authorization who is also without business capacity shall be governed by the rules concerning his liability in contracts and torts.

Rights of a Manager without Authorization Article 230

- (1) A manager without authorization who has acted in all respects reasonably as circumstances of the case demanded, shall be entitled to request his principal to release him of all duties assumed by him because of the business, to take over all liabilities entered into on his behalf, to compensate him for all necessary and useful expenses, as well as redress any eventual loss sustained by him, even should the expected result not be achieved.
- (2) The person referred to in the paragraph 1 of present Article shall also be entitled to adequate remuneration for his efforts, if he succeeded in removing impending damage from the principal whose affairs he was managing, or if he acquired for the principal the benefit which fully corresponds to the principal's intentions and needs.

Conducting another's Business in intention to Help a Third Party Article 231

Whoever conducts another's persons business in order to help a third party, while there are no grounds for applying the rules of management of another's affairs, shall be entitled to reimbursement of incurred expenses, but only up to the value of the benefit achieved by the other person.

Removal of Benefits Article 232

Every person acting as a manager without authorization shall be entitled to take away objects which are the result of the increase of other person's property, for which expenses he incurred were not compensated, provided such additions may be separated from a principal object without damage; however, the in whose affairs he interfered may keep such additions after reimbursing the manager without authorization for the amount of their current value, but not more than the amount of expenses incurred.

Section 3 MANAGING OF OTHER PERSON'S AFFAIRS DESPITE PROHIBITION

Article 233

- (1) Whoever carries on business of another in spite of a prohibition by the principal shall not have the rights of a manager acting without authorization, provided he was aware or should have been aware under the circumstances of the prohibition.
- (2) The person from the paragraph 2 of present Article shall be liable for damage caused by interfering in other person's affairs, even should damage occur without his fault.
- (3) However, should the prohibition to engage into the affair be contrary to law or morals, and in particular should someone prohibit the other person to fulfill his statutory duties which must not be postponed, the general rules of managing another's affairs without authority shall apply.

Section 4 UNDUE MANAGING

Article 234

- (1) Whoever engages in other person's business affairs intending to keep the achieved benefit, although being aware that such affairs belong to another, shall be bound to render account at the request of the principal of the business as a manager without mandate, and shall hand over to him all achieved benefits.
- (2) The principal may also request the restitution of objects as well as compensation of the loss sustained.

Section 5 APPROVAL

Article 235

Should a person whose affairs were managed subsequently approve of what has been carried out, the manager without order shall be considered as person having received an order and as if he had acted from the outset under authorization of his principal.

SUBTITLE 5 UNILATERAL DECLARATION OF INTENTION (WILL)

Section 1 PUBLIC PROMISE OF AWARD

When is it Binding Article 236

- (1) A promise of an award made by public announcement to a party who carries out a specific act, accomplishes something and finds himself in a particular situation, including a promise given under some other condition, shall bind the promisor to honor his promise.
- (2) A promisor of an award or of any other prize-winning competition shall be bound to determine a time limit for the competition, and should he fail to determine it, everyone willing to participate in the competition shall be entitled to request that the court determine a corresponding time limit.

Revocation of Promise Article 237

- (1) A promise may be revoked in the way in which it was made, as well as by individual communication, but the one who had done the act and was not aware or should not have been aware that the promise is revoked, shall be entitled to claim the promised award, while the one incurring necessary expenses prior to revocation in order to carry out the act as set out in the public announcement, shall be entitled to reimbursement, unless the promisor prove that such expenses were not necessary.
- (2) A promise of an award shall not be revoked if the time limit is determined in the advertisement for the act to be carried out, or for the information on the result achieved, or on occurrence of a particular situation.

Who Is Entitled to an Award Article 238

- (1) The one who is the first to carry out the act envisaged for the award shall be entitled to the award.
- (2) Should several persons carry out the act simultaneously, each shall be entitled to the award equally divided, unless equity requires a different division.

In Case of an Open Competition Article 233

- (1) In the case of an open competition, a decision on the award shall be made by the organizer of the open competition, or by one or several persons designated by him.
- (2) Should the terms of the open competition or other general regulations applicable to specific open competition contain rules for granting the award, each participant in the open

competition shall be entitled to request revocation of a decision on the award should the award fail to be granted in conformity with these rules.

(3) Ownership or other rights pertaining to the work (i.e. creation) awarded at an open competition shall be acquired by the organizer of the open competition only if this was indicated in the open competition announcement.

Termination of Obligation Article 240

The obligation of the promissor of the award shall be terminated should no one inform him, within the time limit determined in the announcement, that the act has been carried out or an achievement made, or the conditions otherwise fulfilled as set forth in the public announcement, and should the time limit not be determined, such obligation shall be terminated one year after the announcement.

Section 2 SECURITIES

I. GENERAL PROVISIONS

Notion Article 241

(1) Securities are written certificates by which their issuer assumes a duty to fulfill the obligation inscribed in such certificate to its lawful possessor.

(2) Securities may have a form of an electronic record in accordance with the law.

(3) Provisions of present Law regulating securities issued in form of written certificate shall also be accordingly applicable to securities in the form of electronic record, unless otherwise determined by other special law or regulation.

Essential Constitutive Elements Article 242

(1) Securities must contain the following essential constitutive elements: (i) designation as to the kind of securities;

- 1) indication of the firm, or name and registered office and/or name and domicile of the issuer of securities;
- 2) indication of the firm or title, or name of the person to whom, or at whose order, securities are
- 3) made out, or a designation that securities are made out to its bearer;
- 4) exact designation of the obligation of the issuer resulting from the securities;
- 5) indication of the place and date of issue of the securities, and in case of securities issued in series, their serial number;
- 6) signature of the issuer of the securities, or the facsimile of signature of the issuer of securities issued in series.

(2) For some kinds of securities other essential constitutive elements may also be determined by special law.

(3) A certificate not containing any of the essential constitutive elements shall not be accepted as security.

(4) Securities issued in series and not containing any of the essential constitutive elements thereof, shall have no legal effect.

How can the Securities be Made Out Article 243

Securities may be made out to the bearer, to a name, or to order.

Inception of Obligation Article 244

An obligation from the securities shall be created at the moment the issuer of securities hands them over to their beneficiary.

Particular Conditions of Issuing Securities in Series Article 245

Other terms and conditions of issuing securities in series shall be determined by particular law.

II. REALISATION OF RIGHTS

Who Is Entitled to a Right Arising from Securities Article 246

(1) A claim arising from securities shall be connected to the paper itself and shall belong to its lawful possessor.

(2) A bearer of the securities made out to bearer shall be considered to be their lawful possessor.

(3) A person to whom the securities are made out, or one receiving duly transferred securities, shall be lawful possessor of securities made out to name or to order.

(4) A good faith acquirer of securities made out to bearer shall become their lawful possessor and he shall be entitled to the claim inscribed on their face even after the securities go out of the control of their issuer, or previous possessor without his agreement.

Who Is Entitled to Request Performance Article 247

Fulfilment of a claim arising from the securities may be requested, after their presentation for the purpose, only by their lawful possessor, or by a person authorized by him.

III. TRANSFER OF SECURITIES

Transfer of a Right Arising from Securities Made out to Bearer Article 248

A right arising from securities made out to bearer shall be transferred by their being handed over.

Transfer of a Right Arising from Securities Made out to Name Article 249

- (1) A right arising from securities made out to name shall be transferred by way of assignment.
- (2) It may be prescribed by special law that a right arising from securities made out to name may also be transferred by endorsement.
- (3) The transfer of a right arising from securities made out to name shall be put into effect by inscribing on the face of the paper an indication as to the firm or title or name of the new possessor, by the transferor's signature, and by inscribing an indication of the transfer into the securities register should such a register be kept by the issuer.

Transfer of a Right Arising from Securities Made out to Order Article 250

A right arising from the securities made out to order shall be transferred by endorsement.

Kinds of Endorsement Article 251

- (1) An endorsement may be full, blank or made out to bearer.
- (2) A full endorsement shall contain a statement of the transfer and an indication of the firm, or the title or name of the person receiving the right arising from the securities transferred (the endorsee), and the signature of the transferor (the endorser), and it may also contain other data (such as place and date).
- (3) A blank endorsement shall contain only the signature of the endorser.
- (4) In case of a transfer to bearer the word "to the bearer" shall be inscribed instead of the indication of the name of the endorsee.
- (5) An endorsement made out to bearer shall be valid as a blank endorsement.
- (6) A partial endorsement shall be invalid.

Transfer of Authorization and Transfer for Guarantee Article 252

- (1) Securities may also be transferred in the form of transfer of authorization, or as a transfer for guarantee.

(2) In the case of a transfer of authorization the clause "value in the authorization", while in case of transfer for guarantee a clause such as – "value in pledge" shall be indicated.

Effect of the Transfer of a Right Article 253

(1) By transferring a right arising from securities their new possessor shall acquire all rights otherwise pertaining to the previous possessor.

(2) A transfer of a right arising from securities made out to name, effected either by assignment or endorsement shall have no effect as regards the issuer, unless he is informed thereof in writing or unless such transfer has been inscribed in the register for securities made out to name, should such register be kept by the issuer.

(3) A transferor or endorser, shall not be liable for an issuer's failure to fulfill the obligation, except in the case of a different statutory provision, or of a term to the contrary inscribed on the face of the security.

Effect of Transfer of Authorization and of Transfer for Guarantee Article 254

A possessor of securities transferred to him as a "transfer of authorization" or "transfer in pledge" may effect all rights arising from such paper, but the paper may be transferred by him to another only as a transfer of authorization.

Proving the Lawfulness of a Transfer Article 255

(1) The last endorsee shall prove his right arising from securities by an uninterrupted series of endorsements.

(2) This rule shall also apply accordingly to the last transferor.

IV. ALTERATIONS OF SECURITIES

Prohibition of Transfer Article 256

(1) A prohibition of transfer by endorsement of the securities made out to order shall be effected by inscribing the indication "not by order", or by putting a similar clause with the same meaning.

(2) A right arising from securities whose transfer by endorsement is prohibited may be transferred only by assignment.

(3) A transfer by endorsement may be prohibited by an issuer and an endorser.

(4) Every transfer of securities made out to name may be prohibited by particular law or by statement of the issuer inscribed on the face of such securities.

IV. ALTERATIONS OF SECURITIES

Alterations Effected by Issuer

Article 257

- (1) Securities made out to bearer or to order may be altered by the issuer, at the request and at the expense of the possessor of the paper, into securities made out to name.
- (2) Should alteration be not expressly prohibited by him, the issuer of securities made out to name may, at the request and at the expense of the possessor, alter them into ones made out to bearer or to order.

Alterations Effected by Possessor at Transfer

Article 258

- (1) Securities made out to order may be transferred by the endorser by means of endorsement to the bearer, unless otherwise provided by particular law.
- (2) Securities made out to name may only be transferred by the transferor, or endorser, to a specific person.
- (3) Securities made out to bearer may also be transferred by endorsement to a specific person.

Compounding and Dividing of Securities

Article 259

- (1) Securities issued in a series may, at the request and at the expense of the possessor, be compounded into single or several securities.
- (2) Securities may, at the request and at the expense of the possessor, be divided into several securities of smaller amount, but they shall not be made out to an amount lower than the lowest denomination of securities issued in such series.

V. PERFORMANCE OF LIABILITIES ORIGINATING FROM SECURITIES

Termination of Duty

Article 260

- (1) A duty from securities ceases by their performance by the issuer of the securities to the lawful possessor.
- (2) A claim from securities shall also cease when they come into the issuer's possession unless otherwise provided by particular law.
- (3) A good faith issuer of securities made out to bearer shall be discharged from duty by performing them for the benefit of the bearer, even should such bearer be unlawful possessor of the securities.

Prohibition of Performance Article 261

- (1) An issuer of securities made out to bearer knowing or having a duty to know that the bearer is not lawful possessor of the securities or not authorized thereof by the lawful possessor, shall be bound to refuse performance, or shall otherwise be liable for ensuing loss.
- (2) Performance of liability by an issuer of securities shall not be valid, if this has been prohibited by the competent agency, or if he was aware or should have been aware that proceedings for declaring cancellation or annulment of the securities were in progress.

Payment of Interest or other Profits after Payment of the Principal Article 262

A debtor repaying the principal to the possessor of securities shall be bound to repay also the interest coupons, or other yield from the same principal submitted for payment, upon payment of the principal, should such claims not be time barred.

Defenses to Request for Performance of a Liability Article 263

- (1) Against claims of the securities possessor an issuer of securities may raise only such defenses which are related to the issue of the securities, such as forgery, defenses arising from the contents of securities, such as a time limit or conditions, and objections he is entitled to against the possessor of the securities, such as set off, failure to comply with the procedure prescribed by the law for the acquisition of the securities and lack of authorization.
- (2) An issuer may raise defense against claim by the possessor to whom he has assigned the securities, regarding defectiveness of a legal transaction being a ground for the transfer, but such defects may not be used against claim of some subsequent possessor.
- (3) However, if the possessor of securities, while receiving the certificate from his predecessor, was aware or should have been aware that the former was handing him over the securities only to avoid a defense which would otherwise be raised against him by the issuer, the issuer may also raise such defense against the possessor of the securities.
- (4) Other types of defenses may additionally be established by a special law regarding specific kinds of securities.

VI. IDENTIFICATION PAPERS AND MARKS

Identification Papers Article 264

Corresponding provisions covering securities shall apply accordingly to railway tickets, theater and other tickets, coupons and similar certificates incorporating specific liabilities of their issuer, which have no indication of the creditor on their face, and which, according to their nature and the circumstances of their issue may not be transferred to another.

Identification Marks Article 265

(1) Checkroom or similar marks consisting of a piece of paper, metal or other material, usually with imprinted number, or with an indication of the number of objects checked, and usually not containing specific indication as to the obligation of their issuer, shall serve only to indicate the bearer in an obligation relationship in the course of whose creation they have been issued.

(2) An issuer of an identification mark shall be discharged of his obligation if he performs it in good faith to the benefit of the bearer, but there shall be no presumption of the latter being a genuine bearer, or one authorized to request performance, so that in the case of dispute he shall be bound to prove his capacity.

(3) The bearer shall be entitled to request performance of an obligation although the identification mark has been lost by him.

(4) As to the rest, in each case the intention of the issuer and the recipient of the mark as well as common practice should be kept.

VII. REMAINING PROVISIONS

Replacement of Damaged Securities Article 266

A possessor of a damaged security which is unfit to be put on the market, but whose authenticity and contents may be precisely determined, shall be entitled to demand issue of a new security certificate in the same amount, upon handing over the damaged security and paying for the expenses.

Declaration of Cancellation of Securities Article 267

(1) Lost securities may be declared cancelled only if made out to name or to order, unless otherwise provided by particular law.

(2) Issuer of the security shall be bound to, upon being requested by possessor who held security up to that time, surrender all certificates and provide all information needed by the possessor in the procedure of declaring cancellation.

Expiration of a Claim out of Securities Article 268

The rules of the statute of limitations shall apply to the expiration of a claim out of securities, unless otherwise provided by special law.

Title III EFFECTS OF OBLIGATION

SUBTITLE 1 CREDITOR'S RIGHTS AND DEBTOR'S OBLIGATIONS

Section 1 THE RIGHT TO DAMAGES FOR LOSS

I. GENERAL RULES

Performance of an Obligation and Consequences of Breach of Obligation Article 269

- (1) A creditor in an obligation relationship shall be entitled to claim from a debtor the performance of the liability, while a debtor shall be obliged to perform it in good faith and entirely as formulated.
- (2) After a debtor fails to perform the liabilities or is late in performance, the creditor shall also be entitled to claim damages for loss sustained as a consequence.
- (3) A debtor obtaining from a creditor an adequate time limit for subsequent performance, shall be liable also for loss due to delay in performance.
- (4) A debtor shall also be liable for partial or complete impossibility of performance, even without being at fault, if such impossibility took place after his becoming unduly late.
- (5) However, the debtor shall be released of liability for loss after proving that the subject stipulated in the liability would have been lost by chance and that he has performed his liability on time.

Release of Debtor from Liability Article 270

A debtor shall be released from liability for loss upon proving his inability to perform the liability, or that his delay in performing the liability was due to circumstances taking place after entering into contract which he was unable to prevent, eliminate or avoid.

Extension of Liability by Contract Article 271

- (1) The liability of a debtor may also be extended by contract for the case which is otherwise not falling within his responsibility.
- (2) The performance of contractual liability from the paragraph 1 of present Article may not be requested if such would be contrary to the principles of good faith and honesty.

Limitation and Exclusion from Liability Article 272

- (1) Liability of the debtor for acting intentionally or with gross negligence may not be excluded in advance by contract.
- (2) At the request by an interested contracting party, the court may, however, also avoid the contractual provision on the exemption of liability for simple negligence, should such agreement be the result of the monopoly position of the debtor or, otherwise, of unequal mutual positions of the contracting parties.
- (3) A provision of a contract shall be valid by which the highest amount of compensation is determined, unless such amount is in obvious disproportion to the damage and unless the law provides otherwise for the specific case.
- (4) In case of limiting the amount of compensation, the creditor shall be entitled to full redress should the impossibility of performance of obligation be caused intentionally or with gross negligence of the debtor.

Scope of Compensation Article 273

- (1) A creditor shall be entitled to compensation for simple damage and profit lost, which at the time of entering into contract should have been foreseen by the debtor as a possible consequence of breach of the contract, having regard to facts known to him at the time or which should have been known to him.
- (2) In case of fraud or intentional non-performance, as well as of non-performance due to gross negligence, the creditor shall be entitled to claim from the debtor the compensation for the entire loss occurred due to breach of the contract, regardless of the debtor not being aware of particular circumstances causing the loss.
- (3) Should in course of violation of the obligation, in addition to loss, a gain be realized for the creditor, it shall be taken into account to a reasonable degree in determining the amount of damages.
- (4) A party claiming breach of the contract shall take all reasonable steps to reduce the loss caused by such breach, since otherwise the other party may request reduction of damages.
- (5) The provisions of the present article shall also apply accordingly to breach of obligations not originating on the ground of contract, unless something else is provided for such obligations by the present Law.

Fault of Creditor Article 274

In case of a creditor or person for whom he is responsible being at fault for the occurred loss, or for the scope of such loss, or for the aggravation of debtor's position, the compensation shall be reduced proportionally.

Liability for Failing to Notify Article 275

A contracting party responsible for notifying the other party of facts relevant for their mutual relationship, shall be liable for loss sustained by the other party because of omission of notification or delay.

Application of Provisions on Torts Article 276

Unless otherwise set forth by provisions of the present Section, the provisions of the present Law relating to tort liability shall apply accordingly to the compensation for damages.

II. LIQUIDATED DAMAGES

General Rules Article 277

- (1) A creditor and a debtor may stipulate that the debtor shall pay to the creditor a specified sum of money or supply him with some other material benefit, should he fail to perform his obligation, or delay in performing it (liquidated damages).
- (2) Unless something else results from contract, liquidated damages shall be considered as stipulated for the case of a debtor being in delay with performance.
- (3) Liquidated damages shall not be stipulated in relation to monetary obligations.

Method of Determination Article 278

- (1) Contracting parties may determine the amount of liquidated damages as they please, either in form of a lump sum or as a percentage, or for each day of delay, or in some other way.
- (2) Liquidated damages shall be stipulated in the form prescribed for the contract from which the obligation arises, to the performance of which liquidated damages relate.

Accessory Character Article 279

- (1) An agreement on liquidated damages shall share the legal destiny of the obligation secured by them.
- (2) The agreement shall lose its legal effect should the breach or delay be a consequence of something not attributable to the debtor.

Creditor's Rights Article 280

- (1) Should liquidated damages be stipulated for non-performance of obligation, the creditor may request either the performance of obligation or liquidated damages.
- (2) He shall lose the right to claim performance of obligation if he requests payment of liquidated damages.
- (3) Should liquidated damages be stipulated for non-performance of contract, the debtor shall not be entitled to pay liquidated damages and repudiate the contract, unless this was the intent of the parties at the moment of stipulating the liquidated damages.
- (4) Should liquidated damages be stipulated for the debtor's delay in performance, the creditor shall be entitled to demand both the fulfillment of obligation and the liquidated damages.
- (5) The creditor shall not demand liquidated damages due to delay after accepting performance of the obligation and failing to notify the debtor immediately on his reserving the right to liquidated damages.

Reducing the Amount of Liquidated Damages Article 281

At the debtor's request the court shall reduce the amount of liquidated damages if it finds that they are excessively high compared to loss suffered by the creditor.

Liquidated Damages and Compensation for Loss Article 282

- (1) A creditor shall be entitled to request liquidated damages even should their amount exceed that of the loss sustained by him, as well as if he does not sustain any loss at all.
- (2) Should the loss sustained by the creditor be higher than the amount of liquidated damages, he shall be entitled to demand the difference to cover the entire loss.

Compensation Determined by Statute and Liquidated Damages Article 283

Should the statute provide for the level of compensation in the cases of nonperformance or delay of performance of obligation, termed: penalty, liquidated damages, compensation and the like, and should the contracting parties nevertheless stipulate liquidated damages, the creditor shall not be entitled to claim both liquidated damages and compensation provided by the statute, unless this was allowed by the statute itself.

III. DEFAULT INTEREST

When is it Owed

Article 284

- (1) A debtor in delay with the performance of a pecuniary obligation shall owe, in addition to the principal, default interest, at the rate determined by special statute.
- (2) Creditor and debtor may, in accordance with the provision of Article 3 of present law stipulate lower or higher interest rate than the one interest rate determined by the statute.
- (3) Should the rate of interest stipulated by contract be higher than the rate of default interest, it shall continue to accrue even after the debtor's delay.

Right to Full Redress

Article 285

- (1) A creditor shall be entitled to default interest regardless of whether he sustained loss due to the debtor's delay.
- (2) Should the loss sustained by the creditor due to the debtor's delay be higher than the amount to be received on the ground of default interest, he shall be entitled to claim the difference up to the full redress.

Compound Interest

Article 286

- (1) The default interest shall not accrue on due but unpaid stipulated or default interest, or on other periodical payments falling due, unless otherwise determined by law.
- (2) Default interest on the amount of unpaid interest may only be claimed from the day of filing claim for such payment with the court.
- (3) Default interest on periodical payments falling due shall accrue from the day of filing claim for such payment with the court.

Section 2

CONTESTING OF DEBTOR'S LEGAL ACTS

General Rule

Article 287

- (1) Any creditor whose claim is due for fulfillment, regardless of the date of its inception, shall be entitled to refute a challenge legal act of his debtor taken to the detriment of creditors.
- (2) A legal act shall be considered to have been taken to the detriment of creditors if due to it the debtor is impoverished to the extent that he remained without sufficient means to satisfy the creditor's claim.

(3) The term "legal act" shall also include an omission due to which the debtor has forfeited a substantive right of his, or incurred a material obligation for himself.

Conditions for Contesting Article 288

(1) Onerous disposal may be contested, if at the time of effecting the disposal, the debtor was aware or could have been aware that such action would inflict damage on his creditors, and if a third person with whom or in whose benefit such legal act was undertaken was aware of such fact, or could have been aware of it.

(2) If the third person is the debtor's spouse or blood relative in an ascendant line regardless of the degree and in a collateral line within the fourth degree, or an in-law relative of the same degree, there shall be a presumption that such third person was aware of the fact that the debtor's disposal was to the detriment of creditors.

(3) In case of a gratuitous disposal and a legal act regarded equal to it, the debtor shall be considered to have been aware that the disposal undertaken would do harm to creditors, so that for challenging such acts there shall be no requirement that the third person was aware, or could have been aware of the fact.

(4) Renouncing an inheritance shall be considered as a gratuitous disposal.

Impossibility of Contesting Article 289

It shall not be possible to contest, on the ground of being detrimental to creditors, usual gifts for an occasion, prize gifts, or gifts given out of gratitude and being commensurate to the financial possibilities of the debtor.

Procedure of Contesting Article 290

(1) Contesting shall be effected either by action in the court or through raising a defense.

(2) An action of contesting shall be lodged against a third person being a party to the legal act, or to whose benefit the act to be contest was undertaken, or against his universal legal successors.

(3) Should a third person alienate by an onerous transaction a benefit acquired through disposal subject to contesting, the action may be lodged against the acquirer only if the acquirer was aware that the acquisition of his predecessors was prone to be contesting, but if such benefit was transferred by a gratuitous transaction, the action may be lodged against the acquirer even if he was not aware of the fact.

(4) A defendant may avoid the refuting by performing debtor's obligation.

Effects of Contesting Article 291

Should the court uphold the claim, the legal act shall become ineffective only in regard of plaintiff and only up to degree sufficient for meeting his claim.

Time Limit for Lodging the Action Article 292

- (1) An action to contest may be lodged within three years.
- (2) Time limit set out in paragraph 1 of present Article shall be computed from the day when the contested legal act was taken, or from the day when the omitted act was due to be taken.
- (3) The course of the time period from paragraph 1 of present Article shall be interrupted if the creditor notifies the person against whom the action may be lodged on the creditor's intention to claim rescinding of the transaction.

Section 3 THE RIGHT OF RETENTION (IUS RETENTIONIS)

Exercising of the Right of Retention Article 293

- (1) A creditor with a claim due, in possession of the debtor's object of property, shall be entitled to retain it in possession until his claim is paid off.
- (2) Should a debtor become unable to effect payment, the creditor may use his right of retention event though his claim is not yet due.

Exceptions Article 294

- (1) A creditor shall have no right of retention if the debtor claims the restitution of the property of which he was deprived against his will, or if the debtor claims the restitution of the property entrusted to the creditor for custody or use.
- (2) The creditor may not keep an authority obtained from the debtor, nor other certificates, identification papers, correspondence and similar items of the debtor, or other objects which cannot be put on sale.

Duty of Restitution of Property Prior to Performance of Obligation Article 295

A creditor shall restitute the property to the debtor if he has supplied him with corresponding guarantee to cover his claim.

**Effect of the Right of Retention
Article 296**

A creditor in possession of a debtor's property on the ground of the right of retention shall be entitled to recover out of its value in the same way as a pledgee, but shall be bound, prior to proceeding with collection, to notify the debtor of his intention in due time.

**SUBTITLE 2
CREDITOR'S RIGHTS IN PARTICULAR CASES**

**The Case of Obligation Consisting of Giving Objects Specified by Kind
Article 297**

Should an obligation consist of giving objects (of property) specified by kind, and the debtor delays performance, the creditor may, after notifying the debtor thereof procure at his own choosing the object (of property) of the same kind, and claim from the debtor both the recovery of price and the redress of loss, or the recovery of value of the object owed, and the redress of loss.

**Obligation Consisting in Acting
Article 298**

Should an obligation consist in acting, and the debtor fails to perform such obligation on time, the creditor may, after notifying thereof the debtor, perform by himself, at the expense of the debtor, the act to which the debtor was liable, while requesting from the debtor the redress of loss caused by the delay, as well as other possible losses because of such the manner of performance.

**An Obligation Consisting in Forbearance
Article 299**

- (1) Should an obligation consist of forbearance, the creditor shall be entitled to the redress of loss by very fact of the debtor's proceeding contrary to his liability.
- (2) Should something be constructed contrary to an obligation, the creditor may request its removal at the expense of the debtor, and that the debtor redress the loss sustained by him in relation to the construction and the removal
- (3) If the court finds it obviously more useful, while considering both the general interest and the justified interest of the creditor, the court may decide that there shall be no demolition of what has been constructed, ordering instead that redress of the creditor's loss be effected in money.

**Right to Claim Damages instead of object which Is Awarded
Article 300**

- (1) Should a debtor fail to perform his obligation within the time limit determined by a final court decision, the creditor may invite him to perform it in adequate subsequent time

limit, and state that after the expiration of such time limit he will not accept performance, but shall instead claim the redress of loss caused by non-performance.

(2) After the expiration of the subsequent time limit the creditor may claim only the redress of loss caused by the non-performance.

Court Penalties Article 301

(1) If the debtor fails to perform his non-monetary obligation determined by final decision on time the court may, at the creditor's request, determine a subsequent and adequate time limit for the debtor and may pronounce, with the purpose of inducing the debtor, and independently of any damages, that the latter, after failing to perform his obligation within such time limit, shall be bound to pay to the creditor a certain amount of money for each day of delay, or for some other time unit, beginning with the expiration of that time limit.

(2) After the debtor's subsequent performance of the obligation, the court may reduce the amount specified above, while taking into account the purpose serving as a ground for its payment.

Title IV TERMINATION OF OBLIGATIONS

SUBTITLE 1 GENERAL RULE

Article 302

(1) An obligation shall be terminated after being performed, as well as in other cases provided by law.

(2) By termination of the principal obligation, the pledge, mortgage and other accessory rights shall also be extinguished.

SUBTITLE 2 PERFORMANCE

Section 1 GENERAL RULES OF PERFORMANCE

I. WHO CAN RENDER PERFORMANCE AND EXPENSES OF PERFORMANCE

Performance by Debtor or Third Person Article 303

(1) A performance of the obligation may be rendered not only by a debtor but also by a third person.

- (2) A creditor shall be bound to accept performance by every person having a legal interest in fulfilling the obligation, even should the debtor be opposed to such performance.
- (3) A creditor shall be bound to accept performance by a third person should the debtor agree, unless according to the contract or the nature of obligation itself, the obligation should be performed by the debtor personally.
- (4) A creditor may accept performance by a third person without the debtor's knowledge, and even if the debtor has notified him about his disagreement to the third person's performing the obligation.
- (5) Should, however, the debtor offer to immediately perform his obligation himself the creditor shall not accept performance by the third person.

Performance by a Person without Business Capacity Article 304

- (1) A debtor without business capacity, may also perform an obligation should its existence be certain and after its performance is due.
- (2) But performance may be contested should such person pay off an expired debt or a debt deriving from a game or bet.

Expenses of Performance Article 305

Performance expenses shall be covered by the debtor if not caused by the creditor.

II. PERFORMANCE THROUGH SUBROGATION

Performance by Transfer of Right to the Fulfiller (Subrogation) Article 306

- (1) In the case of performance of another person's obligation each party rendering performance may stipulate with the creditor, prior to the performance or in course of it, that the claim which is performed be transferred to him, together with all, or only some, of the accessory rights.
- (2) A creditor's rights may be also transferred to the party who rendered performance on the ground of a contract between the debtor and the party rendering performance concluded prior to performance.
- (3) The subrogation in the rights of the creditor by the party rendering performance shall take place at the moment of performance.

Statutory Subrogation Article 307

If an obligation is fulfilled by a person having some legal interest in the matter, the creditor's claim shall be transferred to him by the operation of law itself at the moment of performance, together with all accessory rights.

Subrogation in Case of Partial Performance **Article 308**

(1) In case of partial performance of the creditor's claim, accessory rights by which such claim is secured shall be transferred to the party rendering performance only provided that they are not necessary for the performance of the rest of creditor's claim.

(2) However, the creditor and the fulfiller may stipulate that they shall use the guarantees in proportion to their respective claims, and they may also stipulate that the party rendering performance shall have the right of priority in collection.

Evidence and Instruments of Securing **Article 309**

(1) A creditor shall be bound to hand over to the party rendering performance the instruments by which the claim is proved or secured.

(2) Exceptionally, the creditor may hand over an object received in pledge from the debtor or from some other person, to the party rendering performance only should the pledge agree; otherwise, the pledge shall stay with the creditor to hold and preserve for the account of the party who rendered performance.

How Much May Be Claimed against a Debtor **Article 310**

A party who rendered performance and to whom the claim was transferred may not request from a debtor more than has been paid to the creditor.

Exemption from Liability of a Creditor for the Existence and Collectability of the Claim **Article 311**

(1) A creditor who accepted performance from a third person shall not be liable for the existence and collectability of the claim at the time of performance.

(2) In the case referred to in paragraph 1 of present Article the application of the rules of acquiring without ground shall not be excluded.

III. PERSONS TO ACCEPT PERFORMANCE

Authorized Person **Article 312**

(1) The performance must be rendered to the creditor or to a person designated either by law, or by court decision, contract between the creditor and the debtor, or the creditor himself.

(2) The performance shall also be valid if rendered to a third person, should subsequently it be approved by the creditor, or should he acquire benefit out of it.

Performance to a Creditor without Business Capacity
Article 313

- (1) The performance rendered to a creditor without business capacity shall release the debtor only if it was beneficial for the creditor or if the object of performance has remained in his possession.
- (2) A creditor without business capacity may approve, after regaining business capacity, of the performance accepted by him at the time of his being without business capacity.

IV. SUBJECT OF PERFORMANCE

Contents of Obligation
Article 314

- (1) The performance shall consist of executing that which constitutes the contents of the obligation; so that a debtor may not effect performance by something else, or a creditor request something else
- (2) There shall be no valid performance should that which is delivered by the debtor as a matter owed and received by the creditor as such, turn out not to be a matter genuinely owed under contract, wherefore the creditor shall be entitled to return that what has been delivered to him, and to request the subject owed to him.

Substitution of Performance
Article 315

- (1) An obligation shall be terminated should the creditor, in agreement with the debtor, accept something else instead of what was owed to him.
- (2) In case referred to in the paragraph 1 of this Article the debtor shall be liable as a seller for substantive and legal defects in the object delivered instead of what was owed by him.
- (3) Instead of claiming on the ground of the debtor's liability for substantive and legal defects in the object, a creditor may request from the debtor – but not any more from a guarantor – the performance of the original claim and the corresponding damages.

Delivery for Sale
Article 316

Should a debtor deliver to a creditor goods or some other right to sell them and satisfy the claim out of the proceeds of sale, handing over the excess to the debtor, the obligation shall be discharged only after the creditor has collected the necessary amount from the proceeds of sale.

Partial Performance Article 317

- (1) A creditor shall not be bound to accept partial performance, unless the nature of obligation demands otherwise.
- (2) A creditor shall, however, be bound to accept partial performance of a pecuniary obligation, unless having a particular interest to refuse it.

Obligation to Deliver Objects Specified by Kind Article 318

- (1) Should objects be specified only according to their kind, the debtor shall be bound to deliver objects of average quality.
- (2) However, should the purpose of the objects be known to him, he shall be bound to deliver objects of corresponding quality

V. TAKING INTO ACCOUNT OF PERFORMANCES

Sequence of Settlement Article 319

- (1) Should several obligations of the same kind exist between the same parties and what is performed by the debtor fail to satisfy all of them, should there be no agreement between the creditor and the debtor, the settlement shall be made in line with an order determined by the debtor, at the moment of performance at the latest.
- (2) Should there be no statement by the debtor on how to settle, the obligation shall be settled in the order of their becoming due (for performance).
- (3) Should several obligations become due at the same time, the first to be settled shall be the ones supplied by weakest security, and should all of them be secured in the same way, the first to be settled shall be the ones representing the heaviest burden for the debtor.
- (4) If in the cases from paragraphs 1, 2 and 3 of present Article obligations are entirely equal in all the above respects shall be they shall be settled in the order of their inception, while in case of simultaneous inception, what was done in order to effect performance shall be distributed over all obligations proportionally to their amounts.

Counting in Interest and Expenses Article 320

Should a debtor, in addition to the principal owe interest and expenses, settlement shall be made so as to credit first the expenses, then the interest and, finally, the principal.

VI. TIME OF PERFORMANCE

Time Limit for Performance

Article 321

- (1) Debtor shall be bound to perform his obligation within determined time limit.
- (2) When a time limit is not determined, if the purpose of the transaction, the nature of obligation and other circumstances do not require certain period of time for performance, the creditor may request immediate performance of the obligation, while the debtor, on his part, may request from the creditor an immediate acceptance of performance.

Monetary Obligation in case of Commercial Law Contracts

Article 322

Should a commercial law contract fail to stipulate time limit for performance of monetary obligation, the debtor shall be bound to, without creditor being obligated to invite him to comply, perform such obligation within a time limit of 30 days, beginning to run from the day:

- when the debtor received an invoice or other corresponding request for settlement;
- after the creditor has performed his obligation, should it be impossible to determine the date of receipt of the invoice or other corresponding request for payment with certainty, or if the debtor has received the invoice or other corresponding request for payment prior to creditor's performance of his obligation
- of expiry of the time limit for inspection of the object of liability if the time limit for such inspection is provided by statute or contract, and debtor has received the invoice or other corresponding request for payment prior to expiry of such time frame

Performance prior to Time Limit

Article 323

- (1) Should a time limit be stipulated solely in the interest of the debtor, he shall be entitled to fulfill the obligation even prior to the expiry of the time limit stipulated, but shall be bound to notify the creditor on his intentions, while taking care that performance is not rendered in bad time.
- (2) In other cases, should a debtor offer performance before the time limit, the creditor may refuse the fulfillment, but may also accept it while retaining his right to claim damages, after promptly notifying the debtor thereof.

Right of Creditor to Request Performance before Time Limit

Article 324

A creditor shall be entitled to request performance before the time limit should the debtor fail to supply him with a guarantee promised, or should the later, at creditor's request, fail to supplement a guarantee reduced without his fault, or should the time limit be stipulated solely in his interest.

When Determining a Time Limit Is Left to One Party **Article 325**

Should determining a time limit for performance be left at discretion of the creditor or the debtor, the other party, should the authorized person fail to determine the time limit even after a respective warning, may claim from the court to determine appropriate time limit for performance.

Monetary Obligation **Article 326**

(1) Should payment be effected through a bank or other organization keeping the creditor's account, the debt shall be considered settled unless contracting parties determine otherwise, if the bank or organization keeping the account has received remittance in favor of the creditor, or an order from the debtor's bank or organization, to transfer the amount designated in the order to the creditor's account.

(2) Should payment by mail be stipulated, the parties shall be held to have agreed that payment of the amount due to the post-office shall mean the meeting of the debtor's obligation to the creditor, while should this manner of payment not be stipulated the debt shall be settled when the remittance has reached the creditor.

(3) Should particular regulations or contract provide payment by money order to a specific account, the parties shall be considered to have agreed that discharge is effected when the debtor pays the amount due through money order to the designated account

VII. PLACE OF PERFORMANCE

General Rules **Article 327**

(1) A debtor shall be bound to perform the obligation and the creditor to accept the performance at a place determined by the legal transaction or by law.

(2) Should the place of performance not be determined, and should it be impossible to determine it according to the purpose of transaction, the nature of obligation or other circumstances, the performance of obligation shall be effected at the debtor's seat of business or his domicile at the time of origination of obligation, and should there be no domicile, at his residence.

(3) However, in the case of a debtor being a corporate body with several branches in various places, the seat of business of a branch obliged to effect the acts necessary to perform the obligation shall be considered as the place of performance if the creditor was aware of these circumstances when negotiating the contract, or should have been aware of them.

Place of Performance of Monetary Obligation
Article 328

- (1) A monetary obligation shall be fulfilled at creditor's seat of business or his permanent residence, and should there be no such permanent residence, of his temporary residence.
- (2) Should payment be effected by a transfer order, a monetary obligation shall be discharged at the registered office of the performance keeping account of the creditor's monetary funds.
- (3) If a creditor has changed the place of his business seat, or his domicile at the time of creation of the obligation, so that higher costs relating to performance resulted, such increase shall be to the charge of the creditor.

VIII. RECEIPT

Presumption Relating to Receipt
Article 329

- (1) Whoever fulfils an obligation entirely or partially shall be entitled to request that the creditor issues him a receipt at his own expense.
- (2) A debtor paying his monetary debt through a bank or a post-office, may request the creditor to issue to him a receipt only after having a specially justified reason.
- (3) Should a receipt be issued stating that the principal is entirely paid off, it shall be presumed that interest, court and other expenses, if any, have also been paid.
- (4) Likewise, should a debtor of periodical payments, such as rent and other claims accounted for from time to time, like ones resulting from the use of electric power or water, or use of telephone, possess a receipt confirming his payment of a later claim, it shall be presumed that he has also paid out the ones previously due.

Refusal to Issue a Receipt
Article 330

Should a creditor refuse to issue a receipt, the debtor may deposit with the court the subject of his obligation.

IX. RESTORING A BOND

Article 331

- (1) After entirely fulfilling his obligation, a debtor may, in addition to a receipt, seek that the creditor restores the relevant bond certificate to him.
- (2) Should the creditor be unable to restore the bond certificate, the debtor shall be entitled to demand that the creditor issue to him an officially certified document stating that the obligation has been terminated.

- (3) If the bond certificate is restored to the debtor it shall be considered that the obligation is fully discharged.
- (4) The debtor who performed the obligation only in part shall be entitled to request that such performance be recorded on the face of the bond certificate.

Section 2 DELAY

I. DEBTOR'S DELAY

When a Debtor Is Late with Performance Article 332

- (1) A debtor shall be in delay if he fails to perform the obligation within a time limit specified for performance.
- (2) Should the time limit for performance be not specified, the debtor shall be late if requested to perform the obligation by the creditor orally or in written, or by means of an out-of court warning, or by initiating proceedings with the aim of achieving performance of the obligation.
- (3) Debtor shall not be deemed in delay should he be able to prove that his delay with performance was due to Force Major or due to other circumstances for which he is not responsible.

II. CREDITOR'S DELAY

When a Creditor is in Delay Article 333

- (1) A creditor shall be in delay if he refuses without justified ground to accept the performance, or if he prevents performance through his conduct.
- (2) A creditor shall also be in delay if even though ready to accept performance of the debtor's simultaneous obligation, he fails to offer performance of his due obligation.
- (3) A creditor shall not be late if he proves that at the time of offering of the performance, or at the time determined for performance, the debtor was unable to fulfill his obligation.

Effects of Creditor's Delay Article 334

- (1) A creditor's delay shall exonerate the debtor from delay, so that the risk of accidental loss of property or of its damage shall pass to the creditor.
- (2) Interest shall stop accruing from the day of the creditor's delay.
- (3) A creditor in delay shall be liable to redress the debtor for loss caused due to his delay, and to cover expenses of continued custody of the property.

(4) During the period while he is in delay, creditor shall not be entitled to take measures for enforced execution.

Section 3

DEPOSITING AND SALE OF THE OBJECT OWED

Depositing at the Court **Article 335**

(1) Should the creditor be in delay with his performance, or unknown, or should it be uncertain who or where the creditor is or if the creditor is without business capacity and without a representative, the debtor may deposit the object owed at the court for the creditor.

(2) The same right shall pertain to third persons having a legal interest in the performance of the obligation.

(3) A debtor shall be bound to notify the creditor on the effected deposit, should he be aware of him and of his domicile.

A Court Competent for Depositing **Article 336**

(1) A deposit shall be made at the court having subject matter jurisdiction in the place of performance, unless reasons of economy or the nature of the transaction require a deposit to be made at the place where the object is located.

(2) Any other court having the subject matter jurisdiction must accept the object in deposit, while the debtor shall be bound to redress the creditor for potential loss sustained due to depositing at another court.

Deposit for Custody to Other Person **Article 337**

(1) Should the subject of obligation be an object of property which could not have been left for custody at the court, the debtor may request that the court designate a person to whom he shall leave the object for custody, at the expense and for the account of the creditor.

(2) In case of an obligation arising from commercial law contract, delivering such object to a public warehouse for custody and to the account of creditor, shall produce the effect of depositing at the court.

(3) A debtor shall be bound to notify the creditor on effected delivery for custody.

Taking Back a Deposited Object **Article 338**

(1) A debtor may take back a deposited object.

(2) A debtor shall notify the creditor on taking back the object.

(3) The right of a debtor to take back the deposited object shall terminate if the debtor renounces such right at court, if the creditor declares his acceptance of the deposited object, or if established by a final decision that the depositing satisfies the conditions of due performance.

Effect of Deposit Article 339

- (1) By depositing the object owed, the debtor shall be relieved from obligation at the moment of deposit.
- (2) If the debtor was in delay with performance, his delay shall terminate.
- (3) The risk of accidental loss or damage shall pass to the creditor from the moment of depositing the object
- (4) Interest shall cease to accrue from the day of deposit.
- (5) Should the debtor take back the object deposited, it shall be held that there was no deposit while his joint debtors and guarantors shall remain liable.

Depositing Expenses Article 340

The expenses of a valid and unrevoked deposit shall be borne by the creditor, should they exceed the expenses of performance which shall be borne by the debtor.

Sale in Place of Depositing an Object Article 341

- (1) Should an object be unfit for custody, or should its keeping and maintenance require expenses not commensurate to its value, the debtor may sell it at public sale at the place designated for performance, or at some other place, should this be in the interest of the creditor, while the amount obtained, after deducting sale expenses, shall be deposited by him at the court of that place.
- (2) Should the object have a current price, or should its value be small in comparison to the public sale expenses, the debtor may sell it privately.
- (3) Should the object be perishable, the debtor shall sell it without delay and in the most appropriate way.
- (4) In any event the debtor shall notify the creditor of the sale intended whenever possible and, after the sale is effected, of the price obtained and of its deposit at court.

Delivering the Object to Creditor Article 342

The court shall deliver the object deposited to the creditor under conditions set forth by the debtor.

**Sale to Cover Custody Expenses
Article 343**

- (1) After failing to pay for custody expenses within a reasonable time limit, at the request of the custodian, the court shall order that the object be sold, while determining also the manner of such sale.
- (2) The amount obtained by sale shall cover sale and custody expenses, while the rest shall be deposited at the court for the creditor.

**SUBTITLE 3
OTHER WAYS OF EXTINGUISHING OF OBLIGATIONS**

**Section 1
OFFSETTING (COMPENSATION)**

**General Conditions
Article 344**

A debtor may offset the claim of a creditor against him with his claim against the creditor, should both claims be of a monetary nature, or be other exchangeable objects of the same kind and quality, should both claims be due.

**Statement of Offsetting
Article 345**

- (1) The offsetting shall not be effected by the very fact of occurrence conditions for it; instead, one party must declare to the other his intention to claim off-sett.
- (2) When the offset is claimed, offsetting shall be considered to have taken place at the moment of occurrence of the relevant conditions.

**Lack of Reciprocity
Article 346**

- (1) A debtor shall not offset what he owes to the creditor against what is owed by the creditor to his guarantor.
- (2) However, the guarantor may offset the debtor's obligation to the creditor against the debtor's claim against the creditor.
- (3) If a party has given his own object as a pledge securing another person's obligation, he may request from the creditor the restitution of the object pledged when conditions for the termination of such obligation by offset occur, or if the creditor has failed to effect the offsetting through his own fault.

An Expired Claim Article 347

- (1) A debt may be offset against an expired claim only if such claim has not expired at the moment when conditions for the offsetting occurred.
- (2) Should conditions for offsetting occur after one of the claims has expired, the offsetting shall not take place if the debtor of the expired claim has raised the defense of expiration due to statute of limitations.

Offset Against Assigned Claim Article 348

- (1) A debtor of an assigned claim may claim offset towards the recipient against those of his claims which, until the notification of assignment, he could have offset towards the assignor.
- (2) A debtor may also offset towards recipient such debtor's claims against the assignor which he had acquired prior to notification of assignment, the performance of which was not due at the moment of his being notified of the assignment, but only should the corresponding time limit fall before the time limit for performance of the assigned claim, or coincide with it.
- (3) A debtor expressing his intention without reservation, to the recipient to accept the assignment shall not be able to offset any of his claims with him against the assignor.
- (4) Should the assigned claim be entered in the public records, the debtor may effect the offset towards the recipient only should his claim be entered together with the assigned claim, or should the recipient be notified accordingly about such claim at the time of the assignment.

Cases when Offsetting is Excluded Article 349

There shall be no termination by way of offset of:

- 1) a claim impossible to seize;
- 2) a claim relating to an object or to a value of the object delivered to the debtor for custody or for loan, or taken unlawfully by the debtor, or kept unlawfully by him;
- 3) a claim incepted through intentional tortuous conduct
- 4) a claim for damages for damage to health or causing death;
- 5) a claim arising from statutory duty or alimony.

Attachment on Other Party's Claim Article 350

A debtor shall effect no offset should his claim become due only after a third person has placed an attachment on the creditor's claim against him.

Taking into Account by Way of Offset Article 351

Should several obligations exist between two persons which may be terminated by way of offset, the offset shall be effected under the rules otherwise applicable for taking into account in the matter of fulfillment.

Offsetting through the Court of Law Article 352

(1) Should a claim by one party not be liquid, but its existence and scope may easily be established, the court may effect offsetting for such portion of that claim whose existence the court is able to determine and delay deciding on the claim of other party until establishing the existence and volume of the remainder.

(2) Should the claim by other party exceed the claim which is raised against him for offset, the court shall award the difference between claims to such creditor in the same judgment.

Section 2 REMISSION OF DEBT

Agreement Article 353

(1) An obligation shall be terminated if the creditor declares to the debtor that he is not going to claim its fulfillment, and if the debtor agrees accordingly.

(2) The validity of such agreement shall not depend on being concluded in the form in which the transaction giving rise to the obligation was concluded.

Waiving of Security Instruments Article 354

Restituting a pledge and waiving other means of security for performance of obligation shall not amount to the creditor's renouncing the right to demand its performance.

Remission of Debt of a Guarantor Article 355

(1) Remission of a debt of a guarantor shall not exempt the principal debtor, while remission of debt to the principal debtor shall exempt the guarantor.

(2) In case of several guarantors, after the creditor's exempting one of them, the others shall remain obligated, but their obligations shall decrease by the amount of the exempted guarantor's part.

**General Remission of Debts
Article 356**

A general remission of debts shall mean termination of all the creditor's claims against the debtor, except ones unknown to creditor at the moment of effecting remission.

**Section 3
NOVATION (SUBSTITUTED CONTRACT)**

**Conditions of Substitution
Article 357**

- (1) An obligation shall be terminated if a creditor and a debtor agree to substitute the existing obligation by a new one, and should the new obligation have a different subject or a different legal ground.
- (2) The agreement between the creditor and the debtor by which a provision concerning time limit, place or way of performance is added or substituted, a subsequent agreement on interest, on liquidated damages, on guaranteeing performance, or concerning any other supplementary provision, or agreement on issuing a new document of debt, shall not be considered as substituted contract (novation).
- (3) Unless otherwise stipulated, drawing a bill of exchange or check in consequence of an earlier obligation shall not be considered as substituted contract (novation).

**Intent to make Substituted Contract
Article 358**

There shall be no presumption of substituted contract (novation) should the parties fail to express their intent to extinguish an existing obligation while creating a new one, so that the earlier obligation shall not terminate and shall continue to exist alongside the new one.

**Effect of Substitution
Article 359**

- (1) By contract on substitution (novation) a previous obligation shall terminate, while the new one shall come into being.
- (2) Together with the previous obligation, a pledge and a guarantee, shall also terminate, unless something else has been stipulated with the pledger or the guarantor.
- (3) The same shall apply to other accessory rights related to previous obligations.

**Defect in Previous Obligation
Article 360**

- (1) Substituted contract (novation) shall have no effect if a previous obligation was invalid or already terminated

(2) Should the previous obligation be only voidable, the substituted contract (novation) shall be valid should the debtor be aware of the defects in the previous obligation.

**Effect of Voidance
Article 361**

Should a substituted contract (novation) be voided, it shall be held that there was no novation at all, and that the previous obligation did not terminate its existence.

**Section 4
MERGER (OF RIGHTS AND DUTIES)**

Article 362

(1) An obligation shall extinguish by merger if the same person becomes both creditor and debtor.

(2) Should a guarantor become a creditor, the obligation of the principal debtor shall not terminate.

(3) An obligation entered in the public records shall terminate by merger only after entering the corresponding cancellation.

**Section 5
IMPOSSIBILITY OF PERFORMANCE**

**Termination of Obligation Due to Impossibility of Performance
Article 363**

(1) An obligation shall terminate should its performance be impossible due to circumstances for which the debtor is not liable.

(2) A debtor shall be expected to prove the existence of the circumstances exempting him from liability.

**If Objects Specified by Kind are the Subject of Obligation
Article 364**

(1) Should subject of obligation be objects (of property) specified by kind, the obligation shall not terminate even should all of such objects, possessed by the debtor, be lost due to circumstances for which he is not to blame.

(2) However, should the subject of obligation relate to objects specified by kind which have to be taken out of a specific mass of such objects, the obligation shall come to an end should the entire mass be lost.

Assigning a Right against a Third Person Liable for Impossibility of Performance Article 365

A debtor owing a specific object, who is otherwise exempted from his obligation because of impossibility of performance, shall be bound to assign to the creditor the right he would otherwise have against a third person as a result of such impossibility.

Section 6 LAPSE OF TIME, NOTICE OF CANCELLATION

Time Limit in a Permanent Debit Relationship Article 366

A debit relationship within a specified period shall come to an end on the expiration of the relevant time limit, unless prescribed by statute or stipulated that the debit relationship shall continue to be effective after the expiration of the time limit for an indefinite period, if not cancelled on time.

Cancellation of a Permanent Debit Relationship Article 367

- (1) Should the time limit of a permanent debit relationship be not determined, each party may interrupt it by cancellation.
- (2) Such cancellation must be communicated to the other party.
- (3) Cancellation may be effected at any time, but not at a bad time.
- (4) A permanent debit relationship shall come to an end on the expiration of a notice of cancellation specified by contract, and should such time limit not be specified by contract, the relationship shall come to an end upon expiration of the time limit specified by statute or trade practice, or upon expiration of an adequate time limit.
- (5) The parties may stipulate that their debit relationship shall come to an end by the fact of communicating the cancellation, unless something else be specified by statute for a specific case.
- (6) The creditor shall be entitled to request from the debtor that what is due prior to termination of obligation on the ground of expiration of the time limit or through cancellation.

Section 7 DEATH

Article 368

In case of death of a debtor or a creditor, the obligation shall come to an end only if created as a result of the personal characteristics of one of the contracting parties or of the personal capacity of the debtor.

SUBTITLE 4 UNENFORCEABILITY DUE TO STATUTE OF LIMITATIONS

Section 1 GENERAL PROVISIONS

General Rule Article 369

- (1) As a result of the expiration due to statute of limitations, the right to claim performance of an obligation terminates.
- (2) Expiration due to the statute of limitations takes place by lapsing of period specified by statute during which the creditor was entitled to claim performance of the obligation.
- (3) The court shall not consider the fact of an obligation being time barred should the debtor fail to invoke it.

When does the Period Required for Expiry due to Statute of Limitations Starts to Run Article 370

- (1) Period for expiration due to the statute of limitations shall begin to run on the first day following the day the creditor was entitled to claim performance of the obligation, unless something else is provided by statute for specific cases.
- (2) Should an obligation consist of a refraining from action, omission or tolerating something, the period for expiration due to statute of limitations shall begin to run on the first day following the day the debtor acts contrary to his obligation.

Coming to Effect of Expiry due to Statute of Limitations Article 371

Expiry due to the statute of limitations shall be effective after the lapse of the last day of the period specified by statute.

Including into Account of Predecessor's Time Article 372

The time for expiry due to the statute of limitations shall also include the time which has run in favor of the debtor's predecessors.

Prohibition of Alteration of Period for Expiry due to Statute of Limitations Article 373

- (1) A longer or shorter period for expiry due to statute of limitations than the one set forth by statute, may not be established by way of legal transaction.

(2) A temporary suspension of running of the expiry period may not be determined by way of legal transaction.

Waiving of Expiry due to Statute of Limitations Article 374

A debtor may not waive expiry due to statute of limitations prior to lapsing of time provided for such expiration.

Written Acknowledgment and Guarantee of an Obligation Expired due to Statute of Limitations Article 375

(1) Written acknowledgment of an obligation expired due to statute of limitations shall be construed as the renouncing of unenforceability (expiry).

(2) Providing of pledge or other kind of security to cover a claim expired due to statute of limitations shall have the same effect.

Effect of Performance of an Obligation Expired due to Statute of Limitations Article 376

After fulfilling an expired obligation, a debtor shall not be entitled to claim restitution, even if he is ignorant of the expiry of the obligation due to the statute of limitations.

Creditor with a Guaranteed Claim Article 377

(1) After the lapse of period required for expiry by the statute of limitations, a creditor with a claim secured by pledge or mortgage may effect collection only out of the encumbered property if in his possession, or when his right has been entered in the public record.

(2) However, claims expired due to statute of limitations relating to interest and other periodical dues, shall not be settled even out of the encumbered property.

Accessory Claims Article 378

After the expiration of a principal claim due to the statute of limitations, the accessory claims shall also expire, such as claims relating to interest, fruit, expenses, and liquidated damages.

When Rules of Expiration due to Statute of Limitations Shall not Apply Article 379

Rules of expiration due to the statute of limitations shall not apply should a statute specify time limits for filing complaints, or for performing specific act under sanction of losing a right.

Section 2

TIME REQUIRED FOR EXPIRY DUE TO STATUTE OF LIMITATIONS

General Time Limit for Unenforceability due to Statute of Limitations

Article 380

Claims shall expire due to statute of limitations after lapse of a ten year period, unless some other expiry time limit is provided by statute.

Periodical Claims

Article 381

(1) Claims relating to periodical performances becoming due once a year or in specified shorter periods (periodical claims), including even accessory periodical claims, such as claiming interest, or the ones by which a corresponding right itself is consumed, such as an alimony claim, shall expire after a three year period by statute of limitations, counting from the date each performance becoming due.

(2) The same shall apply to annuities effected in the form of equal advance installment payments of principal debt and interest, the exception being deferred installment payments and other part payments.

Expiry of a Right itself due to Statute of Limitations

Article 382

(1) A right itself being a ground for periodical claims shall expire after a five year period, counting from the date of maturity of the oldest non-fulfilled claim, after which the debtor failed to effect the performance.

(2) If a right being a ground for periodical claims has expired due to the statute of limitations, the creditor shall lose not only his right to claim future periodical performances, but also those becoming due prior to such expiration.

(3) A right to subsistence provided by statute shall not expire due to statute of limitations.

Mutual Contractual Claims from Commercial Law Contracts

Article 383

(1) Mutual claims of legal persons from contracts entered into in exercising their business activities, as well as claims relating to reimbursement of expenses made in connection to such contracts, shall expire due to the statute of limitations after a three year period.

(2) The period of such unenforceability shall run separately for each supply of goods and work or service effected.

Claiming Rent Article 384

A claim for rent, either to be paid periodically or in a lump sum, shall expire due to the statute of limitations after a three year period.

Claiming Damages for Loss Article 385

- (1) A claim for damages for loss caused shall expire three years after the party sustaining injury or loss became aware of the injury and loss and of the party inflicting damage.
- (2) In any event, such claim shall expire five years after the occurrence of injury or loss.
- (3) A claim for damages for loss caused by breach of a contractual obligation shall lapse within the time specified for expiry due to the statute of limitations of such obligation.
- (4) Claim for recovery of damages on the ground of sexual abuse of a minor shall expire due to statutes of limitation within 15 years from the time of aggrieved party becoming of legal age.

Claiming Damages for Injury or Loss Caused by a Criminal Offence Article 386

- (1) Should loss be caused by a criminal offence, where a longer expiry period is prescribed for the criminal prosecution, the claim for compensation against the person liable shall expire at the time of expiration of the limitation period set forth in the statute of limitations of the criminal prosecution.
- (2) Interruption of period for expiry of criminal prosecution due to the statute of limitations shall also imply the interruption of the limitation period relating to the claim for damages.
- (3) The same shall apply when the expiry period is suspended.

Claiming Damages caused by Corruption Article 387

Should loss be caused by acting directly or indirectly affected by offering, giving, acceptance or solicitation of bribe or some other benefit or promise, or by failure to act in a manner which would prevent corruption, or through other act which, under the statute or according to the international agreement is defined as a corruptive act, the claim shall expire due to statutes of limitation within five years after the aggrieved party became aware of the damage and person who caused it, and in every case within 15 years from the date when the act was committed.

Two- Year Limitation Period due to the Statute of Limitations Article 388

- (1) The following claims shall expire due to the statute of limitations after two years:

- 1) charges for the supply of electricity and heating energy, those for gas, water supply, chimney sweeping services and garbage collection, if the supply or service is effected for household;
 - 2) radio and television station charges for the use of radios and television sets;
 - 3) post-office, telegraph and telephone office charges for the use of telephones and mail compartments, as well as other claims by these offices collected quarterly or in shorter periods;
 - 4) subscriptions to periodicals, counting from the expiration of the period they are ordered for.
 - 5) claims from owners of separate parts of residential buildings for services of management and their other claims collected quarterly or in shorter periods;
- (2) The limitation period shall continue to run although supply or services have continued.

Claims Determined by Court or Other Competent Agencies **Article 389**

- (1) All claims determined by a final court decision or decision of other competent agency, or by settlement at court, or at some other competent body, shall expire after a ten year period, including ones which are subjected by statute to a shorter limitation period due to the statute of limitations.
- (2) However, all periodical claims resulting from such decisions or settlements, and becoming due in the future, shall expire within the time limit otherwise provided for the expiration of periodical claims due to the statute of limitations.

Time Limits in Case of Insurance Contracts **Article 390**

- (1) Claims of an insurance contractor, or of a third party specified in a life insurance contract, shall expire after five years, while those from remaining insurance contracts – after three years, counting from the first day following the calendar year of the origination of the claim.
- (2) Should the interested person be successful in proving that until the day specified in the paragraph 1 of present Article he was not aware of the occurrence of the insured event, the expiration period shall begin to run from the day of his becoming aware thereof, while in any event the claim shall expire in case of life insurance after ten years, and in case of the remaining insurance contracts after five years, beginning with the day specified in the paragraph 1 of present Article.
- (3) Claims of an insurer on the ground of an insurance contract shall expire due to the statute of limitations after three years.
- (4) Should in the event of third party liability insurance a person sustaining damage demand compensation from the insured, or should he obtain it from him, the expiration period for the insured person's claim against the insurer shall begin to run on the day the person sustaining damage requested compensation through the court from the insured, or on the day of his being compensated by the insured.

(5) A direct demand by a third party sustaining injury or loss from the insurer shall expire due to the statute of limitations after a period otherwise applicable to such expiration of his claim against the insured person liable for damage.

(6) The limitation period of the insurer's claim against the third party liable for the occurrence of the insured event, shall begin to run at the time otherwise applicable to the limitation period for the claims of the insured against such person, and shall be completed within the same time limit.

Section 3

SUSPENSION OF PERIOD OF EXPIRY DUE TO STATUTE OF LIMITATIONS

Claims between Particular Persons **Article 391**

The period of expiration due to statute of limitations shall not run:

- 1) between spouses;
- 2) between parents and children throughout the duration of period of parental right;
- 3) between a ward and his guardian, and/or a guardianship organization in the course of the guardianship relationship, and until relevant accounts are settled;
- 4) between two extramarital partners during the course of such cohabitation.

Claims of Particular Persons **Article 392**

The period for expiry due to statute of limitations shall not run:

- 1) during military callout, in case of imminent danger of war, or war – relating to claims of absent persons engaged in military duties and;
- 2) concerning claims of persons employed in another person's household, against the employer or members of his family living with him in the same household – in the course of such employment.

Insurmountable Obstacles **Article 393**

The period for expiry shall not run for the entire time of creditor's inability to institute legal proceedings claiming the performance of obligation due to insurmountable obstacles.

Effect of the Cause of Suspension of Expiry Period **Article 394**

(1) In case if expiry period could not have started to run due to a cause specified by statute, it shall begin to run after such cause has come to an end.

(2) Should the expiry period begin to run before the occurrence of cause suspending its further course, it shall begin to run again after such cause has come to an end, while the time expiring prior to suspension shall be accounted for in the expiration period provided by statute.

Claims against Persons without Business Capacity and Their Claims

Article 395

- (1) The expiration period shall also run against a minor and other person without business capacity, regardless of whether they have a legal representative.
- (2) However, expiry due to time limitation of claims of minors having no representative and other unrepresented persons without business capacity, shall not take place until the expiration of a two year period from their regaining business capacity or obtaining a representative.
- (3) Should a period of time shorter than two years for the expiration of a claim be specified, while the creditor is a minor without a representative or other person without business capacity and without a representative, the limitation period relating to such claims shall begin to run after the creditor has gained capacity to engage in business, or after obtaining a representative.

Section 4

INTERRUPTION OF PERIOD FOR EXPIRY DUE TO STATUTE OF LIMITATIONS

Acknowledging a Debt

Article 396

- (1) Running of the limitation period shall be interrupted when a debtor acknowledges the debt.
- (2) The acknowledgment of debt may be effected not only by a declaration to the creditor, but also in an indirect way, such as by an installment payment, payment of interest due, or providing security.

Commencing of a Civil Action

Article 397

The course of period for expiry shall be interrupted by commencing of a civil action and by other motion made by the creditor against a debtor before the court or other competent agency, with an aim of establishing, securing or effectuating of the claim.

Desisting from, Rejecting or Denying of a Civil Action

Article 398

- (1) Interruption of a period required for expiry due to statutes of limitation effected by commencing of civil action or by making some other motion by the creditor against debtor before court or other competent agency with an aim of establishing, securing or realizing of the claim shall be deemed not to have taken place should the creditor desist from such action or motion.
- (2) It shall also be held that there was no interruption should the creditor's action or claim be rejected or denied, or should a measure of execution or securing awarded or taken be cancelled.

Rejection of an Action on the Ground of Lack of Jurisdiction Article 399

(1) Should an action against a debtor be rejected on the ground of lack of jurisdiction of the court, or by some other reason not related to the substance of the matter, if the creditor files another petition within a three month period after the final decision on dismissing of the action, it shall be held that the period for expiry was interrupted by the first action.

(2) The same shall also apply to invoking protection and claiming offset of amounts due in a dispute, as well as in the event of the court or other agency referring the debtor to effect his claim in the litigation proceedings.

Giving Notice to a Debtor Article 400

The limitation period shall not be interrupted should the creditor merely give the debtor notice in written or oral form to fulfill the obligation.

Period of Expiry of Claim due to Statute of Limitations in Case of Interruption Article 401

(1) After the interruption the limitation period shall start to run anew, while the time expired prior to interruption shall not be accounted for into the statutory limitation period.

(2) If the limitation period is interrupted by debtor's acknowledgment, it shall start to run anew from the date of such acknowledgment.

(3) Should the limitation period be interrupted by commencing of a civil action or invoking protection, or claiming setoff of claims in civil dispute, or by filing the claim within some other proceedings, the limitation period shall begin to run anew from the day of closing the dispute.

(4) Should the limitation period be interrupted by filing a claim in bankruptcy proceedings, the expiration period shall begin to run anew from the day of closing of such proceedings.

(5) The same shall also apply should the limitation period be interrupted by a motion for enforced execution or for securing of a claim.

(6) The limitation period beginning to run anew after the interruption shall be completed on the expiration of a period of time equal to a limitation period which was interrupted.

Expiry of Claim due to Statute of Limitations in Case of Substituted Contract (Novation) Article 402

Should the interruption take place by the debtor's acknowledgment of the debt and the creditor and the debtor agree to alter the ground or the subject of obligation, a new claim shall expire within the statutory limitation period.

Title V

VARIOUS KINDS OF OBLIGATIONS

Subtitle 1

MONETARY OBLIGATIONS

Section 1

GENERAL PROVISIONS

Principle of Monetary Nominalism

Article 403

Should the subject of obligation be an amount of money, the debtor shall be obliged to pay out the number of monetary units indicated on the face of the obligation, unless otherwise provided by statute.

Currency of Obligation

Article 404

Should monetary obligation be made out in a foreign currency or in gold, its fulfillment may be demanded in domestic currency, according to the rate of exchange valid at the moment of fulfilment of the obligation.

Index Cause

Article 405

It may be stipulated by contract that the amount of monetary obligation in domestic money shall depend on variations of the value of goods, merchandise and services expressed by prices index as established by authorized agency.

Sliding Scale

Article 406

In contracts by which one party assumes an obligation to manufacture and deliver specific goods, it may be stipulated that the price will depend on the cost of material and labor, as well as on other elements influencing the production costs at a definite time and in a specific market.

Payment Ahead of Time

Article 407

- (1) A debtor of a monetary obligation may fulfill it ahead of time.
- (2) A contractual clause by which a debtor has waived such right shall be null and void.
- (3) Should a monetary obligation be fulfilled ahead of time, the debtor shall be entitled to deduct from the amount of debt interest covering a period between the day of payment and

the day of maturity of obligation, only after being authorized accordingly by the contract or on the ground of business usage.

Section 2 STIPULATED INTEREST

Rate of Stipulated Interest Article 408

(1) The rate of interest stipulated between individuals shall not be higher than the standard deposit savings interest rate in the place of performance. Provisions of a particular law shall apply to the highest interest rates stipulated between corporate bodies.

(2) Should interest be stipulated but without determining either its rate or maturity time, the interest rate as between individuals shall be the standard deposit savings rate in the place of performance, while in the case of legal persons, the rate shall be the one paid or stipulated for such or similar type of transaction by bank or other banking organization, and it shall become due after the expiration of one year, unless otherwise provided for a specific case.

(3) Should a higher interest than permitted be stipulated, the highest permitted interest rate shall apply.

Compound Interest Article 409

(1) A clause in a contract shall be null and void if it stipulates that, should interest be not paid when due, compound interest shall be charged.

(2) However, it may be stipulated in advance that the interest rate shall increase should the debtor fail to pay the interest on time.

(3) The provisions of the paragraphs 1 and 2 of present Article shall not apply to credit transactions of banks and other banking organizations.

Termination of Accrual of Interest Article 410

Interest shall cease to accrue at such point when the amount of due outstanding interest reaches principal amount of debt.

Interest in Non-Monetary Obligations Article 411

The provisions of the present Law relating to interest stipulated shall apply accordingly to other obligations covering objects specified in kind.

SUBTITLE 2 MULTI-SUBJECT OBLIGATIONS

Section 1 ALTERNATIVE OBLIGATIONS

Right of Choice Article 412

In an obligation with two or several subjects, where a debtor is obliged to deliver only one of them in order to discharge the obligation, the right of choice, unless something else is stipulated, shall belong to the debtor, so that the obligation shall be terminated when he delivers the subject he has chosen.

Irrevocability and Effect of the Exercised Right of Choice Article 413

- (1) An option shall be considered exercised if a party entitled to an option notifies the other party of his choice, so that from that moment on the choice may not be altered.
- (2) After an option is exercised it shall be considered that the obligation was a simple one from the very beginning, and that its subject was the object elected from the beginning.

Duration of Period to Exercise Right of Choice Article 414

- (1) A debtor shall be entitled to choice until, in the enforced execution proceedings, one of the objects owed has been completely or partially delivered to the creditor to his own choice.
- (2) Should the right of choice pertain to the creditor and he fails to state his choice within the time limit determined for performance, the debtor may give him notice to make his choice, leaving him an adequate time limit, after whose expiration the right of choice shall be transferred to the debtor.

Right of Choice Entrusted to Third Party Article 415

Should choice be left to a third party, and such party failed to act accordingly, each party may demand that the choice be made by the court.

Restriction to the Remaining Subject Article 416

Should one of the subjects of obligation become impossible to realize due to an event not to be blamed on the parties, the obligation shall be restricted to the remaining subject.

Restriction in Case of Liability of One Party Article 417

(1) Should one of the subjects of obligation become impossible to realize due to an event for which the debtor is to blame, the obligation shall be restricted to the remaining subject should the right of choice pertain to him, and should the right of choice belong to the creditor, he may demand, at his option, the remaining subject or damages.

(2) Should one of the subjects of obligation become impossible to realize due to an event for which the creditor is to blame, the debtor's obligation shall be terminated; but should he be entitled to choice, he may claim damages and may fulfill his obligation through the remaining subject, while should the right of choice belong to the creditor, he may provide compensation and request the remaining subject.

Section 2 OPTIONAL OBLIGATIONS AND OPTIONAL CLAIMS

I. OPTIONAL OBLIGATIONS

Authority of Debtor in an Optional Obligation Article 418

A debtor in an obligation consisting of a single subject, who is free to discharge his obligation by supplying some other specific subject, may exercise this right only until the creditor, in the procedure of enforced execution obtains completely or partially the subject of obligation.

Authority of Creditor in an Optional Obligation Article 419

(1) A creditor in an optional obligation may claim from the debtor only the subject of obligation, and not any other subject by which the debtor may, should he so wish, also fulfill his obligation.

(2) Should the subject of obligation become impossible to realize due to an event for which the debtor is not to blame, the creditor may claim only damages, but the debtor may free himself from his obligation by supplying the subject he is otherwise authorized to supply instead of the subject owed.

II. OPTIONAL CLAIMS

Article 420

(1) Should a contract or a statute provide that the creditor may, instead of the subject owed, claim from the debtor some other specific subject, the debtor shall deliver to him such subject should the creditor so require.

(2) In remaining matters, such optional claims shall be subjected to corresponding rules on optional and alternative obligations, coordinated with the intent of contracting parties and the circumstances of the specific transaction.

SUBTITLE 3 OBLIGATIONS WITH SEVERAL DEBTORS OR CREDITORS

Section 1 DIVISIBLE OBLIGATIONS

Dividing an Obligation and a Claim Article 421

- (1) An obligation shall be divisible if that what is owed can be divided and performed in parts having same qualities as the whole subject, and should what is divided lose nothing in value; otherwise, the obligation shall be indivisible.
- (2) Should several debtors exist in a divisible obligation, such obligation shall be divided between them in equal shares, unless a different kind of division is determined, and each shall be liable for his share of the obligation.
- (3) Should several creditors exist in a divisible obligation, the claim shall be divided between them in equal shares, unless something else is determined, and every creditor may request only his share of the claim.

Presumption of Joint and Several Liability Article 422

Should several debtors exist in a divisible obligation ensuing out of commercial law contract, they shall be jointly and severally liable to the creditor, unless the contracting parties have explicitly eliminated joint and several liability.

Section 2 JOINT AND SEVERAL OBLIGATIONS

I. JOINT AND SEVERAL DEBTORS

Contents of the Joint and Several Liability Article 423

- (1) Each debtor of a joint and several liability shall be liable to the creditor for the entire obligation and the creditor may claim its performance from any of them until its complete performance; but should one of the debtors perform the obligation, it shall cease to exist and all debtors shall be released.
- (2) From amongst several debtors who are jointly and severally liable, each may owe under a different time limit for performance, or under different terms or variations.

Debt Setoff Article 424

- (1) Each joint and several debtor may invoke debt set-off effected by his co-debtor.

(2) A joint and several debtor may effect debt setoff relating to a claim of his co-debtor against the creditor's claim, but only of an amount equal to the share of debt of such co-debtor within the joint and several obligation.

Dismissing a Debt Article 425

(1) Dismissing of a debt made in agreement with one of the joint and several debtors shall exempt also the other debtors from liability.

(2) However, should the dismissal be intended to exempt from liability only the debtor participating in the matter, the joint and several obligation shall be reduced by the shared amount, which, according to mutual relations between debtors, pertains to that specific debtor, while the remaining debtors shall be jointly and severally liable for the rest of the obligation.

Substituted Contract (Novation) Article 426

(1) Substituted contract (novation) effected with one of the joint and several debtors shall also discharge the remaining debtors.

(2) However, should the creditor and the debtor restrict the substituted contract (novation) to the share of obligation of such debtor, the obligation of the others shall not be terminated and shall only be reduced by the value of such share.

Settlement Article 427

Settlement agreed upon by one of the joint and several debtors with the creditor shall have no effect for the remaining debtors, but they shall be entitled to accept such settlement, unless it is limited to the debtor it has been agreed with.

Merger Article 428

Should the capacity of a creditor and that of a debtor of the same joint and several obligation merge into one person, the obligation of the remaining debtors shall be reduced by the amount of his share.

Creditor's Delay Article 429

Should a creditor be in delay regarding one of the joint and several debtors, he shall also be late as to the remaining joint and several debtors.

Delay of One Debtor and Acknowledging a Debt Article 430

- (1) Delay by one joint and several debtor shall have no effect on the remaining debtors.
- (2) The rule from the paragraph 1 of present Article applies to acknowledging a debt declared by one of the joint and several debtors.

Ceasing and Interruption of Expiration due to Statute of Limitations and Waiving of Expiration Article 431

- (1) Should a limitation period be suspended or should it be interrupted regarding one debtor, it shall continue to run as to the remaining joint and several debtors, and it may be completed; however, a debtor for whom the obligation has not expired and who has to perform it, shall be entitled to claim from the rest of the debtors to whom the obligation expired, the recovery of value of their respective shares in the obligation.
- (2) Waiving the completed expiry period shall have no effect on the rest of the debtors.

Right to Recovery of a Person Performing the Obligation Article 432

- (1) A debtor who performed his obligation shall be entitled to claim against each joint debtor recovery of the part of obligation being at his charge.
- (2) The fact that the creditor has exempted one of the debtors, or has reduced his debt, shall have no effect on the matter.
- (3) A share being at the charge of a debtor unable to provide recovery, shall be distributed commensurately to all the debtors.

Division in Equal Shares and Exception Article 433

- (1) Unless something else is stipulated, or otherwise result from legal relations between participants a transaction, the shares of all debtors shall be equal.
- (2) However, should a joint and several obligation be stipulated solely in the interest of one debtor, he shall be bound to recover the entire amount of obligation to a co-debtor who has satisfied the creditor.

II. JOINT AND SEVERAL CREDITORS

No Presumption of Joint and Several Liability Article 434

Should there be several persons on the creditor's side, they shall be jointly and severally liable only if this has been stipulated (by contract) or specified by law.

Substance of Joint and Several Liability

Article 435

(1) Each joint and several creditor shall be entitled to claim from a debtor performance of the entire obligation, and if one of them is satisfied, the obligation shall be terminated regarding the rest of the creditors as well.

(2) A debtor may perform an obligation to a creditor of his own choice, but only when a creditor has requested performance.

Debt Setoff

Article 436

(1) A debtor may set off his obligation against his claim from a creditor who demands from him performance of the obligation.

(2) Setoff with his claim against another creditor may be effected by the debtor only up to the amount of his share of the joint and several claim belonging to that creditor.

Dismissing a Debt and Substituted Contract (Novation)

Article 437

By dismissing a debt and by substituted contract (novation) between a debtor and one of the creditors, the joint and several obligation shall be reduced by the amount of that share of the claim of the creditor.

Settlement

Article 438

Settlement stipulated by one of the joint and several creditors with a debtor shall have no effect on the rest of the creditors, but they shall be entitled to accept such settlement, unless it relates only to a share of the creditor it has been agreed with.

Merger

Article 439

Should the capacity of a joint and several creditor merge in one person with the capacity of debtor, each of the remaining joint creditors shall be entitled to demand from him only his part of the claim.

Delay

Article 440

(1) Should a debtor be in delay to one of joint and several creditors, he shall also be in delay to the rest of the creditors as well.

(2) Delay of one joint and several creditors shall also affect the rest of the creditors.

Acknowledgment of Debt
Article 441

Acknowledgment of a debt effected to one of the creditors shall be of use to all creditors.

Expiration due to Statute of Limitations
Article 442

(1) Should one of the creditors interrupt the period needed for expiry due to statute of limitations, or should such period fail to run against him, this fact shall not be of use to the rest of the creditors, so that the limitation period shall continue to run against them.

(2) Renouncing expiry due to statute of limitations towards one creditor shall be of use to the rest of the creditors as well.

Relations between Creditors after Performance
Article 443

(1) Each joint and several creditor shall be entitled to demand the delivery of his own share from a creditor accepting performance from the debtor.

(2) Unless something else results from the relations between the creditors, each joint creditor's share shall be equal.

Section 3
INDIVISIBLE OBLIGATIONS

Article 444

(1) Regulations concerning joint and several obligations shall apply accordingly to indivisible obligations where there are several debtors.

(2) Should there be several creditors in an indivisible obligation amongst which exist no relation of solidarity either stipulated or under the law, one of the creditors may demand that the debtor performs the obligation to him, only after being empowered by the rest of the creditors to accept the performance; otherwise, each creditor may demand that the debtor performs the obligation to all creditors taken together, or to make a corresponding deposit at the court.

Title VI SUBSTITUTION OF CREDITOR OR DEBTOR

SUBTITLE 1 ASSIGNING OF CLAIMS BY CONTRACT (CESSION)

Section 1 GENERAL PROVISIONS

Which Claims May Be Assigned by Contract Article 445

- (1) A creditor may assign (cede) his claim by a contract entered into with a third person, except such claim whose transfer is not permitted by statute, or which is restricted to creditor's person, or whose very nature is incompatible with transferring to another.
- (2) A contract of assignment (cession) shall have no effect for a debtor if he and the creditor have stipulated that the latter shall not be able to assign the claim to another, or that he shall not assign it without the debtor's consent.

Accessory Rights Article 446

- (1) Accessory rights shall pass with the claim to the recipient (assignee), such as the right of priority payment, mortgage, pledge, rights on the ground of contract with a guarantor, rights to interest, to liquidate damages, and the like.
- (2) However, an assignor may deliver the object pledged to the recipient only should the pledger agree; otherwise, it shall remain with the assignor, to be kept by him for the account of the recipient.
- (3) It shall be presumed that due and outstanding interest is assigned together with the principal claim.

Notifying a Debtor Article 447

- (1) Consent of debtor shall not be necessary for the assignment of a claim, but the assignor shall be bound to notify the debtor of the assignment effected.
- (2) Performance effected to the assignor before notification about the assignment shall be valid and shall exempt the debtor from obligation, but only if he was not aware of the assignment; otherwise, the obligation shall remain valid and he shall be bound to perform it to the recipient.

Multiple Assignment (Cession)
Article 448

Should a creditor assign one and the same claim to various persons, the claim shall belong to the recipient (assignee) being the first notified as such to the debtor by the assignor or to the assignee (recipient) who was the first to contact the debtor.

Section 2
RELATIONSHIP BETWEEN ASSIGNEE AND A DEBTOR

Article 449

(1) An assignee (recipient) shall have the same rights against a debtor otherwise pertaining to the assignor against the debtor before the assignment (cession).

(2) A debtor may raise against an assignee (recipient), in addition to defenses he has against him, also those which he was able to raise against the assignor until the moment of his being notified of the assignment (cession).

Section 3
RELATIONSHIP BETWEEN AN ASSIGNOR AND AN ASSIGNEE

Presenting a Document on Debt
Article 450

(1) An assignor shall be bound to present to the assignee (recipient) a bond or some other certificate on debt, should such be in his possession, as well as other evidence on the assigned claim and on accessory rights.

(2) Should the assignor transfer to an assignee (recipient) only a part of the claim, he shall be bound to present to him a certified copy of the bond or of some other certificate proving the existence of the assigned claim.

(3) Assignor shall be bound on the request of the assignee, to issue to him a certified acknowledgment of the assignment.

Guaranteeing the Existence of a Claim
Article 451

After an assignment is effected by a contract for consideration, the assignor shall guarantee the existence of a claim at the moment of effecting the assignment.

Guaranteeing Collectability
Article 452

(1) An assignor shall guarantee the collectability of an assigned claim, should this be stipulated, but only up to the amount received from the assignee, as well as the collectability of the interest, expenses relating to assignment and expenses of proceedings against the debtor.

- (2) A higher degree of liability of a good faith assignor may not be stipulated.

Section 4 PARTICULAR CASES OF ASSIGNMENT OF CLAIMS

Assignment in Lieu of Performance or for Purpose of Collection Article 453

- (1) Should a debtor, in lieu of performance of his obligation, assign to a creditor his claim or a part of it, the debtor's obligation shall be extinguished up to the amount of the assigned claim by the fact of concluding the assignment contract.
- (2) However, should a debtor assign his claim to his creditor only in order to effect payment, his obligation shall be extinguished, or reduced, only after the creditor has collected the assigned claim.
- (3) In cases referred to in paragraphs 1 and 2 of present Article the assignee shall be bound to hand over to the assignor everything collected in excess of his claim towards assignor.
- (4) In case of assignment for the purpose of collection, the debtor in the assigned claim may perform his obligation also to the assignor, even after he has been notified of the assignment.

Assignment for the Purpose of Securing Article 454

Should assignment be effected for the purpose of securing the assignee's claim against the assignor, the assignee shall be bound to proceed as a good businessman or good head of household, in seeing to the collection of the assigned claim; after the collection and after deducting the amount necessary for settling his own claim against the assignor, he shall hand over the difference to the latter.

SUBTITLE 2 SUBSTITUTION OF DEBTOR

Section 1 ASSUMPTION OF DEBT

I. GENERAL PROVISIONS

Contract on Assumption of Debt Article 455

- (1) An assumption of debt shall be effected by a contract between a debtor and a person assuming the debt, upon the creditor's consent.
- (2) Any of the two may notify the creditor on the contract concluded, and the creditor may extend his consent on the assumption of debt to either of them.

(3) It shall be presumed that the creditor has extended his consent after accepting without reservations some kind of performance effected by the person assuming the debt in his own name.

(4) Contracting parties may jointly, as well as each one of them separately, demand from the creditor to decide, within a specified time limit, about his ratification of the assumption of debt, and should the creditor fail to extend ratification, it shall be considered that it was not extended.

(5) A contract of assumption of debt shall have the effect of a contract on assumption of performance prior to creditor's decision on ratification thereof, as well as should he refuse to ratify.

A Case of a Debt Secured by Mortgage Article 456

(1) If in the transaction of disposing of certain real property encumbered by mortgage, the agreement is reached between the transferee and transferor that the transferee shall assume a debt towards mortgage creditor, it shall be deemed that the mortgage creditor has consented to the contract on assumption of debt, if following the written invitation of the transferor, he fails to refuse it within three months period following the receipt of invitation.

(2) The written invitation to creditor shall contain notification relating to this consequence, otherwise the invitation shall not be considered as being sent.

II. EFFECTS OF CONTRACT OF ASSUMPTION OF DEBT

Substitution of Debtor Article 457

(1) A person assuming a debt shall substitute the previous debtor, while such debtor shall be exempted from the obligation.

(2) However, if at the time of creditor's ratification of the contract of assumption of debt the person assuming the debt was overindebted, and the creditor was not aware of it, or had no duty to be aware, the previous debtor shall not be exempted from obligation, while the contract of assumption of debt shall have the effect of a contract of joining a debt.

(3) The same obligation which existed until then between the previous debtor and the creditor shall exist as between a person assuming debt and the creditor.

Accessory Rights Article 458

(1) Accessory rights which existed with the claim until then shall continue, but the sureties, as well as pledges, supplied by third parties, shall be terminated should the guarantors and pledgers fail to consent to liability for the new debtor as well.

(2) Unless otherwise stipulated, the person assuming a debt shall not be liable for uncollected interest due until the assumption of debt.

Defenses Article 459

(1) A person assuming a debt may raise against a creditor all defenses arising from the legal relationship between the previous debtor and the creditor which is a ground originating the assumed debt, as well as the defenses pertaining to the person assuming debt against the creditor.

(2) A person assuming a debt shall not raise against the creditor defenses originating from his legal relationship with the previous debtor, which relationship was the ground for the assumption of debt.

Section 2 JOINING A DEBT

Contract of Joining a Debt Article 460

By a contract between a creditor and a third party by which the latter assumes the obligation to fulfill his claim against debtor, a third party shall be joined in the obligation besides the debtor.

Joining a Debt in Case of Receiving an Estate Article 461

(1) A person to whom the whole or a part of the estate of an individual or legal person is transferred on the ground of contract, shall be liable for debts relating to such estate or its part, alongside the former owner, and jointly with him, but only up to the value of its assets.

(2) A contractual clause by which liability specified in the paragraph 1 of present Article would be limited or excluded shall have no legal effect as towards the creditors.

Section 3 ASSUMPTION OF PERFORMANCE

Article 462

(1) An assumption of performance shall be effected by a contract between a debtor and a third person, in terms of which the latter assumes the obligation towards such debtor to perform his obligation to his creditor.

(2) Third person shall be liable to the debtor in case of failing in due time to perform the obligation to the creditor, and the creditor claims performance from the debtor.

(3) But he shall not assume the debt in such a way, or shall not join it, so that the creditor shall have no rights whatsoever against him.

PART TWO CONTRACTS

Title VII SALE

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 463

- (1) By a contract of sale a seller shall assume the obligation to transfer to a buyer the right of ownership of the goods sold and to deliver them to him for that purpose, while the buyer shall assume the obligation to pay the price in money and to take over the goods.
- (2) A seller of some other right shall assume the obligation to provide a buyer with the right sold, and should exercise of such right require possession, also to deliver it to him.

Risk Article 464

- (1) The risk of accidental loss or damage to goods until delivery to the buyer shall be borne by the seller, and upon delivery of the goods the risk shall pass to the buyer.
- (2) The risk shall not pass to the buyer if he has rescinded the contract due to a defect in the goods delivered, or requested replacement of the goods.

Passing of Risk in Case of Buyer's Delay Article 465

- (1) Should delivery of goods not be effected due to the buyer's delay, risk shall pass to the buyer at the moment when he delayed his act.
- (2) Should goods specified in kind be the subject of contract, the risk shall pass to the buyer in delay when the seller has singled out objects obviously intended for delivery, and when he has notified the thereon.
- (3) But should goods specified in kind be of such a nature that the seller can not single out one part of them, it shall suffice that the seller has done everything necessary to enable the buyer to take over the goods and that he has notified the buyer accordingly.

SUBTITLE 2 CONSTITUTIVE ELEMENTS OF THE CONTRACT OF SALE

Section 1 OBJECT

General Rule Article 466

- (1) The subject of a contract must be allowed to be subject to trade (tradable), so that a contract of sale of an object not in trade shall be null and void.
- (2) For the sale of objects whose trade is restricted, special legislation applies.
- (3) A sale may also relate to a future object.

If an Object Be Ruined before the Contract Article 467

- (1) Contract of sale shall have no legal effect should at the moment of its conclusion its object be ruined.
- (2) Should at the moment of concluding a contract the object be only partially ruined, the buyer may rescind the contract or he may adhere to it after reducing the price proportionately.
- (3) However, the contract shall remain valid and the buyer shall only be entitled to reduce the price, should the partial ruin of the object not hinder the purpose of the contract, or should such trade custom exist in relation to a particular object.

Sale of Somebody Else's Objects Article 468

A sale of somebody else's objects shall be binding for a contracting parties, but if buyer was not aware or had no duty to be aware of the fact that the goods belonged to another, he may rescind the contract and claim damages should it be impossible, due to the above, to achieve purpose of the contract.

Sale of a Contested Right Article 469

- (1) A contested right may be a subject of a contract of sale.
- (2) But a contract shall be null and void by which a practicing lawyer or any other mandatary buy a contested right whose enforcement was entrusted to him, or if he negotiates for himself a share in the amount awarded to his principal.

Section 2 PRICE

If the Price is not Determined Article 470

- (1) If the price is not determined by a contract of sale, and if the contract itself lacks sufficient information by which the price could be determined, the contract shall have no legal effect.
- (2) If the price is not determined by a commercial law contract of sale and should it lack sufficient information by which the price could be determined, the buyer shall be bound to pay the price otherwise regularly charged by the seller at the time of entering into contract, and should there be no such price, he shall pay a reasonable price.
- (3) A price shall be considered reasonable if it is a current price at the time of entering into contract, and should it be impossible to determine, the court shall determine the price in conformity to the circumstances of the case.

Prescribed Price Article 471

- (1) Should a higher price be determined than the one prescribed by a competent agency for specific kind of goods, the buyer shall owe only the amount of the prescribed price, and when he has already paid the price stipulated, he shall become entitled to demand a refund of the difference.
- (2) If a competent agency prior to performance of the contract alters the amount of prescribed price, the buyer shall owe the price applicable at the time of concluding of the contract.

Should Current Price Be Stipulated Article 472

- (1) Should current price be stipulated, the buyer shall owe the price as determined by official records in the market at the seller's place of business and at the time of performance being due.
- (2) Should no such records exist, the current price shall be determined on the ground of elements on the basis of which prices are usually determined according to trade practices.

If the Determination of Price Be Left to Third Person Article 473

Should a third person being entrusted with determining the price refuse or be unable to determine it, and the negotiating partners fail to come to agreement subsequently on determination of price but do not rescind the contract, it will be considered that a reasonable price was stipulated.

**If the Determination of Price Be Left to One Contracting Partner
Article 474**

A contractual clause by which the determination of price is left entirely to one negotiating partner shall be considered as not agreed at all, so that the buyer in such a case shall owe a current price.

**SUBTITLE 3
OBLIGATIONS OF A SELLER**

**Section 1
DELIVERY OF GOODS**

I. GENERALLY ON DELIVERY

**Time and Place of Delivery
Article 475**

(1) A seller shall be bound to deliver the goods to a buyer at a time and in the place as specified by contract.

(2) As a rule, a seller has performed the duty of delivery to the buyer after handing over the goods to him or after delivering a certificate to him by which the goods may be taken over.

(3) In case of commercial law contracts the seller shall be under duty to take all necessary actions, according to the contracts and nature of business, in order to make possible for the buyer to take over the delivery, while the buyer shall be under duty to take actions to make possible for the seller to carry out the delivery.

(4) The seller shall be under duty to preserve the object until time of delivery with care of good head of household or good businessman.

**Subject of Delivery
Article 476**

(1) Unless something else is stipulated or unless something else results from the nature of the transaction, the seller shall be bound to deliver the goods to the buyer in sound condition, together with corresponding accessories.

(2) Fruit and other benefits deriving from the objects shall belong to the buyer from the day of seller's obligation to hand them over to the buyer.

**Delivery Being Stipulated within a Certain Period
Article 477**

Should it be stipulated that delivery of an object shall be effected within a certain period, and if not determined which party shall be entitled to determine the delivery date within the limits of such period, such right shall belong to the seller, unless circumstances of the case indicate that the determination of delivery date has been left to the buyer.

Delivery Date not Determined
Article 478

Should the date of delivery of goods to the buyer be not determined, the seller shall be bound to effect delivery within a reasonable time limit after the conclusion of contract, in conformity with the nature of the goods and other circumstances.

Place of Delivery not Determined by Contract
Article 479

(1) Should the place of delivery not be determined by the contract, the delivery of the object shall be effected at the place of the seller's domicile at the moment of entering into contract or, should there be no such domicile, at the place of seller's residence, and in case the seller has entered into contract while performing his regular business activity, the delivery place shall be his business address.

(2) However, if negotiating partners were aware at the moment of entering into contract of the location of the goods or of where they had to be manufactured – the delivery shall be effected at such place.

Delivery to a Carrier
Article 480

Should it be necessary according to contract to transport the object, and there be no indication in the contract as to the place of performance, the delivery shall be considered effected by handing the object over to the carrier or to a person organizing the dispatching.

Organizing of Transport
Article 481

Should the seller be bound to forward the object to the buyer, he must conclude, in a usual way and under usual terms and conditions, contracts necessary for carrying out of the transportation to the designated place.

Expenses
Article 482

Expenses of handing over, as well as those preceding the it shall be born by the seller, while expenses of carrying away the object and all other expenses after the handing over, shall be born by the buyer, unless something else is stipulated.

II. SIMULTANEOUS DELIVERY OF OBJECT AND PAYMENT OF PRICE

Postponing Delivery until the Payment of Price
Article 483

Unless otherwise stipulated or customary, the seller shall not be bound to deliver the object should the buyer fail to pay him the price simultaneously, or should he not be ready to do

that simultaneously, but the buyer shall not be obliged to pay the price before being able to inspect the object.

Postponing Delivery in the Case of Transporting the Goods Article 484

- (1) Should delivery of the goods be effected by handing them over to a carrier, the seller may postpone the dispatch of the goods until payment of the price, or he may forward them in such a way so as to reserve the right to control them in course of carriage.
- (2) After reserving the right to control the goods in the course of carriage, the seller may demand that the goods not be delivered to the buyer at the place of destination until he has not paid the price, while the buyer shall not be bound to pay the price before being able to inspect the goods.
- (3) However, should it be provided by contract that payment be effected against corresponding documents, the buyer shall not be entitled to refuse payment of the price after being unable to inspect the object.

Preventing Delivery of the Forwarded Goods Article 485

- (1) Should it turn out after the goods are forwarded to the buyer that his material situation raises reasonable doubt as to his ability to pay off the price, the seller may prevent delivery of the goods to the buyer even after the latter is already in possession of the document authorizing him to demand delivery of the goods.
- (2) However, the seller may not prevent delivery should it be demanded by a third person who is regularly in possession of the document authorizing him to demand delivery of the goods, unless the document contains reservations as to the effect of transfer, or unless the seller is successful in proving that a person in possession of the document, at the time of acquiring it, had acted intentionally to the detriment of the seller.

Section 2 LIABILITY FOR SUBSTANTIVE DEFECTS

I. GENERALLY ON SUBSTANTIVE DEFECTS

Substantive Defects Being the Responsibility of Seller Article 486

- (1) A seller shall be responsible for substantive defects of the object existing at the moment of transfer of risk to the buyer, regardless of whether he was aware of the fact.
- (2) A seller shall also be responsible for those substantive defects which arose after the transfer of risk to the buyer, should they be due to a cause which existed before that.
- (3) An insignificant substantive defect shall not be taken into consideration.

When Do Substantive Defects Exist Article 487

- (1) A defect shall exist:
- 1) should the object fail to have necessary properties for its regular use or for being marketable;
 - 2) should the object fail to have properties necessary for its specific use being the buyer's reason for acquiring them, which use was known, or should have been known, to the seller;
 - 3) should the object fail to have the properties and characteristics which are explicitly or impliedly stipulated, or prescribed;
 - 4) if a seller has delivered object which is not in conformity with a sample or model, unless the sample or model was presented to him only for information.
 - 5) if the object has no qualities which are otherwise distinctive of other objects of the same kind and which the buyer could reasonably expect according to the nature of the object, particularly taking into account public statements of the seller, manufacturer and their representatives on the qualities of the object (advertising, designation marks etc.)
 - 6) if the object is inadequately mounted under condition that the service of mounting is included in performance of the contract on sale and
 - 7) if the inadequate mounting is a consequence of defects in the instructions for mounting.
- (2) If, on the basis of the statements of the manufacturer or his representative the buyer expected object to have certain qualities, defect shall not be taken into account, if the seller was not aware or should not have been aware of such statements, or if such statements were denied by the time of concluding of the contract or were of no consequence for the decision of the buyer to conclude the contract.

Defects beyond Seller's Responsibility Article 488

- (1) A seller shall not be responsible for defects specified in items 1 and 3 of Article 487, if they were known to the buyer at the moment of entering into contract or if it was impossible for them to remain unknown to him.
- (2) Defects shall be considered not to have remained unknown to a buyer if they could have been easily noticed by usual inspection of the objects by a diligent person as a buyer, having average knowledge and experience characteristic for a person of the same professional and trade line.
- (3) However, a seller shall be responsible for defects, which could have been noticed easily by the buyer, if the former declared that the objects were free of all defects or that they had specific qualities or characteristics.

Inspection of Objects and Visible Defects Article 489

- (1) A buyer shall be bound to inspect objects he accepts in the usual way, or to have them inspected as soon as this is possible according to regular course of events, and to notify the seller of visible defects, within an eight day time limit, while in the case of

commercial law contracts, without delay, since otherwise he shall lose the right pertaining to him on that ground.

(2) If an inspection is effected in the presence of both parties, the buyer shall be bound to report immediately to the seller his remarks regarding visible defects, since otherwise he shall lose the right pertaining to him on that ground.

(3) Should the buyer dispatch the objects further without reloading, and if the seller at the moment of entering into contract was aware, or should have been aware, of a possibility of such further forwarding, the inspection of objects may be postponed until their arrival at the new place of destination, and the buyer in such a case shall be obliged to notify the seller of defects as soon as he becomes aware of them through his clients in the regular course of events.

(4) In case of consumer contracts, a consumer as buyer shall not be under duty to inspect the object or to have it inspected, but shall be obliged to notify the buyer immediately after becoming aware on the visible defects, and in any case at latest within six months from the date of discovering the defect, under threat of forfeiting the right which belong to him on such ground.

Hidden Defects Article 490

(1) Should it turn out after the buyer accepts the objects that the objects have defect which was impossible to discover by usual inspection when taking the objects over (hidden defect), the buyer shall be obliged, under threat of forfeiting the right, to notify the seller of such defect within eight days, counting from the day of his discovering the defect, while in case of commercial law contracts without delay.

(2) A seller shall not be responsible for defects appearing six months after delivery of the goods, unless a longer time limit has been stipulated.

Time Limits in Case of Repair, Replacement, and the Like Article 491

Should, due to a defect, objects be repaired, other objects be delivered, parts replaced, and the like, the time limit specified in the Articles 489 and 490 of present Law shall begin to run from the moment of delivery of the repaired objects, of delivery of other objects, of replacement of spare parts, and the like.

Notifying of Defects Article 492

(1) A buyer's notification about a defect in objects shall include a detailed description of the defect and an invitation addressed to the seller to inspect the object.

(2) Should notification about the defect, otherwise sent to the seller by the buyer on time by registered mail, telegram or in some other reliable way, be late or should it entirely fail to reach the seller, the buyer shall be considered to have fulfilled his duty to notify the seller.

Significance of the Fact that Seller Was Aware of Defect Article 493

A buyer shall not forfeit the right to claim a defect even after failing to meet his duty to inspect the goods immediately, or a duty to notify the seller within a determined time limit, of the existence of a defect, as well as after such defect has appeared six months after delivery of the goods, if such defect was known to the seller or if it could not have remained unknown to him, or if the seller recognized existence of a defect.

Contractual Limitation or Exclusion of Seller's Responsibility for Substantive Defects Article 494

- (1) Contracting parties may limit or entirely exclude the seller's responsibility for substantive defects of the object.
- (2) A contractual clause limiting or excluding responsibility for defects in objects shall be null and void if a defect was known to the seller and if he failed to notify the buyer thereof, or if the seller imposed such clause by using his particular monopoly position.
- (3) A buyer forfeiting his right to rescind the contract due to a defect in the goods shall keep the remaining rights on the ground of such defect.

Enforced Public Sale Article 495

An owner whose goods are sold at a enforced public sale shall not be liable for defects in the object.

II. RIGHTS OF A BUYER

Performance, Price Reduction, Rescinding of Contract, Redress of Damage Article 496

- (1) A buyer duly notifying a seller on time of a defect may:
 - 1) demand that the seller eliminates the defect or delivers him other objects free of defects (performance of contract);
 - 2) demand a reduction of the price;
 - 3) declare that he rescinds the contract.
- (2) In all the above cases the buyer shall be entitled to damages as well.
- (3) Seller shall also be liable to redress buyer for loss sustained by him as a result of defect in the goods causing damage to other property of his, in which case general rules of liability for damages apply.
- (4) Expenses of eliminating the defects and delivery of other object without defects shall be borne by the seller.

Failing to Perform a Contract in a Reasonable Time Limit
Article 497

Should a buyer fail to obtain the demanded performance of contract within a reasonable time limit, he shall withhold the right to rescind the contract or to reduce the price.

When a Buyer May Rescind the Contract
Article 498

(1) A buyer may rescind the contract only after leaving the seller an additional reasonable time limit to perform the contract.

(2) A buyer may rescind the contract even without leaving a subsequent time limit should the seller, after being notified about defects, inform him that he is not going to fulfill the contract, or should circumstances of the specific case indicate without doubt that the seller will not be able to fulfill the contract even in the additionally allowed time limit.

Failing to Perform the Contract within the Additional Time Limit
Article 499

Should a seller fail to perform the contract within the subsequent additional time limit, the contract shall be rescinded by operation of law, but the buyer may keep it in effect after immediately declaring to the seller his intention to keep the contract in effect.

Partial Defects
Article 500

(1) If only a part of the delivered objects has defects, or if only a part of the objects is delivered, or a lesser quantity than stipulated, the buyer may rescind the contract in terms of the Articles 496 to 499 only with respect to the defective portion, or only relating to the part or quantity missing.

(2) The buyer may rescind the entire contract only should the stipulated quantity or the object delivered make a whole, or should the buyer otherwise have a justified interest in accepting the object or quantity stipulated in their entirety.

Seller Delivering a Larger Quantity to a Buyer
Article 501

(1) Should in the case of a commercial contract of sale a seller of objects specified by kind deliver to a buyer a quantity larger than stipulated, and should the buyer fail, within a reasonable time limit, to declare his refusal of the surplus, he shall be considered to have accepted such surplus as well, so that he shall be bound to pay the same price for it.

(2) Should the buyer refuse to accept the surplus, the seller shall be bound to redress to the buyer the corresponding loss.

One Price Determined for Several Objects Article 502

(1) Should several objects or a collection of objects be sold by one contract and at one price, and only some of them are defective, the buyer may rescind the contract only relating to such objects and not to the rest.

(2) However, should they make a whole so that their separation would be damaging, the buyer may rescind the entire contract, but if, however, he declares his intention to rescind the contract only relating to defective objects, the seller, on his part, may rescind the contract relating to the rest of the objects.

Forfeiting the Right to Rescind a Contract due to a Defect Article 503

(1) A buyer shall forfeit the right to rescind the contract due to defective objects should it be impossible for him to restate the goods or to restore them to the state they were in when delivered to him.

(2) However, the buyer may rescind the contract due to defects in the goods should the object be entirely or partially lost or damaged due to a defect justifying the rescission of contract, or due to an event not ensuing from him or from a person under his responsibility.

(3) The same shall apply should the objects be entirely or partially lost or damaged in connection with the duty of the buyer to inspect the objects, or should the buyer, before the defect was discovered, consume or alter part of the objects in course of their regular use, or should damage or alteration be without significance.

Withholding the Remaining Rights Article 504

A buyer who has forfeited the right to rescind the contract after becoming unable to restate the objects or restore them to the state they were in when delivered to him, shall keep the remaining rights on the ground of law because of existing of a defect.

Effects of Rescission due to a Defect Article 505

(1) Rescission of contract due to a defect in objects shall have the effect of rescinding bilateral (reciprocal) contracts due to breach of obligation.

(2) A buyer shall owe to a seller compensation for benefits from the objects even if the seller is unable to restore the entire objects or the part of them, while the contract was, however, rescinded.

Price Reduction Article 506

Price reduction shall be effected according to a ratio between the value of objects without defects, and the value of the objects with defects, at the time of entering into contract.

Gradual Discovery of Defects Article 507

A buyer obtaining a reduced price due to the existence of a defect may rescind the contract or demand a new reduction in the price should another defect be discovered subsequently.

Forfeiting a Right Article 508

(1) Rights of a buyer notifying a seller in due time of the existence of a defect shall be forfeited after the expiration of a year, counting from the day of communicating the notification to the seller, unless the buyer was prevented from using them because of seller's deceit.

(2) However, a buyer notifying the seller in due time of the existence of a defect may, after the expiration of that time limit, and if he has not yet paid the price, demand that the price be reduced or loss sustained by him compensated – in the form of a defense against seller's demand that the price be paid to him.

III. WARRANTY FOR CORRECT FUNCTIONING OF THE OBJECT SOLD

Responsibility of a Seller and a Manufacturer Article 509

(1) Should a seller of a machine, engine, apparatus of any kind, or of similar objects of a category of so-called technical goods, hand to a buyer a written warranty from the manufacturer covering proper functioning of the object within a specified period, counting from the moment of its delivery to the buyer, the buyer may, should the object fail to function properly, demand both from the seller and the manufacturer that the object be repaired within a reasonable time limit or, short of this, that it be replaced with one functioning properly.

(2) These rules shall not affect the rules of liability of seller for deficiencies of the object.

(3) Warranty certificate should contain the rights stemming from the guarantee which belong to the buyer and clearly state that guarantee does not affect other rights which belong to the buyer on other legal grounds

(4) Warranty certificate must contain details needed by the buyer for realization of his rights, and in particular the period of validity of the guarantee and area of territory it covers, as well as the name, or title and address of person issuing the guarantee.

Demanding Repair or Replacement Article 510

(1) Because of improper functioning a buyer may demand from the seller or manufacturer, repair or replacement of the object during the warranty period, regardless of the moment the defect in functioning appears.

(2) He shall be entitled to compensation for loss sustained by his being prevented from using the object from the moment of demanding repair or replacement to their effecting.

Extending Warranty Period Article 511

(1) In the case of minor repairs, the warranty period shall be extended by the time the buyer was prevented from using the object.

(2) However, should due to improper functioning the object be replaced or thoroughly repaired, the warranty period shall begin to run anew from the day of replacement, or restoring the repaired object.

(3) Should only a part of the object be replaced or thoroughly repaired, the warranty period shall begin to run anew only regarding such part.

Rescission of Contract and Reduction of Price Article 512

Should a seller fail to repair or replace the object within a reasonable time limit, the buyer may rescind the contract or reduce the price and demand damages.

Expenses and Risk Article 513

(1) A seller, or manufacturer, shall be bound to transport at his expense the object to the place of repair, or replacement, as well as deliver the repaired or replaced object to the buyer.

(2) A seller or manufacturer shall bear the risk of loss or damage of the object during the above mentioned time.

Liability of Subcontractors Article 514

Should several independent manufacturers participate in manufacturing some parts of the object or in executing individual processes, their liability to the finishing stage manufacturer for the improper functioning of the object, caused by these parts or these actions, shall be terminated after the termination of liability of the finishing stage manufacturer to the buyer of the object.

Forfeiture of Right Article 515

Buyer's rights in relation to manufacturer on the ground of a written warranty shall be forfeited one year after the day of his demand that the seller effect repair or replacement of the object.

Section 3

LIABILITY FOR LEGAL DEFICIENCIES (PROTECTION FROM EVICTION)

Legal Deficiencies

Article 516

(1) A seller shall be liable should the object sold be subject to a third party's right excluding, reducing or restricting a buyer's right, whose existence was not communicated to the buyer, and the buyer did not accept the object subjected to such right.

(2) A seller of some other right shall guarantee its existence and lack of legal obstacles for its realization.

Notifying a Seller

Article 517

Should it turn out that a third party claims a right to an object, the buyer shall be bound to notify the seller accordingly, unless the fact be already known to the seller, and he shall demand that he release, in a reasonable time limit, the object from third party's right or claim, or, should the subject of contract be objects specified by kind, that he deliver to him another object free of legal deficiency.

Sanctions Relating to Legal Deficiencies

Article 518

(1) Should a seller fail to proceed according to buyer's demand and the buyer be deprived of the object, the contract shall be rescinded on the ground of law, and in case of reducing or restricting buyer's right, he may either rescind the contract or claim a proportionate price reduction.

(2) Should a seller fail to meet buyer's request to release, in a reasonable time limit, the object from a third party's claim or right, the buyer may rescind the contract, should, because of that, its purpose be impossible to achieve.

(3) The buyer shall in any case be entitled to compensation for loss sustained.

(4) However, should the buyer, at the moment of entering into contract, be aware of the possibility of being deprived of the object, or of reduction or restricting of his right, he shall have no right to damages after such possibility is realized, but shall still be entitled to demand restoration, or reduction of the price.

Failure of a Buyer to Notify a Seller

Article 519

A buyer who, while failing to notify a seller, engages in unsuccessful litigation against a third party, may still invoke seller's liability for legal deficiencies, unless the seller is able to prove that he was in possession of means by which third party's demand could have been refuted.

When Right of a Third Party is Obviously Justified
Article 520

(1) A buyer shall be entitled to invoke seller's liability for legal deficiencies even after, without notifying the seller and without litigation, acknowledging an obviously justified right of a third party.

(2) Should a buyer pay to the third party an amount of money to renounce his obvious right, the seller may be exempted from his liability after compensating the buyer the amount paid and the loss sustained.

Buyer Keeping an Object on Other Ground
Article 521

A buyer shall be entitled to rescind the contract and claim refund of a purchase price and compensation of damages if he keeps the object in his property on some other ground, and not on the ground of purchase.

Contractual Limiting or Excluding Seller's Liability
Article 522

(1) Liability of a seller for legal deficiencies may be limited or entirely excluded by contract.

(2) However, if the seller was aware of a deficiency in his right, or if it could not have remained unknown to him at the time of entering into contract, the clause in the contract on limiting or excluding liability for legal deficiencies shall be null and void.

Restrictions Stemming from Public Law
Article 523

A seller shall be liable for particular restrictions pertaining to public law unknown to the buyer, if the buyer was aware of them, or aware that they can be expected, and after failing to notify the buyer accordingly.

Forfeiture of Right
Article 524

(1) A right of a buyer on the ground of legal deficiencies shall expire one year after he becomes aware of the existence of a third party's right.

(2) However, if the third party, prior to expiration of such time limit, has instituted legal proceedings and the buyer has called the seller to take part in them, the right of the buyer shall be terminated only after a six month period following a final court decision.

SUBTITLE 4 OBLIGATIONS OF A BUYER

Section 1 PAYMENT OF PRICE

Time and Place of Payment Article 525

- (1) A buyer shall be bound to pay the price at the time and in the place specified in the contract.
- (2) Should there be no such clause in the contract or no other trade customs in the matter, the payment shall be done at the moment and in the place of delivery of the object.
- (3) If the price does not have to be paid at the moment of delivery, the payment shall be made at the domicile, or at the business address of the seller.

Interest in Case of a Credit Sale Article 526

- (1) The buyer shall owe the interest on purchase price from the day determined for payment.
- (2) Should object sold on credit yield fruit or some other benefit, buyer shall owe interest from the date of delivery of an object, regardless of whether the liability for payment of purchase price has become due.

Payment of Price in Case of Consecutive Deliveries Article 527

- (1) In case of consecutive deliveries a buyer shall be bound to pay the price for each delivery at the moment of taking it over, unless something else be stipulated or result from circumstances of the transaction.
- (2) When in case of a contract providing for consecutive deliveries the buyer has made an advance payment to the seller, first deliveries, unless something else is stipulated, shall be charged against such advance payment.

Section 2 TAKING OVER OF THE DELIVERY OF OBJECTS

Article 528

- (1) Taking over of the delivery of goods shall consist of undertaking necessary action in order to make possible the handing over, including the carrying away of the goods.
- (2) Should a buyer refuse without justified reason to take over the delivery of the goods whose delivery is offered to him in due time and as stipulated, or to be done in a usual way,

the seller may, after having a justified reason to doubt that the buyer will pay the price, declare his intention to rescind the contract.

SUBTITLE 5 DUTY TO TAKE CARE OF GOODS FOR THE ACCOUNT OF A CONTRACTING PARTNER

Cases of Duty of Taking Care Article 529

(1) Should, due to a buyer's delay, the risk pass to the buyer prior to delivery of the objects, the seller shall be bound to take care of the object as a good businessman, or good head of household, and to take necessary measures to that purpose.

(2) The obligation to take care of objects within the meaning of the paragraph 1 of present Article shall apply to a buyer after the objects have been delivered to him, but he intends to restore them back to the seller either due to the rescission of the contract or if he requests that they are replaced by other objects.

(3) In cases referred to in the paragraph 1 and 2 of present Article the contracting party being bound to take measures of taking care of the goods, shall be entitled to be reimbursed for the expenses needed for preserving the goods.

A Buyer Unwilling to Accept Goods Forwarded to Him Article 530

A buyer unwilling to accept goods forwarded to him at the destination place and placed at his disposal at such place, shall be bound to take them for the account of the seller, should the latter be not present at the destination place or fail to have someone else at the place to take them for him, provided that this is possible without paying the price and without too much inconvenience of excessive costs.

Rights of a Party Obligated to Take Care of the Goods Article 531

A contracting party obliged under provisions of Article 529 and 530 to take measures to care for the goods may, in conformity with the conditions and the consequences specified in the provisions of the present Law relating to depositing at the court and to sale of goods owed, deposit them at the court, or hand them over to somebody else for custody, or sell them for the account of the other party.

SUBTITLE 6 REDRESSING LOSS IN CASE OF RESCINDING OF SALE

General Rule Article 532

Should a sale be rescinded due to breach of contract by one of the negotiating parties, the other party shall be entitled to damages according to the general rules of compensation for loss due to breach of contract.

Goods with a Current Price Article 533

(1) After a sale is rescinded due to breach of contract by one of the negotiating parties, if the goods have a current price, the other party may demand the difference between the price determined by contract and the current price, on the day of rescission of contract, in the market of the place of effecting the transaction as well as redress of all reasonable costs incurred due to non-performance.

(2) Should there be no current price in the market of the place of effecting the transaction, in order to come to the amount of redress, a current price shall be taken into account existing in a market which could replace market of transaction in the given case, but increased by the difference in transportation costs.

Case of Sale or Purchase for Coverage Article 534

(1) Should the subject of sale be a certain quantity of objects specified in kind, and should one party fail to meet the obligation on time, the other party may sell for coverage, or purchase with the same purpose, and may demand the difference between the price agreed by contract and the selling price, or purchasing price obtained in the transaction for cover as well as redress of all reasonable expenses incurred through non-performance.

(2) The sale or purchase for cover must be done within a reasonable time and in a reasonable way.

(3) A creditor shall be bound to notify a debtor of the sale or purchase intended.

Compensation of Remaining Damage Article 535

In addition to the right to damages according to the rules specified in the Articles 533 and 534 of present Law, a party faithful to the contract shall also be entitled to compensation of higher damage if sustained by such party.

SUBTITLE 7 CASES OF PARTICULAR DEAL SALE

Section 1 SALE WITH A RIGHT OF PRE-EMPTION

Notion Article 536

On the ground of a contractual clause giving the right of pre-emption, a buyer shall be bound to notify a seller of his intention to sell the object to a specific person, as well as on the terms of such sale, and to offer him to purchase the object at the same prices.

Time Limits for Effecting a Right and for Payment of Price Article 537

- (1) A seller shall be bound to notify a buyer in a reliable way on his decision to use the right of pre-emption within a month, counting from the day of buyer's notification of intended sale to a third party.
- (2) Simultaneously with stating that he is buying the object, the seller shall be obliged to pay off the price agreed upon with the third party, or deposit it at the court.
- (3) Should a time limit for paying the price be stipulated, the seller may make use of such time limit only after providing a sufficient guarantee.

Possibility of Inheriting and Transferring to Another Article 538

A right to pre-emption regarding movable property cannot be transferred to another or inherited, unless otherwise provided by law.

Case of Enforced Sale Article 539

- (1) In case of enforced sale a seller shall not invoke his right of pre-emption.
- (2) But a seller having his right of pre-emption registered in the public records may demand annulment of a enforced sale if not being explicitly invited to attend.

Duration of the Right of Pre-Emption Article 540

- (1) The right of pre-emption shall be terminated five years after concluding of a contract, unless its earlier termination be stipulated.
- (2) A longer time limit stipulated, shall be reduced to the five year time limit.

Effecting Transfer of Ownership without Notifying a Seller Article 541

- (1) If a buyer has sold the object and transferred the ownership to a third person without notifying a seller, and if the third person was aware or could not have been unaware of the fact that the seller had the right of pre-emption, the seller may demand, within a six month time limit counting from the day of his becoming aware of such transfer, that the transfer be annulled and the object handed over to him under the same conditions.
- (2) If the buyer has incorrectly notified the seller on terms and conditions of sale, and if the third party was aware of that or could not have been unaware, such six month time limit shall begin to run from the day of the seller's becoming aware of the correct terms and conditions of the contract.
- (3) The right of pre-emption shall be terminated in any case after the expiration of a five year period counting from the transfer of ownership to the third person.

Statutory Right of Pre-Emption Article 542

- (1) The right of pre-emption may be established for particular persons by the law.
- (2) The duration of statutory right of pre-emption shall not be limited.
- (3) Persons entitled on the ground of statute itself to the right of pre-emption must be notified in writing of the sale intended and its relevant terms and conditions; otherwise, they shall be entitled to request annulment of the sale.
- (4) The rules of sale with the right of pre-emption shall accordingly apply to statutory right of pre-emption.

Section 2 TRIAL PURCHASE

Notion Article 543

- (1) Should it be stipulated that a buyer is taking the object on condition that it be tested as to being suitable to his needs, he shall be bound to notify the seller as to his honoring the contract within the time limit specified by contract or usage, and should there be no such designation or usage – within a reasonable time left to him by the seller; otherwise, the contract shall be considered renounced.
- (2) If an object is handed over to the buyer to be tested by him until a designated time limit, and if he fails to restore it immediately after the expiration of such time limit, or fails to state to the seller his renouncing of the contract, he shall be considered to have honored the contract.

Objective Testing Article 544

Should trial be stipulated in order to find out whether the object has a specific feature or whether it is suitable for particular use, the existence of a contract shall not be made dependent on the buyer's mind, but on the fact whether the object really has such features or whether it is suitable for particular use.

Risk Article 545

The risk of accidental loss or damage (i.e. casualty to goods) of the object handed over to a buyer for testing shall be borne by the seller until the buyer states that he honors the contract, or until the expiration of the time limit for the buyer to restore the object to the seller.

Purchase after Inspection or with a Reservation of Testing Article 546

Provisions on trial purchase shall apply accordingly to a purchase after inspection and to purchase with a reservation of testing.

Section 3 SALE BY SAMPLE OR MODEL

Article 547

(1) In case of sale by sample or model effected by a commercial contract if the object delivered by the seller to the buyer fails to conform to a sample or model, the seller shall be liable on the ground of regulations covering seller's liability for substantive defects in goods, while in other cases – on the ground of regulations covering liability for breach of obligation.

(2) There shall be no liability of a seller for lack of conformity if the sample or model was submitted to the buyer only to obtain information and to determine approximately the features of object, without promising conformity.

Section 4 SALE WITH SPECIFICATION

Article 548

(1) Should a right be reserved for the buyer in the contract to determine subsequently the form, measurement or other details concerning the object of sale, and he fails to make this specification by the date agreed upon, or until the expiration of a reasonable time limit, counting from the day of a corresponding demand by the seller, the seller may declare rescission of contract or make a specification according to what was known to him concerning the buyer's needs.

- (2) Should the seller alone make the specification, he shall be bound to notify the buyer of its details and determine for him a reasonable time limit to make a different specification.
- (3) Should the buyer fail to take this opportunity, the specification made by the seller shall be binding.

Section 5

SALE WITH RESERVING OF THE OWNERSHIP RIGHT

Conditions **Article 549**

- (1) A seller of a specific object of movable property may, through special clause in the contract, reserve the right of ownership even after delivering the object to the buyer – until the latter pays the price completely.
- (2) Reserving the right of ownership shall affect buyer's creditors only after being made in the form of a certified document, prior to buyer's insolvency or prior to the seizure of his property.
- (3) The right of ownership of articles of movable property which are filed in special public records may be reserved only if so provided by regulations covering the system of filing of such records.

Risk **Article 550**

The risk of accidental loss or damage of the object shall be borne by the buyer from the moment the object has been handed over to him.

Section 6

SALE BY PAYMENT IN INSTALLMENTS

Notion **Article 551**

- (1) By a contract of sale of an article of movable property by payment in installments, a seller shall assume the obligation to deliver to a buyer the particular article of movable property before the price is completely paid to him, while the buyer shall assume the obligation to pay its price in installments, i.e. in designated time intervals.
- (2) The provisions of the present section concerning the sale against payment by installments shall apply only to an individual buyer.

Form of Contract **Article 552**

- (1) A contract covering a sale by payment by installments has to be made out in writing.
- (2) A contract which is not made in written form shall be null and void.

Essential Constitutive Elements of Contract Article 553

- (1) In addition to the indication of object and its price in a cash sale, the following has to be noted down in the document witnessing the contract, under threat of nullity, namely: the total amount of all installments, including the first payment made at the moment of entering into contract, amounts of particular installments, their number and corresponding time limits.
- (2) The document witnessing the contract, under threat of nullity, must include a clause authorizing the buyer to repudiate the contract under condition of written notification given to seller thereon, within a three day time limit from the day of signing the document, and that the buyer cannot waive such right in advance.

Right of a Buyer to Pay the Price in Full at Once Article 554

- (1) A buyer may at any time pay the entire rest of the price owed.
- (2) Such balance shall be paid in net amount, without interest stipulated and without cost.
- (3) A clause contrary to the above shall be null and void.

Rescission of Contract and Demand for Full Payment of the Price Article 555

- (1) A seller may rescind the contract should the buyer delay with the initial installment payment.
- (2) After the initial instalment payment is effected, the seller may rescind the contract should the buyer become late with at least two consecutive installment payments, which amounts to at least one eighth of the price.
- (3) As an exception, the seller may rescind the contract should the buyer be late with the payment of only one installment, if no more than four installments have been provided for paying the price.
- (4) In the cases specified in paragraphs 2 and 3 of the present Article, the seller may, instead of rescission of contract, demand from the buyer the payment in full of the rest of the price, but prior to such demand he shall be obliged to extend to the buyer a subsequent fifteen day time limit.

Extending Payment Time Limits by the Court Article 556

At the buyer's request the court may, where circumstances of the case so justify, extend the time limit for payment of installments overdue – if the buyer supplies a guarantee for performing his obligations, and if the seller is not exposed to damage because of that.

Nullity of Stipulated Liquidated Damages Article 557

A clause in the contract on liquidated damages in case of rescission of contract shall be null and void, as well as in the case if the buyer is late in paying some of the installment amounts.

Rescission of Contract Article 558

(1) Should a contract be rescinded a seller shall be bound to restore to the buyer accepted installment amounts, together with the statutory interest, from the day of their acceptance, and to reimburse the necessary expenses of the buyer relating to the goods.

(2) The buyer, on his part, shall be obliged to restate the goods to the seller in the state they were in at the moment of delivery to him, and to pay for their use until the rescission of contract.

Application of Rules of Sale against Payment by Installments Article 559

(1) The rules of sale against payment by installments shall apply accordingly in case of other deals with similar essential contents, such as, the contract of hire with a clause according to which ownership of the object hired shall pass to the hirer after his completing payment of the rental fee for a definite period.

(2) These rules shall apply also in case of a loan extended to the buyer and intended for purchasing specific goods, should the lender and the seller come to an agreement that the buyer effects installment payments for the goods sold to him by the seller, to the lender, according to a contract entered into between the buyer and the seller.

Nullity of Clauses not Favorable to Buyer Article 560

Clauses of contract shall be null and void concerning a sale against payment by installments which would be more disadvantageous for a buyer than the provisions of the present Title, except provisions on reserving the right of ownership.

Title VIII EXCHANGE

Notion Article 561

(1) By a contract of exchange each contracting party shall assume a duty to the other contracting party to transfer the ownership of an object and to deliver it to him for that purpose.

- (2) The subject of exchange may also be transferrable rights.

Effects of Contract of Exchange
Article 562

A contract of exchange shall create for each contracting party the obligations and the rights otherwise created for a seller by the contract of sale.

Title IX
ORDER TO SELL

Notion
Article 563

- (1) By a contract of an order to sell a party accepting the order shall assume the obligation to sell specific objects delivered to him by the orderer (principal) at a designated price and within a specified time limit, or to reconstitute the goods to the orderer within such time limit.
- (2) An order to sell may not be revoked.

Risk of Loss and Damage of the Object
Article 564

Objects delivered to a person accepting an order shall remain the orderer's property, and he shall bear the risk of their accidental loss or damage, but shall not be able to dispose of them until they are restored to him.

When Shall it Be Considered that a Person Accepting an Order Has Purchased the Objects
Article 565

- (1) Should a person accepting an order fail to sell the goods and to remit the specified price to the orderer within a designated time limit, or to reconstitute the objects within that time limit, he shall be considered to have purchased the objects.
- (2) However, his creditors shall not be able to seize the objects until he has paid off the price to the orderer.

Title X LOAN

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 566

By a loan contract the lender shall assume the obligation to transfer ownership to the borrower of a specific amount of money or other interchangeable objects, while the borrower shall assume the obligation to restitute after a certain time to him the same amount of money, or same quantity of objects of the same kind and quality.

Interest Article 567

- (1) A borrower may assume an obligation to owe, in addition to the principal amount, interest as well.
- (2) In the case of commercial law contracts, a borrower shall owe interest even if it has not been stipulated.

SUBTITLE 2 OBLIGATIONS OF A LENDER

Delivery of Objects Promised Article 568

- (1) A lender shall be bound to deliver the designated objects at the time stipulated, and should delivery time limit be not specified – at the time indicated in the demand of the borrower.
- (2) The right of a borrower to demand delivery of the designated objects shall expire due to statute of limitations within three months after the lender's being late with his duty and, in any event, one year after entering into contract.

Poor Material Situation of a Borrower Article 569

- (1) Should it turn out that the material situation of a borrower indicates his incapacity to repay the loan, the lender may refuse to perform his obligation of delivering the objects promised, if he was not aware of the fact at the time of entering into contract, or if the deterioration of borrower's material situation took place after entering into contract.
- (2) But he shall be bound to perform his obligation should the borrower or someone else on his behalf provide him with a sufficient guarantee.

Damage Due to Defects of the Objects Loaned Article 570

- (1) A lender shall be obliged to compensate a borrower for loss which would be sustained by him due to substantive defects in the objects lent.
- (2) But should a loan be without consideration, he shall be obliged to pay damages only after defects are known to him, or if they could not be unknown to him, if he has failed to notify the borrower accordingly.

SUBTITLE 3 OBLIGATIONS OF A BORROWER

Time Limit for Restituting a Loan Article 571

- (1) A borrower shall be obliged to retribute, within a stipulated time limit, the same quantity of objects of the same kind and quality.
- (2) Should negotiating parties fail to determine the time limit for restituting the loan, or should it be impossible to determine it according to circumstances of the loan, the borrower shall be bound to retribute loan after the expiration of a reasonable time limit, not being shorter than two months, counting from the lender's demand that the loan be restituted to him.

Option at Restituting a Loan Article 572

- (1) Should the subject of loan not be money, and should it be stipulated that the borrower shall retribute the loan by payment in money, the lender shall still be authorized to make his choice as to whether to retribute the objects loaned or to pay an amount of money corresponding to the value of such objects at the time and in the place as specified by contract for the restitution.
- (2) The provision from the paragraph 1 of present Article shall apply should it be impossible to retribute the same quantity of objects of the same kind and same quality.

Desisting from Contract Article 573

A borrower may desist from a contract prior to the delivery of objects to him by the lender, but should loss for the lender follow from that, he shall be obliged to redress it.

Restituting a Loan before the Time Limit Article 574

A borrower may retribute a loan even before the time limit determined for restituting, but shall be bound to notify the lender of his intention in advance, and to redress loss suffered by him.

SUBTITLE 4 SPECIAL PURPOSE LOAN

Article 575

Should a purpose be determined by contract for which the borrower may use the money lent, if he uses it for some other purpose, the lender may declare that he rescinds the contract.

Title XI GIFT

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 576

By a contract on gift the donor shall assume the obligation to transfer to the donee without consideration either ownership right or some other right or to grant him some other benefit at the charge of donor's property.

Form Article 577

- (1) In order for a contract on gift of immovable property to be valid it shall be necessary that it is concluded in written form and certified in accordance with the legislation.
- (2) An oral promise of gift of movable objects shall be valid after their delivery to the donor.
- (3) Should a donee fail to respond within determined time limit or time limit set out by law, either in writing or orally, to a written offer of a gift, that he declines such offer, it shall be deemed that he accepted the offer, except, should an offeror inform him that his silence shall be interpreted as refusal of offer.
- (4) When a gift is made by a contract in favor of third party, acceptance by a donee need not be in written form.

Capacity to Grant Gifts Article 578

- (1) Gift may be granted only by person with full business capacity.
- (2) Donor who, at the time of entry into contract, for any reason was not capable of understanding the meaning or scope of his actions, as well as his legal successors, may claim the avoidance of the contract on gift within one year from the date when the gift was made.

Capacity to be a Donee
Article 579

- (1) A gift may be received by a person without business capacity.
- (2) Legal representative of a donee without business capacity may rescind a gift received without his consent by declaration to a donor.

Gift Consisting in Periodical Prestations
Article 580

- (1) Contract on gift whereby a donor assumed an obligation to periodical prestations shall terminate by death of a donee.
- (2) In case of death of a donor the obligations stemming from such contract shall be transferred to his heirs, unless otherwise ensues from a contract.

SUBTITLE 2
ONEROUS GIFT OR GIFT ENCUMBERED WITH AN ORDER

Article 581

- (1) By a contract on gift a donor may reserve for himself, or for another, certain right or order to a donee to perform certain action, or to refrain from something or to tolerate something to another.
- (2) Should a donee fail to comply with an order even within the subsequent appropriate time limit, donor shall be entitled rescind the contract and claim restitution by the donee of what was received, except in the case if a third party has acquired a right to claim execution of an order.
- (3) Heirs of a donor may rescind a contract on gift on the ground of failure to comply with an order only should it be stipulated by contract on gift.
- (4) Upon death of a donor execution of an order may be claimed by his heirs, while in case of order related to public interest, execution of order may be claimed by relevant agency.
- (5) Should means necessary for execution of an order exceed the value of a gift, or should execution of order be hindered through any hardship whatsoever, a donee may be released from duty received by order through restitution of what was received.

Mutual Gifts
Article 582

Should it be agreed that the donee shall reciprocate by a gift, the donation shall be deemed to exist only with respect to such portion of gift which exceeds in value.

**Mixed Gifts
Article 583**

- (1) Should in an onerous transaction the value of mutual prestations be unequal, the difference in value shall be deemed a gift only if the intention to donate existed.
- (2) Such gift shall not be contested on the ground of excessive loss.

**SUBTITLE 3
RESPONSIBILITY OF A DONOR**

**Responsibility for Non-performance or Delay
Article 584**

- (1) Donor shall be liable for non-performance of his obligation, as well as for delay with performance, only should he act intentionally or in gross negligence.
- (2) In case of delay with performance of monetary gift, donor shall owe statutory interest from the moment of filing of the complaint.

**Responsibility for Material and Legal Defects
Article 585**

- (1) Donor shall not be liable for material defects or legal deficiencies of donated object.
- (2) Donee shall be entitled to claim compensation of damages sustained as a consequence of some of such defects of which donor was aware or could not have been unaware but failed to duly inform the donee thereon.
- (3) Exceptionally the gift for services rendered as well as onerous gift or gift with an encumbrance of an order, shall in relation to such defects, be considered as a onerous transaction, and donor shall be liable for material defects and legal deficiencies of the donated object, but only should the value of services rendered, or value of encumbrance or order exceed the value of the donated object.

**SUBTITLE 4
REVOKING OF A GIFT**

**Revoking of a Gift for Ingratitude
Article 586**

- (1) Donor shall be entitled to rescind the contract or revoke a gift made should a donee by his behavior towards the donor or towards person close to donor demonstrate grave ingratitude.
- (2) It shall be deemed that grave ingratitude is shown particularly in case if donee has committed against donor or a person close to the donor (spouse, parent, child) a criminal offence, or gravely violated some statutory duty towards the donor, or intentionally provoked significant damage to their property.

- (3) Gift may not be revoked for ingratitude which was forgiven to a donee by the donor.
- (4) Right to revoke a gift for ingratitude shall be transferred to heirs.
- (5) Right of revoking shall terminate upon expiry of a period of one year computing from the date when the donor became aware of the ingratitude of the donee, but at latest upon expiry of ten years after the demonstration of ingratitude.
- (6) In case of revoking of gift for ingratitude a donor shall be bound to restitute everything received in gift.

Form Article 587

A gift shall be revoked by a written declaration addressed to the donee, which in case of real estate must contain signature certified in accordance with legislation.

Termination of Right to Revoke a Gift Article 588

The right to revoke a gift shall terminate by expiry of one year from the day when a person entitled to revocation has become aware of grounds for revocation, unless otherwise determined for specific cases by present or special law.

Effect of Revocation Article 589

In case of revocation of a gift, the donee shall be bound to restitute the gift, or its value according to the rules of present Law on acquisition without proper grounds.

Revocation of Gift due to Insufficient Means of Sustenance Article 590

- (1) A donor lacking sufficient livelihood, or means for supporting of a person he is under a duty to support according to the law, shall be entitled to rescind a contract, and should an object already be delivered to a donee, to revoke a gift and claim from the donee restitution of what still remains in his property from received gift.
- (2) Donee shall be entitled to avoid revoking should he assume an obligation to provide a donor to a certain extent with the lacking livelihood.
- (3) Donor may not revoke a gift and claim its restitution if he himself caused his poor economic situation by intentional or reckless behavior, or if a period of ten years expired from the time of delivery of a gift for immovable property, or five years for movable objects.

Waiving the Right to Revoke a Gift Article 591

Waving the right to revoke a gift in advance shall not be legally valid.

Gifts which may not be Revoked
Article 592

Common presents for the occasion, gifts received as awards, as well as gifts made out of gratitude may not be revoked.

Agreed Restitution of a Gift
Article 593

Stipulated provision on restitution of gift to a donor shall be valid, should a donee die before donor.

SUBTITLE 5
GIFT IN CASE OF IMMINENT DEATH
(GIFT MORTIS CAUSA)

Article 594

(1) Contract on gift providing that the object shall be delivered to a donee upon the death of the donor, must be created in the form of public document.

(2) Donor shall be entitled to rescind at his discretion a contract on gift mortis causa, while the disposal of objects covered by such contract, either by means of legal transaction *inter vivos*, or legal transaction *mortis causa*, shall be considered as a rescission of contract in respect of object being disposed of.

Title XII
LEASE

SUBTITLE 1
GENERAL PROVISIONS

Notion
Article 595

(1) By a contract of lease a lessor shall assume the obligation to deliver a specific object to a lessee for use, while the latter shall assume the obligation to pay him in return a specified amount of rent.

(2) The use shall also include enjoying objects (collecting yields), unless otherwise provided by contract or by trade usage.

**Implementation of Special Legislation
Article 596**

The provisions of the present Title shall not apply to leases regulated by special legislation.

**SUBTITLE 2
OBLIGATIONS OF A LESSOR**

**Delivery of Object
Article 597**

- (1) A lessor shall be obliged to deliver to the lessee the object rented in good condition together with its accessories.
- (2) An object shall be considered as being in good condition if it is in the form determined by contract, and should there be no contract, in a condition suitable to serve the purpose for entering into the relevant contract.

**Maintenance of the Object
Article 598**

- (1) A lessor shall be bound to maintain the object in good condition in course of the lease, which shall include a duty to make necessary repairs.
- (2) He shall be bound to reimburse the lessee for expenses incurred by him for maintenance of the object, which would otherwise be at his own charge.
- (3) Expenses for minor repairs incurred by regular use of the object, as well as those involved in the actual use, shall be born by the lessee.
- (4) The lessee shall be obliged to notify the lessor of necessary repairs.

**Rescission of Contract and Reducing Rent Because of Repair
Article 599**

- (1) Should necessary repairs of the object rented hinder its use to a considerable degree and for an extended time, the lessee may rescind the contract.
- (2) He shall be entitled to a reduction of rent in proportion to the restriction of use of the object because of such repairs.

**Alterations of Rented Object
Article 600**

- (1) A lessor shall not make alterations of the rented object in course of the lease without the lessee's consent, should this hinder the use of the object.
- (2) Should, through alterations of the object, its use by the lessee be reduced to a certain degree, the rent shall be reduced accordingly.

Liability for Substantive Defects Article 601

- (1) A lessor shall be liable to the lessee for all defects in the object rented which hinder its stipulated or regular use, regardless of whether he was aware of them or not, and for defects in the features or characteristics specified expressly or implicitly by contract.
- (2) Defects of minor importance shall not be taken in consideration.

Defects not Included in Lessor's Liability Article 602

- (1) A lessor shall not be liable for those defects in the object rented which were known to the leaseholder at the moment of entering into contract, or which could not have been unknown to him.
- (2) However, the lessor shall be liable for defects in the object rented which remain unknown to the lessee due to his gross negligence, if he was aware of such defects and willfully failed to notify the lessee thereof.

Extending Liability for Substantive Defects Article 603

A lessor shall be liable for all defects in the object leased if he purported that it had no defects at all.

Exemption or Limitation of Liability by Contract Article 604

- (1) Liability for substantive defects in the object leased may be excluded or limited by contract.
- (2) A contractual clause excluding or limiting such liability shall be null and void if the lessor was aware of defects and intentionally failed to notify the lessee thereof, or if a defect was of such a nature as to prevent the use of the object leased, or if the lessor has imposed such a clause while taking advantage of his monopoly position.

Notifying a Lessor of Defects and Dangers Article 605

- (1) A lessee shall be bound to notify a lessor without unnecessary delay on any defects in the object leased which appear during the lease, unless the lessor was aware of the defects.
- (2) He shall also be obliged to notify the lessor of any unexpected danger which threatens the object leased in the course of the lease, so that he can take necessary measures.

(3) A lessee failing to notify a lessor on the occurring of a defect or danger otherwise unknown to him, shall forfeit his right to compensation for loss eventually sustained by him due to the existence of the defect or the danger for the object leased, but he shall be liable to compensate the loss sustained by the lessor due to the above.

Rights of Lessee in Case of a Defective Object **Article 606**

(1) If at the moment of delivery the object leased have a defect impossible to eliminate, the lessee may, at his own choice, rescind the contract or demand reduction of rent.

(2) Should the object have a defect which may be eliminated without too much inconvenience for the lessee, if delivery within a specific time limit be not an essential element of the contract, the lessee may demand that the lessor either eliminate the defect within a reasonable time limit or lower the rent.

(3) Should the lessor fail to eliminate the defect within a reasonable time limit determined subsequently by the lessee, the lessee may rescind the contract or demand reduction of the rent.

(4) The lessee shall in any case be entitled to damages.

Occurrence of a Defect in Course of Lease and in the Case of an Object without a Stipulated or Usual Feature **Article 607**

The provisions of the Article 606 of present Law also apply in the case of a defect in object occurring in the course of a lease and in case of object leased having no feature it should have according to contract or usage, or in the case of such feature being lost in course of the lease.

Liability of a Lessor for Legal Defects **Article 608**

(1) Should a third party claim to have a right regarding the object leased, or a part of such right, and if such party addresses the lessee accordingly, or if he arbitrarily deprive the lessee of the object, the latter shall be obliged to notify the lessor thereof, unless he was already aware of the fact; otherwise, the lessee shall be liable for loss.

(2) Should it be established that a third party has a right which entirely excludes the lessee's right to use the object, the lease contract shall be rescinded on the ground of law, while the lessor shall be bound to redress the loss to the lessee.

(3) Should the third party's right only restrict the lessee's right, the latter may, at his own choice, rescind the contract or demand reduction of the rent and, in any case, request damages.

SUBTITLE 3 OBLIGATIONS OF A LESSEE

Use of Object According to Contract Article 609

- (1) A lessee shall be bound to use the object as a good businessman, or as a good head of household.
- (2) A lessee may use it only in the way stipulated in the contract or in accordance with the purpose of the object.
- (3) The lessee shall be liable for damage occurring in course of the use of the object contrary to contract or contrary to its purpose, regardless of who has been using the object, whether himself or a person acting under his order, holder of a sub-lease or another person being put in a position to use the object by him.

Cancellation of Contract due to Use Contrary to Contract Article 610

Should a lessee, even after the lessor's warning, continue to use the object contrary to contract or to its purpose, or neglect its maintenance, causing danger of considerable loss to the lessor, the latter may cancel the contract without a period of notice.

Payment of Rent Article 611

- (1) A lessee shall be bound to pay the rent within time limits specified by contract or by law, and should there be no contract or law, in the way practiced in the place of delivery of the object to the lease- holder.
- (2) Unless otherwise stipulated or practiced in the place of delivering the object, the rent shall be paid every six months in case of an object leased for one or several years, and should it be leased for a shorter period – after the expiration of that period.

Cancellation Because of an Unpaid Rent Article 612

- (1) A lessor may cancel the contract of lease if a lessee fails to pay the rent even in the fifteen day time limit after lessor's demanding the payment from him.
- (2) But the contract shall remain valid should the lessee pay off the amount of the rent owed before being notified on the cancellation.

Restoring a Leased Object Article 613

- (1) A lessee shall be obliged to take care of the object leased and shall restore it undamaged after the termination of the lease.

- (2) The object shall be restored in the place of its delivery to the lessee.
- (3) A lessee shall not be liable for wear and tear of the object resulting from its regular use, or for damage due to wear and tear.
- (4) After effecting alterations to the object in course of the lease, the lessee shall be liable to reconstitute it to the state it was in when delivered to him for lease.
- (5) He may take away additions to the object realized by him, should it be possible to detach them from the object without damaging it, but the lessor may keep them after reimbursing the lessee for their value at the time of restitution.

SUBTITLE 4 SUBLEASE

When Object May Be Subleased Article 614

- (1) Unless otherwise stipulated, a lessee may lease the object leased to another (sublease), or he may give it to the use of another on some other ground, but only after making sure that this shall cause no loss to the lessor.
- (2) The lessee shall guarantee to the lessor that the sub-lessee shall use the object according to the lease contract.

When Lessor May Decline Permission Article 615

Should permission by the lessor be necessary to sublease a leased object, the latter may decline it only on justified grounds.

Cancellation Due to Prohibited Sublease Article 616

A lessor may cancel the lease contract should the object leased be subleased without his permission, if such permission was required according to law or the contract.

Direct Demand by a Lessor Article 617

In order to collect payment of his claims from the lessee on the ground of a lease, a lessor may directly demand from the sub-lessee the payment of the amount due by the latter to the lessee by the sublease.

Termination of Sublease on the Ground of Law Article 618

A sublease shall be terminated in any event after the termination of the head-lease.

SUBTITLE 5 ALIENATION OF THE OBJECT LEASED

Alienation after Delivering for Lease Article 619

- (1) In case of alienation of an object previously delivered in lease to another, an acquirer of the object shall take the place of the lessor, so that subsequently the rights and duties out of the lease shall take place between him and the lessee.
- (2) The acquirer shall demand that the lessee deliver to him the object prior to the expiration of the leasing time, and should that time be not determined by contract or by law, then, prior to the expiration of the period of notice.
- (3) The transferor shall be liable as a solidary guarantor for the acquirer's obligations to the lessee under the lease.

Right to Rent Article 620

- (1) Unless otherwise stipulated, acquirer of the object leased shall be entitled to the rent beginning from the first following time limit after the acquisition of object, and the person effecting transfer receiving such rent in advance shall be bound to assign it to him.
- (2) From the moment of notification of alienation of the object leased, the lessee may pay the rent only to the acquirer.

Alienation of the Object Leased Prior to Delivery to the Lessee Article 621

- (1) Should an object in relation to which a lease contract was concluded be delivered to an acquirer and not to a lessee, the acquirer shall take the place of the lessor, assuming his obligations to the lease- holder, if he was aware, at the moment of entering into contract of alienation of the existence of the lease contract.
- (2) An acquirer not being aware at the moment of entering into contract of alienation of the existence of the lease contract shall not be bound to deliver the object to the lessee, while the lessee may only demand damages from the lessor.
- (3) The transferor shall be liable as a solidary guarantor for the acquirer's obligations to the lessee under the lease.

Cancellation of Contract Because of Alienation of Object Article 622

Should because of alienation of the object leased, rights and duties of the lessee be transferred to the acquirer, the lessee may in any case cancel the contract, while adhering to statutory periods of notice.

SUBTITLE 6 TERMINATION OF LEASE

Expiration of Designated Time Article 623

A lease contract entered into for a definite period shall be terminated by the expiration of the time covered by the contract, or specified by law.

Implicit Renewal of Lease Article 624

(1) Should after the expiration of time covered by contract of lease, the lessee continue to use the object without the lessor's objection, a new lease contract shall be considered to have been concluded for an indefinite period, and under the same terms and conditions as the previous one.

(2) Performance pledges of third persons for the first lease shall be terminated after the expiration of that lease period.

Termination by Notice Article 625

(1) A lease contract whose duration period is not determined or which can not be determined on the ground of circumstances of the case or of local trade practice, shall be terminated by notice, which may be given by each party, while honoring an agreed period of notice.

(2) Should the extent of the period of notice not be determined either by contract or by law, or by local trade practice, it shall amount to eight days, provided the notice shall not be given at a bad time.

(3) Should the leased object be dangerous to health, the lessee may cancel the contract without extending the period of notice, even if he was aware of the fact at the moment of entering into contract.

(4) The lessee may not renounce his right specified in paragraph 3 of the present article.

Loss of Object due to an Act of God (Force Majeure) Article 626

(1) The lease shall be terminated should the object leased be lost accidentally due Force Majeure.

(2) Should the object leased be partially destroyed or only damaged, the lessee may either repudiate the contract or uphold the lease and demand an adequate reduction of rent.

Death
Article 627

In the case of death of a lessee or a lessor, the lease shall be continued by their successors, unless otherwise provided by contract.

Title XIII
LEASE OF AN APARTMENT

Notion
Article 628

By lease of an apartment the lessor shall assume an obligation to grant the apartment to a lessee for use, while the lessee shall assume an obligation to pay him a specified amount of rent in consideration thereof.

Form of a Contract
Article 629

- (1) Contract on lease of an apartment shall be concluded in written form and certified in accordance with legislation.
- (2) Contract on lease concluded contrary to the paragraph 1 of present Article shall be null and void.
- (3) The mutual relations regarding management of the building shall also be regulated by contract on lease of the apartment.

Application of General Rules on Lease
Article 630

The provisions of present Law regulating the contract on lease shall apply accordingly to relations arising on the ground of lease of apartment.

Cancellation of Contract due to Failure to Pay Rent
Article 631

- (1) Lessor may cancel contract on lease of an apartment without giving notice should the lessee fail to pay rent within two consecutive time limits.
- (2) Exceptionally, the lease contract shall remain in effect should the lessee pay the amount of rent due, prior to receiving the notice, or should he at such time have claims against lessor meeting the conditions for set off.

Cancellation of Contract due to Grant of a Sublease without Permission
Article 632

The lessor may cancel the lease contract without notice should an apartment be sub-leased without his permission.

Termination of Contract
Article 633

Contract on lease of apartment shall terminate:

- 1) by mutual agreement;
- 2) by expiry of period for which it was concluded;
- 3) by destruction of an apartment;
- 4) should the building or part of the building be pulled down on the ground of valid ruling of a competent agency;
- 5) should, in accordance with the regulations, the purpose of the building or apartment be altered;
- 6) by notice of termination;
- 7) in other cases established by law.

Termination by Notice
Article 634

- (1) Contract on lease of apartment the duration of which was not defined, or definable, shall terminate by notice given by any of the parties to another, honoring the determined period of notice.
- (2) Should the duration of period of notice not be stipulated by contract, it shall amount to three months.

Lease from Successors
Article 635

- (1) In case of death of lessor or lessee, the lease shall be continued with their successors, unless otherwise stipulated by contract.
- (2) In case of death of a lessee, his successors shall be entitled to, prior to expiry of the stipulated period of lease, terminate the contract within six months from his death, taking account of period of notice.

Occupying without Legal Ground
Article 636

- (1) Should a person occupy separate or common parts of residential building without legal grounds or should such grounds terminate, any person having legal interest shall be entitled to claim from the bodies of local administration such person's eviction.
- (2) Eviction shall be effected under emergency procedure.

(3) The appeal against ruling adopted in line with paragraph 1 of present Article may be lodged with the ministry in charge of housing within three days, but it shall not suspend execution of a ruling.

Title XIV LEASE OF BUSINESS PREMISES

SUBTITLE 1 GENERAL PROVISIONS

Notion and Contents Article 637

By a contract of lease of business premises a lessor shall assume the obligation to deliver specified business premises to a lessee for use, while the latter shall assume the obligation to pay him in return a specified amount of rent.

Application of General Rules on Lease Article 638

The general provisions on contract on lease set out by present Law shall be applied accordingly to relations arising on the ground of the lease of business premises.

SUBTITLE 2 ESTABLISHING THE LEASE

Form of the Contract Article 639

(1) Contract on lease of business premises must be concluded in written form and certified by competent body.

(2) Contract concluded contrary to the provision of the paragraph 1 of present Article shall be null and void.

Right of Priority Article 640

Should two or more lessors separately conclude contracts on lease of the same business premises, the right to lease shall belong to a lessor who was first to conclude the contract on lease.

SUBTITLE 3

RIGHTS AND OBLIGATIONS OF CONTRACTING PARTIES

Rights of a Lessee

Article 641

- (1) Should a lessor fail to deliver to lessee business premises in condition determined by contract or present Law, lessee shall be entitled to rescind the contract on lease or claim proportionate reduction of rent, or bring business premises into required condition by himself at the expense of lessor, should lessor fail to do it after lessee invited him to do so and left him an appropriate period of time.
- (2) In case from the paragraph 1 of present Article, lessee shall be entitled to redress of damages.
- (3) It shall be deemed that an appropriate period is a period of time during which specific works may be executed taking into account preparatory works, location and circumstances in which works have to be carried out.

Repair of Business Premises

Article 642

- (1) Should during period of lease of business premises occur a necessity to execute repairs at the expense of a lessor for the purpose of their maintenance in the condition in which the lessor is under a duty to keep them, a lessee shall be bound to inform a lessor without delay in written thereon and determine appropriate period for execution of repairs.
- (2) Should lessor fail to execute repairs he is under a duty to execute within appropriate period of time, a lessee shall be entitled to carry out repair works by himself or to rescind a contract on lease.
- (3) Should a lessee execute repairs himself without previously informing a lessor in written on the need for repairs, leaving him an appropriate period of time for such purpose, he shall be liable towards lessor for damage sustained by the latter due to such omission, except in case of urgent repairs.

Rent during Repair

Article 643

- (1) During period of repairs performed at the expense of lessor for the purpose of maintaining the business premises in the condition in which the lessor is under a duty to keep them, but due to which lessee was unable to use business premises, lessee shall not be bound to pay the rent.
- (2) Should in case from paragraph 1 of present Article exercising of business activity be only partially limited, lessee shall be bound to pay proportionate amount of rent.
- (3) Provisions of paragraphs 1 and 2 of present Article shall not apply to cases of insignificant hindrance.

(4) In cases from paragraphs 1 and 2 of present Article, lessee shall be entitled to compensation of loss.

Works of a Lessor Article 644

(1) During period of lease a lessor shall be entitled to execute works for the purpose of arranging of space or with an aim of reducing expenses of respective energy consumption or for maintenance.

(2) Lessor shall be bound to notify a lessee in writing three months prior to commencing of the works on the kind, time of commencement and scope of works, duration of works and on subsequent amount of rent.

(3) Lessee shall be entitled to rescind the contract on lease within two months from the date of receipt of notification from paragraph 2 of present Article, by sending notification to the lessor thereon within same time limit.

(4) In case of abuse of the right from paragraph 1 of present Article, lessor shall be liable towards lessee for sustained loss.

Special Rights of Lessee Article 645

(1) Should the lessee due to works from Article 644 of present Law decide not to rescind a contract on lease, he shall owe the amount of rent equivalent to that payable during repairs of the business premises, while the lessor shall not be entitled to redress of loss of profit.

(2) Lessee shall be entitled to redress of loss of profit should the lessor fail to complete the works within predefined time limit as set out by Article 644 of present Law, unless works were not completed due to circumstances which are not within lessor's responsibility.

Substantial Reconstruction Article 646

(1) Lessee shall not, without consent of a lessor, execute reconstructions of business premises, which would substantially alter construction, spacing, area, purpose or external features of business premises.

(2) It shall be deemed that the lessor has extended his consent for reconstructions from paragraph 1 of present Article, if after being notified in written on intention to execute such works, he should fail to object to it in writing within 30 days from the date of receipt of notification.

(3) Should lessee carry out reconstructions or continue execution of works, without consent of a lessor, or despite his opposition, lessor shall be entitled to rescind the contract.

(4) In case from paragraph 3 of present Article, lessor shall be entitled to compensation of damages.

Compensation for Expenses for Common Facilities Article 647

- (1) Lessee shall be bound to pay compensation of expenses for use of common facilities and provision of common services in the building where business premises are located, when due, unless otherwise stipulated by contract.
- (2) It shall be deemed that the compensation for expenses from paragraph 1 of present Article is not included in the amount of rent, unless it is explicitly stipulated so by contract.

Expenses for current Maintenance Article 648

- (1) Lessee shall bear costs for current maintenance of business premises, unless otherwise stipulated by contract.
- (2) Cleaning, painting of walls, minor repairs on installations and the like shall be deemed current maintenance.
- (3) Lessee shall be bound to carry out repairs of damaged business premises caused by himself, or which were caused by persons using business premises hired by lessee.
- (4) Lessee shall not be liable for deterioration of condition of business premises, facilities and equipment, due to regular wear and tear.

Sub-lease Article 649

- (1) Lessee shall not be entitled to sublease business premises or part of business premises, unless otherwise stipulated by contract.
- (2) Provisions of present Law relating to lease of business premises shall apply accordingly to contract on sub-lease of business premises.

Built-in Facilities Article 650

Lessee shall be entitled to bring along facilities which he built in the business premises, should that not cause damage to business premises.

SUBTITLE 4 TERMINATION OF LEASE CONCLUDED FOR AN UNDEFINITE PERIOD OF TIME

Termination by Notice Article 651

Contract on lease of business premises concluded for an indefinite period of time shall not terminate by notice prior to expiry of six months from the date of concluding of the contract, unless otherwise stipulated.

Period of Notice Article 652

- (1) Contract on lease of business premises concluded for an indefinite period of time shall terminate by notice on the day of expiry of period of notice stipulated by contract.
- (2) Period of notice shall be the time between the day of delivery of notice on termination to other party and the day of termination of lease.
- (3) Should the period of notice not be stipulated by contract, it shall amount to three months.
- (4) Should a contract not provide otherwise, notice may be given only on first or fifteenth day of the month.

Form of Notice Article 653

Contract on lease concluded for an indefinite period of time shall be terminated by written notice delivered either by registered mail or personally.

Termination of Contract by Notice by Lessor Article 654

Lessor shall be entitled to terminate contract on lease by notice at any time, regardless of contractual stipulations or provisions of the law on duration of lease, if:

- 1) lessee uses business premises contrary to the contract or inflicts significant damage to it by using it without due care;
- 2) lessee fails to pay rent due within fifteen days from date of delivery of written warning by the lessor;
- 3) it becomes impossible for a lessor, due to reasons for which he is not responsible, to use business premises in which he exercised his own business activity, wherefore he intends to continue using premises held by the lessee.

**Termination of Contract by Notice by Lessee
Article 655**

A lessee shall be entitled to terminate a contract on lease of business premises by notice at any time, regardless of contractual stipulations or provisions of the law on duration of lease, should the lessor fail to bring business premises in condition in which lessor was under a duty to deliver them, or to maintain them, although allowed appropriate period of time to such purpose by the lessee.

**Title XV
LOAN FOR USE**

**SUBTITLE 1
GENERAL PROVISIONS**

**Notion
Article 656**

By a contract on loan for use the lender shall assume the obligation to deliver specified object to a borrower to use it without consideration for a certain period of time, while the borrower shall assume the obligation to restore the same object undamaged.

**Duration of a Loan for Use
Article 657**

- (1) Should duration of a loan for use not be defined by contract, and should an object be delivered for use with an aim of achieving certain purpose, it shall be deemed that loan for use is stipulated for the period of time commonly needed for achievement of such purpose.
- (2) Should a duration of a loan for use be neither defined nor definable, a contract on loan for use shall terminate at such time when the lender requests that the object is restored to him.

**Death of Borrower or Lender
Article 658**

- (1) After the death of the borrower or lender under loan for use, the obligations arising from a contract on loan for use shall pass to their heirs.
- (2) Should a contract be concluded considering a fact that a particular person is a borrower, it shall terminate on death of such person.

SUBTITLE 2 OBLIGATIONS OF A LENDER OF OBJECT FOR USE

Delivery of Object Article 659

Lender of an object for use shall be bound to deliver an object to a borrower at a specified time.

Liability for Damages from Material Defects Article 660

(1) Lender of an object for use shall be under a duty to inform the holder on material defects of an object, of which he was aware or could not have been unaware, or shall otherwise be liable for damages sustained by the borrower due to such defects.

(2) Provision from the paragraph 1 of present Article shall not apply, should a defect be known by a borrower or if it could not have been unknown to him.

SUBTITLE 3 OBLIGATIONS OF A BORROWER OF OBJECT FOR USE

Care and Use of Object Article 661

(1) Party borrowing an object for use shall be under a duty to keep and use an object with a diligence of a good head of a household, or a good businessman.

(2) Borrower of an object for use may use an object only as stipulated by contract, and in case if nothing is stipulated in that regard, than in accordance with the nature and purpose of the object attributed to it by a lender, or shall otherwise be liable for occasioned accidental perishing or damage of an object.

(3) Borrower of an object for use shall not be liable for usual wear and tear of an object which result from its permitted use.

Expenses Related to Object Article 662

(1) Borrower of an object for use shall bear expenses related to regular maintenance, keeping and use of the object.

(2) Other expenses shall be covered according to the provisions on management of another's affairs.

Rescuing from Danger Article 663

In case of danger which simultaneously threaten both object borrowed for use and his own assets, a borrower shall be under a duty to first attend to rescuing of borrowed objects or shall otherwise be liable for its perishing or damage.

Rescinding of a Contract Due to Brach of Obligation Article 664

Should a borrower of an object for use fail to properly keep or maintain an object, or fail to use it as stipulated by contract or in the manner corresponding to nature or purpose of an object or should he hand it over an to another for use without obtaining consent, a lender shall be entitled to rescind a contract and claim an object to be restored to him immediately.

Restoring of Object Article 665

- (1) Upon termination of loan of for use, borrower shall be obligated to restore borrowed object undamaged.
- (2) Should a borrower have handed an object over for use to a third party, a lender shall be entitled to claim an object to be restored directly from such third party.

Restoring of Object Prior to Expiry of Time Limit Article 666

- (1) Lender shall be bound to accept back an object lent for use even prior to expiry of time limit stipulated for loan for use, except in case if such time limit is stipulated for the benefit of both contracting parties, and, in general, should such restoring prior to expiry of time limit be connected with some inconveniency for his party.
- (2) Lender of object for use shall be entitled to claim an object to be restored to him ahead of time, should it unexpectedly became urgently necessary to him.

Subtitle 4 RISK OF ACCIDENTAL PERISHING

Article 667

- (1) Risk of accidental perish or damaging of object shall be borne by lender of an object for use.
- (2) Should a borrower of an object use such object contrary to a contract or its nature or purpose, or hand it over to a third party for use, he shall be liable for perishing or damage to the object occasioned by operation of force majeure.
- (3) Should, while staying with the party who borrowed it for use, an object be lost and if borrower has compensated its value, he shall not be entitled, should an object be found, to

keep it should a party who lent it for use be prepared to retribute what was received in exchange for object.

Expiry of Mutual Claims due to Statute of Limitations
Article 668

Claims of a party lending an object for use to a compensation of damage resulting from alteration or deterioration of the object, as well as claims of a party borrowing an object for use to a redress of expenses and compensation of damage arising from defectiveness of object, shall expire due to statute of limitations within six months from the day the object was restored.

Title XVI
CONTRACT FOR THE SUPPLY OF SERVICES

SUBTITLE 1
GENERAL PROVISIONS

Notion
Article 669

By a contract for the supply of services the person working (contractor) shall assume the obligation to perform a particular job (manufacturing or repair of certain object or execution of certain physical or intellectual work and similar), while the purchaser of the services shall assume the obligation to pay him monetary consideration in return.

Relationship to a Contract of Sale
Article 670

- (1) A contract by which one party assumes an obligation to manufacture a specific object from his own material shall be considered, in case of doubt, as a contract of sale.
- (2) But it shall remain a contract for services if the purchaser has assumed the obligation to provide a major part of the material needed for the manufacture of the object.
- (3) Such a contract shall in any case be considered as a contract for services if the contracting parties had the supplier's work particularly in mind.

Quality of Supplier's Material
Article 671

- (1) Should it be stipulated that the supplier manufacture the object from his own material, and the quality is not determined, the supplier shall be bound to provide material of an average quality.
- (2) He shall be liable to the purchaser for the quality of the material used in the way the seller is.

SUBTITLE 2 SUPERVISION

Article 672

A purchaser shall be entitled to effect supervision over the performance of the job and to give instructions when appropriate as to the nature of the job, while the supplier shall be obliged to make that possible to him.

SUBTITLE 3 MAKING A CONTRACT BY BIDDING

Invitation to Bid for the Price of Works

Article 673

(1) An invitation addressed to a specified or unspecified number of persons to compete for the performance of specific works, under specified terms and conditions, and with specific guarantees, shall bind the inviter to make a contract for such works with the one offering the lowest price, unless such obligation was excluded in the invitation to tender.

(2) In the case of excluding the obligation to make a contract, the invitation to tender shall be considered as an invitation to interested parties to submit their own offers of contract under terms and conditions published.

Invitation to Tender for Artistic or Technical Proposals of Works Intended

Article 674

An invitation addressed to a specified or unspecified number of persons to tender for an artistic or technical proposal of intended works shall bind the inviter to make, under the terms in the invitation to tender, a contract with the participant in the tender whose proposal is accepted by a commission, the composition of which was disclosed in advance, unless such obligation was excluded in the invitation to tender.

SUBTITLE 4 OBLIGATIONS OF A SUPPLIER

Defective Material

Article 675

(1) A supplier shall be bound to draw the purchaser's attention to defects in the material delivered to him by the purchaser which were noticed or should have been noticed by him; otherwise, he shall be liable for damages.

(2) Should the purchaser demand that the object be manufactured from the material whose defects were indicated to him by the supplier, the supplier shall be bound to act according to his demand, unless it becomes obvious that the material is not suitable for the

work ordered, or that manufacturing from the requested material would harm the reputation of the supplier, in which case he may rescind the contract.

(3) The supplier shall be obliged to warn the purchaser about defects in his order, and about other circumstances he is aware of, or should have been aware of, which may be of importance for the work ordered, or for its performance on time; otherwise he shall be liable for damages.

Obligation to Execute the Work Article 676

(1) A supplier shall be obliged to carry out the work as stipulated and under the rules of the corresponding line of business.

(2) A supplier shall be bound to execute it in the time specified and should such time be not specified, in the time reasonably necessary for such kind of work.

(3) A supplier shall not be liable for delay caused by the purchaser's failure to deliver the material to him on time, the purchaser's demand for alterations, or by the purchaser's failure to pay to him the advance due and, in general, for delay caused by the conduct of the purchaser.

Rescinding a Contract due to Breach of Terms Stipulated Article 677

(1) Should it turn out in the course of performing the job that the supplier fails to adhere to the terms of contract and, in general, is not working properly, so that the creation, when completed, will be defective, the purchaser may warn the supplier accordingly and determine for him an adequate time limit for conforming his work to his obligations.

(2) Should the supplier fail to act according to the purchaser's demand within the above time limit, the purchaser may rescind the contract and claim damages.

Repudiation of Contract prior to Expiration of the Time Limit Article 678

(1) Should the time limit be an essential constituent element of the contract, and supplier's delay in commencing or completing the job indicates without doubt that he will not complete it within the time limit, the purchaser may rescind the contract and claim damages.

(2) He shall also have the right to rescind the contract should the time limit not be an essential constituent element of contract, if due to such delay the purchaser would obviously have no interest in fulfilling the contract.

Entrusting Performance of Job to a Third Party Article 679

(1) Unless something else results from the contract or the nature of the job, the supplier shall not be bound to perform the job personally.

(2) The supplier shall still be responsible to the purchaser for the execution of the work, even without performing it personally.

**Liability for Associates
Article 680**

A supplier shall be liable for persons taking part in the performance of work under his order, as if he himself had performed the job assumed.

**Direct Claim by Supplier's Associates against the Purchaser
Article 681**

The supplier's associates may address the purchaser directly for payment of their claims against the former, and demand from the latter such payment at the charge of the amount due at the moment to the supplier, should such claims be recognized.

**Delivery of a Manufactured Object to the Purchaser
Article 682**

(1) A supplier shall be bound to deliver to the purchaser the object manufactured or repaired.

(2) The supplier shall be discharged from this obligation should the object manufactured be lost for reasons for which he is not to blame.

**SUBTITLE 5
LIABILITY FOR DEFECTS**

**Inspection of the Work Executed and Notifying the Supplier
Article 683**

(1) A purchaser shall inspect the work done, as soon as this became possible in the regular course of events, and notify the supplier without delay about defects found.

(2) Should the purchaser, after being invited by the operator to inspect and accept the work executed, fail to act accordingly without justified ground, the work shall be considered as accepted.

(3) After the inspection and acceptance of the work performed, the supplier shall not be liable for defects which could have been noticed by usual inspection, unless he was aware of them, and did not notify the purchaser.

**Latent Defects
Article 684**

(1) Should a defect arise at a later point of time which could not have been discovered by usual inspection, the purchaser shall still be entitled to claim it, but only if he immediately notifies the supplier thereof, or within one month after such discovery at the latest.

(2) The purchaser shall not be entitled to claim further defects two years after accepting the work performed.

Termination of Rights Article 685

(1) A purchaser notifying the supplier of defects in the work performed on time may not enforce his right at court after the expiration of one year from the notification.

(2) But even after the expiration of that time limit, the purchaser may, after notifying the supplier of defects in due time, through an objection against the supplier's claim for payment, proceed with his own counter-claim for reduction of compensation and for damages.

Forfeiting of Right to Invoke the Preceding Articles Article 686

A supplier may not refer to provision of Articles 683 to 685 of present Law should a defect relate to facts which were known to him, or could have been known, and which were not communicated by him to the purchaser.

Right to Demand Elimination of Defects Article 687

(1) Purchaser who duly informs the supplier that the work performed is in some respect defective, shall be entitled to demand the elimination of the defect, and to determine corresponding and reasonable time limit.

(2) Purchaser shall also be entitled to recover for loss sustained due to the defect.

(3) Should elimination of the deficiency involve excessive expenses, the supplier may refuse to carry it out, but in such a case the purchaser shall be entitled to choose between reducing the payment due or rescission of the contract, including redress of damages.

Rescission of Contract in a Particular Case Article 688

Should a job executed be defective to such an extent as to become useless, or should it be executed contrary to express terms and conditions of the contract, the purchaser may, without demanding preliminary elimination of the deficiency, rescind the contract and claim damages.

Right of Purchaser in Case of Other Defects of the Work Executed Article 689

(1) Should the work executed have a defect not making the creation useless, or if the work was not performed contrary to the express terms and conditions of the contract, the purchaser shall permit the supplier to eliminate the defect.

(2) The purchaser may give the supplier a reasonable time limit for the elimination of the defect.

- (3) Should the supplier fail to eliminate the defect by the expiration of such time limit, the purchaser may, at his own choice, eliminate the deficiency at the expense of the supplier, or reduce the payment due for the work done, or rescind the contract.
- (4) In case of a minor defect, the purchaser shall not make use of his right to rescind the contract.
- (5) Purchaser shall in any case be entitled to claim damages.

Reducing Payment for the Work Done Article 690

Reducing the payment for the work done shall be effected proportionally to the value of the work done without a defect at the time of entering into contract, and the value which the work had with the defect at the time.

SUBTITLE 6 OBLIGATIONS OF A PURCHASER

Obligation to Accept the Job Done Article 691

A purchaser shall be obliged to accept the work done according to the terms and conditions of the contract and to the rules of the line of corresponding business.

Agreement and Payment for the Work Done Article 692

- (1) The payment for the work done shall be agreed by contract, unless it is determined by a binding tariff or some other mandatory act.
- (2) In case of payment not being agreed, it shall be specified by the court according to the time normally needed for such kind of work, and according to usual payment for such kind of work.
- (3) The purchaser shall not be bound to pay the consideration prior to inspecting and approving the work executed, unless otherwise stipulated.
- (4) Specifying and payment of the fee in a manner set out by paragraphs 1, 2 and 3 of present Article shall apply if the supply of goods and services has to be effected, according to contract, in parts.

Estimate with an Express Guarantee Article 693

- (1) Should remuneration be stipulated on the ground of an estimate backed by an express guarantee of the supplier regarding its accuracy, he shall not claim increased remuneration even after investing more labor in the job and after performing it with expenses higher than foreseen, whereby the application of rules on rescission and modification of contract due to changed circumstances (hardship) shall not be excluded.

(2) Should remuneration be stipulated on the ground of an estimate without express guarantee by the supplier regarding its accuracy, and should it turn out that, in the course of work, an overstepping of the estimate becomes inevitable, the operator shall be bound to notify the purchaser immediately thereof, otherwise he shall lose every claim concerning the increased expenses.

SUBTITLE 7 RISK

In the Case of Supplier Supplying Material Article 694

(1) Should a supplier supply the material for manufacturing the goods, and the objects became damaged or lost, regardless of cause, prior to being delivered to the purchaser, the risk shall be borne by the supplier, so that he shall not be entitled to remuneration for the material supplied, nor to remuneration for his work.

(2) After the purchaser has inspected the work performed and has approved it, the objects shall be considered as delivered to him, and that they remain with the supplier to be looked after by him.

(3) Should the purchaser be late in accepting the objects offered to him, the risk of accidental loss of the goods or of their damage shall pass to him.

In the Case of a Purchaser Supplying Material Article 695

(1) The risk of accidental loss of objects or of their damaging shall be borne by the purchaser should he supply the material for the manufacture.

(2) In case from paragraph 1 of present Article, the supplier shall be entitled to remuneration for the job only if the objects be lost or damaged after the purchaser delayed his obligation, or if the purchaser fail to answer his invitation to inspect the objects.

Risk in Case of Delivery in Parts Article 696

Should it be stipulated that the purchaser inspect and accept the delivery of individual parts in the course of their manufacture, the supplier shall be entitled to remuneration covering the manufacture of those parts inspected and approved by the purchaser, even if they subsequently perish at the supplier's place without his fault.

SUBTITLE 8 RIGHT OF SECURITY

Article 697

In order to secure payment on the ground of claims for remuneration for work done and cost of the material used, as well as for other contractual claims on the ground of a contract for

supply of services, the supplier shall be entitled to a right of pledge on objects manufactured or repaired, as well as on other objects delivered by the purchaser in relation to his work, while he keeps such objects in possession and willingly continues to keep them.

SUBTITLE 9 TERMINATION OF CONTRACT

Breach of Contract by Purchaser's Intent Article 698

Before the work ordered is completed, the purchaser may rescind the contract whenever he wants, but in such a case he shall be bound to pay to the supplier the remuneration stipulated, reduced by the amount of costs not incurred by the latter which would otherwise be at his charge were the contract not rescinded, together with the amount of earnings realized by the latter doing other jobs, or which are intentionally missed by him.

Title XVII CONTRACT OF CONSTRUCTION

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 699

(1) A contract of construction shall be a contract for services by which a contractor assumes the obligation to construct, according to specific design and within a stipulated time limit, a specified structure on a specified land, or to execute, on such land, or on already existing structure some other construction works, while the purchaser assumes the obligation to pay in return an agreed price.

(2) A contract of construction must be concluded in written form.

Structure Article 700

In this Chapter, the term "structure" shall include buildings, dams, bridges, tunnels, water supply installations, sewerage systems, roads, railroad tracks, wells and other construction facilities the construction of which requires large and more complex works.

Supervision of the Works and Quality Control of Materials Article 701

A contractor shall be bound to enable the purchaser to effect permanent supervision over the works and the control of quantity and quality of the material used.

Variation from a Construction Plan Article 702

- (1) Every variation from a construction design, or stipulated works, effected by the contractor shall need written approval from the purchaser.
- (2) Contractor may not claim increase of price stipulated for works done by him without such approval.

Urgent and Unforeseen Works Article 703

- (1) Unforeseen works may be done by a contractor even without previous approval by the purchaser if, due to their urgency, he was not able to obtain such approval.
- (2) Unforeseen works shall be works the undertaking of which is necessary in order to ensure stability of a structure, or to prevent damage, and which were caused by an unexpectedly less favorable quality of soil, unexpected occurrence of water or other extraordinary and unexpected events.
- (3) The contractor shall be bound to notify the purchaser without delay about such phenomena and of measures taken.
- (4) The contractor shall be entitled to fair remuneration for the unforeseen works which had to be done.
- (5) The purchaser may rescind the contract if, due to such works, the price stipulated would have to be considerably raised, whereupon he is obliged to notify the contractor without delay.
- (6) In case of rescission of contract, the purchaser shall be bound to pay to the contractor a corresponding part of the price for works already carried out, as well as fair remuneration covering his necessary expenses.

Price of Works Article 704

The price of works may be determined according to a measurement unit (unit price) of works subject to contract, or as a total amount for the entire facility (stipulated aggregate price).

Change of Price Article 705

- (1) Unless otherwise provided by contract concerning a change of price, a contractor fulfilling his obligation within a specified time limit may demand an increased price for the works done, if in the period between concluding the contract and its performance, the prices of elements on the basis of which the price of works was agreed have been raised to such extent that it would be necessary that such price should be increased by more than two percent.

(2) Should a contractor through his fault fail to perform stipulated works on time he may demand a price increase of works if, in the period between entering into contract and the day on which works had to be completed according to contract, the prices of elements on the ground of which the price of works was determined have been raised, so that it would be necessary that the price, as compared to new prices, be higher by more than five percent.

(3) In cases specified in the paragraphs 1 and 2 of present Article, the contractor may request only the difference in price of works exceeding by two, or five percent.

(4) A contractor shall not refer to the increased prices of elements on the ground of which the price of works was determined if such price increase took place after his delayed fulfilling his obligations.

A Provision on Invariability of Prices Article 706

(1) Should it be stipulated that the price of works shall not be changed if after entering into contract prices of elements on the ground of which it was agreed be raised, the contractor may, in spite of such contractual clause, demand a change of price of the works, if prices of the elements be raised to such a degree that it would be necessary for the price of works to be higher by more than ten percent.

(2) However, in that case the contractor may demand only a difference in price exceeding ten percent, unless the increase in prices took place after he became late in fulfilling his obligations

Rescission of Contract due to an Increase of Prices Article 707

(1) In cases specified in the Articles 705 and 706 of present Law, should the price stipulated had to be raised considerably, the purchaser may rescind the contract.

(2) In case of rescission of contract, the purchaser shall be obliged to pay to the contractor a corresponding part of the price stipulated for the works completed up to that time, as well as fair remuneration covering necessary expenses incurred by him.

Right of a Purchaser to Demand Reduction of Stipulated Price Article 708

(1) If in the period between entering into contract and fulfilling of the contractor's obligation, the prices of elements serving as a ground for determining the price of works have been reduced by more than two percent, and if the works were completed within the time limit specified by contract, the purchaser shall be entitled to demand a corresponding reduction of price of the works stipulated above such percentage.

(2) If it was stipulated that the price of works shall not be changed, if the works were completed within the time specified by contract, the purchaser shall be entitled to a reduction of the price stipulated, if the prices of elements serving as a ground for determining the price were lowered to such a degree that the price would have been more than ten percent lower, which reduction shall amount to the difference in price over ten percent.

(3) In case of a contractor being late with the works, the purchaser shall be entitled to a proportionate reduction of the price of works for every reduction of price of elements serving as a ground for determining the price of works.

SUBTITLE 2

Contract of Construction with a Particular Clause Article 709

(1) Should a "turn-key contract" clause, or a similar clause be included in a contract of construction, the contractor shall independently assume an obligation to perform all works necessary for the construction and use of a specific complete structure.

(2) In the case from the paragraph 1 of present Article the price stipulated shall also include the value of all unforeseen works and surplus works, while smaller volume of works shall not influence the price stipulated.

(3) Should several contractors participate as the contracting party in a turn-key contract, their liability to the purchaser shall be joint and several.

SUBTITLE 3 LIABILITY FOR DEFECTS

Application of Rules Covering Contract for Services Article 710

Unless otherwise specified in the present Title, the corresponding rules covering the contract for services shall apply to liability for defects in a structure.

Transfer of a Right Arising from Liability for Defects Article 711

Rights of purchaser against a contractor arising on the ground of defects in a building shall pass to all subsequent acquirers of the building or its part, but subsequent acquirers shall have no new time limits for notification and instituting legal proceedings, so that the time limit of the predecessors shall be accounted to them.

SUBTITLE 4 RESPONSIBILITY OF CONTRACTOR AND PROJECT DESIGNER FOR THE SOUNDNESS OF BUILDING

Content of Defects Article 712

(1) A contractor shall be liable for defects in the construction of structure relating to its soundness, should such defect appear within a ten year period from the delivery and acceptance of the works.

(2) The contractor shall also be liable for defects of the land on which the structure was built, which should appear within a ten year period from the delivery and acceptance of the works, unless a specialized organization has supplied an expert opinion as to the suitability of the land for construction, and in the building process itself there were no visible defects which would raise doubt as to the reliability of the expert opinion.

(3) The same shall apply to a project designer should a defect in the building be caused by a defect in the construction plan.

(4) Contractor and designer shall be liable towards purchaser and any other acquirer of the structure and their liability may not be excluded or limited by contract.

Duty of Notification and Forfeit of Right Article 713

(1) A purchaser or other acquirer shall be bound to notify the contractor and the project engineer of defects within a six month time limit after discovering a defect; otherwise they shall lose the right to claim the defect.

(2) The right of the purchaser or other acquirer against the contractor, or a project engineer, on the ground of their liability for defect shall expire after a year, counting from the day of the purchaser's, or acquirer's notifying the project engineer, or contractor, of the defect.

Reduction and Exclusion of Liability Article 714

(1) A contractor shall not be exempted from liability if damage was caused through his proceeding with specific works according to the purchaser's request.

(2) However, if he warned the purchaser, prior to executing requested specific works, that there was a danger of damage, his liability shall be reduced and, according to circumstances of the case, may even be excluded.

Recourses Article 715

(1) Should a contractor or a project designer be liable for damage, the liability of each one of them shall be determined commensurately to the scope of their respective fault.

(2) A project designer who produced project design of the structure and who was entrusted with supervision over execution of planned works, shall also be liable for defects in the completed works which were caused through the fault of the contractor, if the project designer could have noticed them by normal and reasonable supervision of works, but he shall be entitled to claim corresponding recovery against the contractor.

(3) Should a contractor redress a loss due to defects in the works completed, he shall be entitled to claim recovery from the project designer to the extent to which the defects of the completed works originated from defects in the project design of the structure.

(4) Should a responsible person entrusted by the contractor to carry out part of the works be liable for defects, the contractor, while intending to claim damages from him, must

notify him of the existence of the defect within a two month time limit, counting from the day of his own obtaining information from the purchaser concerning the same defect.

Title XVIII CONTRACT ON PARTNERSHIP

SUBTITLE 1

Notion Article 716

- (1) By a contract of partnership two or more persons shall assume the obligation to invest their services or assets with an aim of achieving common goal.
- (2) Partnership shall be an association of persons and property which shall not have a capacity of a legal person.

Composition of Property Article 717

- (1) Property of partnership shall be composed from contributions of partners (principal property) and property acquired through business venture of partnership.
- (2) Property of partnership shall include compensations for destroyed, damaged or divested objects which belong to the property of partnership.
- (3) Property of the partnership shall be joint property of the partners.
- (4) Property of partnership shall belong to partners.

Contribution Article 718

- (1) Contribution may consist of objects, rights, money, services and other goods.
- (2) Should entire property be contributed, it shall be deemed to include only existing assets; however should the contract cover future property, it shall be deemed to include only acquired, and not inherited assets, unless both are expressly stipulated.
- (3) Contract related to investment of only existing or only future property shall not be valid should it not contain inventory and description of assets included thereby.
- (4) Partner who assumed an obligation to invest only his services shall be entitled to a share in profit, but not to a share in principal property of partnership, unless monetary assessment of the value of his services is included in principal assets.

Size of Contribution Article 719

- (1) Unless otherwise stipulated by contract, partners shall be bound to invest equal contributions.
- (2) Partner shall not be bound to subsequently increase his contribution; however, should due to changed circumstances common goal become impossible to achieve without increasing of the contributions, a partner dissenting to increase shall be entitled to withdraw from partnership or may be excluded from it.
- (3) All partners shall, by rule, be bound to equally participate in achievement of common goal, regardless of kind and size of their contributions.

Contributing to Partnership's Assets Article 720

- (1) Objects and rights constituting a contribution shall become assets of partnership on the basis of the contract on partnership and in the manner prescribed for acquisition of particular property rights.
- (2) Partner shall be liable for material and legal deficiencies of his contribution.
- (3) With regard to bearing the risks for accidental perishing or damage to objects and liability for defects of objects, provisions of present Law on lease shall apply accordingly should an object be granted for use, while provisions related to sale shall accordingly apply in case of investment of ownership right on an object.
- (4) Should money and objects whose value is estimated in money be invested, in the case of doubt, it shall be deemed that all are given to be owned.
- (5) Partner may not dispose of his interest in partnership or of individual objects and rights from common assets, or claim division of assets.
- (6) Partner shall be entitled to dispose of the right to compensation of expenses incurred in carrying out business affairs of the partnership, should they fall due prior to termination of partnership; of the right to interest accrued to money he advanced; and of the payment of what shall be distributed to him upon termination of partnership.

SUBTITLE 2 MANAGEMENT AND REPRESENTING

Joint management Article 721

- (1) Right to manage business affairs of partnership shall belong jointly to all partners.
- (2) Provisions regulating management of co-owned object shall be applied to adoption of the decisions related to management of business affairs of partnership.

(3) Partner investing only his services, which are not accounted for in principal property, shall participate in adopting of decisions, but shall have no voting right.

Transfer of Management, Representing, Prohibiting of Competition Article 722

(1) Should by a contract on partnership the authorization to manage affairs be transferred to one or several partners, such partners shall be considered empowered representatives (proxy).

(2) Should authorization to manage business affairs be transferred to several partners, provisions of Article 721 of present Law shall apply accordingly; however, should contract on partnership provide that each of them is entitled to conclude transactions, each of the remaining partners authorized to manage affairs may contest undertaking of a certain transaction, in which case intended transaction shall not be undertaken.

(3) Provisions of present Law regulating contract of order shall apply accordingly to rights and obligations of partners to whom the authorization to manage affairs is transferred, unless otherwise is determined by contract on partnership.

(4) No partner shall be entitled to entrust management of partnership's business to a third party, or receive third party in the partnership, or undertake a transaction to that partner's own particular benefit, but which would endanger achievement of the common goal or inflict damage on partnership.

Rendering of the Accounts Article 723

(1) Partners entrusted with management of business shall be under a duty to keep business books accurately and render account on the condition of common assets and on all revenues and expenditures.

(2) Rendering of the final accounts and distribution of profit and losses may not be claimed prior to completion of business, but should partnership concern long-term business engagement yielding annual income, partners shall be entitled to claim rendering of the accounts and distribution of profit upon expiry of each business year.

(3) A partner who agreed that only final accounts be rendered or who waived the claim for rendering of the accounts shall be entitled, should he prove dishonest management of business, to claim rendering of the accounts for already completed and commenced business transactions.

(4) Remaining partners shall be under a duty to reimburse a partner managing business for expenses incurred thereby as well as to redress damage sustained by him due to directly involved risks.

(5) A partner shall be entitled to an interest payment on money advanced from the day when advance payment was made until repayment.

(6) Partner managing business of the partnership shall not be entitled to special remuneration for efforts put into conducting of business, unless otherwise stipulated by partners.

Right of Supervision Article 724

- (1) Partners who entrusted management to one or several other partners shall reserve the right of personal supervision over business of partnership including the right to claim report on business operation of the partnership as well as right to access business books and other pertaining documents.
- (2) Exclusion or limitation of the rights of partners referred to in the paragraph 1 of present Article shall be ineffective should there be reasonable ground to doubt that business of partnership was not duly conducted, unless otherwise stipulated by partners.

Revoking of Authorization and Withdrawal from Entrusted Management Article 725

- (1) Authorization to conduct business transferred to one or several partners, unless otherwise stipulated by contract on partnership, may be revoked by unanimous decision of remaining partners on the ground of severe violation of entrusted duty, inability to successfully conduct business or for other important reasons.
- (2) Partner shall be entitled to withdraw from entrusted management for justified reasons.
- (3) In case of withdrawal provisions of present Law related to contract of order regulating termination by notice by the person assuming an order shall apply accordingly.

SUBTITLE 3 RELATION TO THIRD PARTIES

Concluding of Legal Transactions Article 726

- (1) Partner may not validly bind partnership on the ground of legal transaction with third party, without express or tacit consent of other partners or their proxies
- (2) A partner who participates in partnership only with a part of his property, while independently engaging in legal transactions with remaining part, shall also be in the position of a third party.

Claims and Debts of Partnership Article 727

- (1) Unless otherwise stipulated by contract on partnership, claims of partnership shall belong to all partners jointly.
- (2) A partner shall be entitled to claim from a debtor to fulfill the liability to all partners jointly, while he shall be entitled to claim fulfillment to him only should he be authorized by all remaining partners to receive performance.

- (3) A debtor shall be entitled to fulfill his obligation towards partnership to a partner of his choice, until such time when all partners or some of them claim fulfillment.
- (4) Unless otherwise stipulated with the creditor, partners shall be jointly and severally liable for obligations of the partnership.
- (5) A third party as debtor of a partnership may not setoff his claim against some of partners with claim belonging to a partnership.
- (6) Defense that a claim belongs to assets of partnership may not be raised against a debtor who was not aware, or could not have been aware of that.

SUBTITLE 4 LIABILITY FOR DAMAGES

Liability for Damages and Prohibited Setoffs Article 728

- (1) Partner shall be liable for damages caused to the partnership, unless he proves that he is not at fault for occurrence of loss.
- (2) It is not permitted to set off damages against benefit which partner otherwise acquired for the partnership, except in cases when damages and benefit originate from the same, independently assumed legal transaction.

SUBTITLE 5 PROFIT AND LOSS

Notion Article 729

- (1) Profit shall be such part of partnership's property which remains after deduction of the value of contributions, common debts and expenses.
- (2) Loss shall occur when value of partnership's property falls below value of contributions.

Shares in Profit and Loss Article 730

- (1) Should shares of partners in profit and loss not be determined by contract on partnership each partner shall be entitled to equal share in profit and loss, regardless of type and size of contribution.
- (2) Should only a share in profit be determined, or only a share in loss, in the case of doubt such provision shall apply to both profit and loss.

SUBTITLE 6

TERMINATION OF PARTNERSHIP BY NOTICE AND EXCLUSION OF A PARTNER

Termination of Partnership by Notice **Article 731**

- (1) Partner shall be entitled to terminate by giving notice the contract on partnership concluded for an indefinite period at any time, except in bad time, or to the detriment of remaining partners.
- (2) Provision from paragraph 1 of present Article shall also apply should partnership, upon expiry of certain period of time, be tacitly continued, as well as to a partnership set up to last for the lifetime of a partner.
- (3) Contract on partnership concluded for a specified period may be terminated by notice prior to expiry of such time only for justified reasons, especially: due to breach of material obligation from the contract on partnership by another partner made intentionally or in gross negligence; due to impossibility to perform such obligation; death, or exit of a partner on whose participation exercise of partnership's business was particularly dependent.
- (4) Partner terminating partnership by notice in the way contrary to provisions from paragraphs 1 and 2 of present Article shall be liable to other partners for damage thereby incurred.
- (5) Creditor who was awarded seizure of share in partner's assets shall be entitled to terminate partnership without adhering to period of notice.
- (6) During validity period of partnership, creditor may not exercise the rights of partner originating from the contract on partnership, except right to share in profit.
- (7) Provision of the contract on partnership excluding or limiting the right of a partner to terminate by notice such partnership shall be null and void.

Exclusion of a Partner **Article 732**

- (1) Partner may be excluded from partnership on justified grounds, especially due to breach of material obligation from partnership contract, bankruptcy, complete or partial deprivation of business capacity or loss of trust due to commission of criminal act.
- (2) Decision on exclusion from partnership shall be passed by remaining partners unanimously, unless otherwise stipulated by contract.

Effect of Termination by Notice and Exclusion **Article 733**

- (1) Termination by notice or exclusion shall become effective on the day of giving notice of termination, or on the day of communicating the decision on exclusion, even should they be contested, and later confirmed as valid.

(2) Partner terminating partnership by notice or excluded from partnership shall be entitled to share the profit and loss realized until the date of termination, or exclusion respectively.

(3) Partner shall also share profit and loss resulting from such transactions that were not yet completed at the time of his exit from partnership and which other partners are authorized to bring to an end in a manner most beneficial for them.

(4) Partner terminating partnership by notice shall be entitled at the end of each business year to demand account of transactions brought to an end in the meanwhile, of payments attributable to him on such grounds and of condition of business affairs which were not yet completed.

(5) Share of a partner from paragraph 1 of present Article in the property of partnership shall be attributed to remaining partners, while such partners shall be under a duty to restore him objects which he contributed to partnership for use, release him from common liabilities, or provide him with appropriate security, should such liabilities not yet be due and pay him what he would receive from common property as in the case if partnership would terminate at the time of his exclusion or exit.

(6) Should common property not suffice to cover common liabilities and contributions, partner terminating partnership shall be under a duty to compensate remaining partners for loss in proportion to his share in partnership.

(7) Other rights and obligations of partners referred to in paragraph 1 of present Article shall be determined according to the provisions on distribution of common property of partnership in case of its termination.

SUBTITLE 7 TERMINATION OF PARTNERSHIP

Reasons for Termination Article 734

Partnership shall terminate:

- 1) by achievement of the objectives of partnership or in the case if such achievement should become impossible;
- 2) by expiry of the period of time for which partnership contract was concluded;
- 3) by perish of common assets;
- 4) by mutual agreement of partners;
- 5) by death, ceasing of existence, exit and exclusion of a partner, should partnership consist of two partners;
- 6) by decision of the court in case of termination of partnership for justified grounds.

Succession in Rights and Obligations of Partners Article 735

- (1) Rights and obligations of a partner shall, by rule not pass to his successors.
- (2) Heirs of a partner shall be under a duty to notify remaining partners immediately on the fact of death of such partner and take measures for protection of their interest, while

other partners shall be bound to resume affairs entrusted to a deceased partner without delay.

(3) Heirs of a partner, should partnership not continue with them, shall be entitled to claim rendering of the accounts and their settlement until day of deceased partner's death, but shall also be bound to settle what a deceased partner owed to partnership.

(4) Should a partnership contract expressly include heirs of the partners, they shall be bound, should they accept inheritance, to continue a partnership; however, such obligation shall not relate to heirs of the heirs.

(5) Should an heir be unable to fulfill obligations of an heir towards partnership, a proportionate part shall be deducted from his share in inheritance.

SUBTITLE 8 DISTRIBUTION OF COMMON PROPERTY

Restitution of Objects Article 736

(1) Distribution of common property shall be carried out upon termination of partnership.

(2) Objects given to partnership to use and benefit from, shall be restituted to him; however he shall not be entitled to a compensation in case of accidental perishing or damage of objects, or for its deterioration due to regular use.

Order of Priority in Distribution of Common Property Article 737

(1) Out of common property debts of partnership shall be settled first, and should they not be due or be contested, than sufficient amount shall be allocated for their settlement.

(2) Upon payment of common debts, the contributions shall be returned, whereby in case of in-kind contributions, excluding those consisting of services or placing objects at disposal for use, their value at the time of investment shall be compensated.

(3) Should it be necessary common property shall be liquidated for the purpose of payment of debts and returning of contributions.

(4) After payment of debts and returning of contributions, remainder of common property shall be distributed to partners according to their shares in profit.

(5) Should it be necessary for division of property, it shall be deemed that partnership continues for the purpose of completing business affairs which are in course, concluding new transactions necessary for ending such business affairs, as well as for the purpose of maintenance and management of common property.

(6) Unless otherwise should ensue from the partnership contract, termination of partnership shall also result in termination of authorization of a partner to manage partnership's business affairs, while all partners together shall continue to conduct transactions referred to in paragraph 5 of present Article.

**Covering of Deficit
Article 738**

Should common property be insufficient to settle common debts and return contributions, partners shall make supplementary payments to cover a deficit according to proportion of covering the loss; however should it be impossible to collect corresponding share from any of partners, remaining partners shall cover it in equal shares.

**Application of Provision on Termination of Co-ownership
Article 739**

The regulations on termination of co-ownership shall apply to issues related to division of common property which are not regulated by provisions of Articles 736 to 738 of present Law.

**TITLE XIX
CARRIAGE**

**SUBTITLE 1
GENERAL PROVISIONS**

**Notion
Article 740**

(1) By a contract of carriage a carrier shall assume the obligation to transport to a determined place a person or an object, while the passenger, or sender, shall assume the obligation to pay him an adequate carriage charge in return.

(2) In terms of the present Law the carrier shall mean both a person dealing with carriage as his regular business activity, and any other person assuming an obligation by contract to perform transport for remuneration.

**Obligations of a Line Carriage Carrier
Article 741**

(1) A carrier performing transport along a specified line (line carriage) shall have a duty to maintain a scheduled line service regularly and orderly.

(2) Carrier shall be bound to accept for transport any person and any object meeting requirements determined in the announced general terms and conditions.

(3) Should a number of regular transportation vehicles of a carrier be insufficient to meet all requests for transport, the priority shall be extended to persons and objects, as prescribed by particular regulations, and further priority shall be determined according to the order of requests, while priority between simultaneous requests shall be determined according to longer distance of transport.

Desisting from Contract Article 742

(1) A sender, or a passenger, may desist from contract prior to commencement of its performance, but he shall be liable to compensate loss potentially sustained by the carrier due to that.

(2) Should a carrier delay commencement of the transport to a degree that the other party becomes no longer interested for the stipulated transport, or if the carrier is unwilling or unable to perform such transport, the other party may desist from the contract and demand restitution of the carriage charge paid.

Amount of Carriage Charge Article 743

(1) Should the amount of carriage charge be determined by a tariff or other announced compulsory act, a higher carriage charge shall not be stipulated.

(2) Should the amount of carriage charge not be determined either by tariff or other announced compulsory act, or by contract, the carrier shall be entitled to a usual carriage charge otherwise practiced in such line of transportation.

(3) In other cases, the provisions covering charges in the Title of the present Law relating to contract for services shall apply accordingly.

Restrictive Application of Provisions of the Present Title Article 744

The provisions of the present Chapter shall apply to all kinds of transport, unless otherwise determined by law for particular kinds of transport.

SUBTITLE 2 CONTRACT OF CARRIAGE OF OBJECTS

Section 1 GENERAL PROVISIONS

Delivery of Object Article 745

A carrier shall be obliged to deliver the object accepted for transport, at a designated place to a sender or to a designated person (consignee).

Contents of Notification of a Sender to a Carrier Article 746

- (1) A sender shall be bound to notify a carrier of the kind of shipment and of its contents and quantity, and to inform him about the place of destination of shipment, the name and address of the consignee, his own name and address, as well as anything else necessary for the carrier to fulfill his obligation without delay and difficulties.
- (2) Should the shipment contain valuables, securities or other expensive objects, the sender shall be bound to notify the carrier accordingly at the moment of their delivery for transport, including information as to their value.
- (3) In case of transporting a dangerous object or an object requiring particular treatment in transport, the sender shall be obliged to notify the carrier thereof on time, so that the latter will be able to take corresponding special measures.
- (4) Should the sender fail to supply the carrier with data specified in paragraphs 1 and 3 of the present article, or should he relate to him erroneous information, he shall be liable for ensuing loss.

Bills of Lading Article 747

- (1) Contracting parties may agree that a bill of lading be issued concerning the shipment delivered for transport.
- (2) A bill of lading should contain the following indications: name and address of sender and of carrier, kind, contents and quantity of shipment, as well as the value of valuables and other expensive items, place of destination, the amount of carriage charge, or a note that such charge is paid in advance, the provision about the amount being the charge of the shipment, and place and day of issuing the bill of lading.
- (3) Other clauses of the contract of carriage may also be introduced into the bill of lading.
- (4) A bill of lading must be signed by both contracting parties.
- (5) A bill of lading may contain a clause "by order" or it may be made out to bearer.

Contract of Carriage and Bill of Lading Article 748

The existence and validity of a contract of carriage shall be independent of the existence of a bill of lading and of its accuracy.

Carriage Receiving Note Article 749

Should a bill of lading not be issued, a sender may demand that a carrier issue to him a receiving note for the shipment delivered to him for transport, containing data which should otherwise make a bill of lading.

Section 2

RELATIONSHIP BETWEEN A SENDER AND A CARRIER

Packaging **Article 750**

- (1) A sender shall be bound to pack the object in a prescribed or usual way in order to prevent eventual damage or danger for safety of people and property.
- (2) A carrier shall be bound to draw the sender's attention to noticeable deficiencies in packaging, otherwise he shall be liable for resulting damage in shipment.
- (3) However, the carrier shall not be liable for damage in shipment should the sender, after being notified of deficiencies in packaging, request the carrier to accept the shipment for transport with these deficiencies.
- (4) A carrier shall be bound to refuse the shipment if deficiencies are of such a nature as to potentially endanger the safety of people and property, or be prone to cause damage.
- (5) A carrier shall be liable for damage sustained by third parties due to deficiencies in packaging while the goods are still in his possession, and he shall be entitled to claim recovery from the sender.

Carriage Charge and Expenses Connected with Transport **Article 751**

- (1) A sender shall be bound to pay to the carrier a carriage charge and to cover expenses connected with the transport.
- (2) Should there be no indication in the bill of lading that the sender is to pay the carriage charge and to cover other expenses relating to transport, it shall be presumed that the sender has directed the carrier to collect them from the consignee.

Disposing of Shipment **Article 752**

- (1) A sender may dispose of the shipment and change the orders indicated in the contract, and order the carrier to suspend further transportation of the shipment, to return the shipment to him, to deliver it to another consignee, or to forward it to another destination.
- (2) The right of a sender to change the orders shall expire when the shipment arrives at the point of destination and the carrier hands over the bill of lading to the consignee, or when the carrier has invited the consignee to accept the shipment, or if the consignee himself has demanded its delivery to him.
- (3) Should the bill of lading be issued with a clause "by order", or "to bearer", the rights of a sender specified in the preceding paragraph shall belong exclusively to the party in possession of the bill of lading.

(4) An authorized person using the right to give new orders to a carrier shall be bound to redress ensuing loss and damage and cover relevant expenses incurred by him, as well as to supply him, at his request, with a guarantee to cover the payment of damages and expenses.

Direction of Transport Article 753

- (1) A carrier shall be bound to perform the transportation by a stipulated route.
- (2) Should there be no stipulation as to the transport route, the carrier shall be obliged to perform it by the route which best suits the sender's interests.

Hindrances in Performing Transport Article 754

- (1) A carrier shall be bound to notify a sender regularly of all circumstances relevant for the performance of transport, and he shall act according to instructions he has received from him.
- (2) A carrier shall not be obliged to act according to instructions of the sender should following them endanger the safety of people and property.
- (3) In a case not permitting any delay in waiting for sender's instruction, the carrier shall be bound to proceed as a good businessman or a good head of household would in the same situation; he shall accordingly notify the sender while requesting further instructions.
- (4) The carrier shall be entitled to reimbursement of expenses incurred by him due to hindrances occurring without his fault.

Carriage Charge in Case of Interruption of Transport Article 755

- (1) Should transport be interrupted for a reason not within the responsibility of the carrier, he shall be entitled to a proportionate part of carriage charge for the effected transport, but shall also be liable for loss caused to the other party due to interruption of transport.
- (2) Should transport be interrupted for a reason not within the responsibility of any person interested in the matter, the carrier shall be entitled to the difference between the carriage charge stipulated and carriage expenses from the place of interruption of transport to the destination place.
- (3) A carrier shall not be entitled to even part of the carriage charge should the shipment be lost in course of transport due to Force Majeure.

Impossibility of Delivery Article 756

- (1) Should it be impossible to notify a consignee of the arrival of a shipment, or should he refuse to accept it and should it generally be impossible to deliver the shipment, or should

the consignee fail to pay to the carrier the carriage charge due and the remaining shipment charges, the carrier shall be bound to notify the sender thereof, to request instructions from him and to take measures necessary for preserving the goods on his behalf.

(2) Should an authorized person fail, within reasonable time, to take any measures relating to shipment, the carrier shall be entitled to sell it according to rules of the sale of goods owed in case of a creditor's delay, to collect his claim from the proceeds of sale, and to deposit the rest at the court for the authorized person.

Liability of Carrier to a Sender Article 757

If a carrier delivers the shipment to a consignee, but does not collect from him the shipment charges, he shall be bound to pay such amount to the sender, but shall be entitled to claim redress against the consignee.

Section 3 RELATIONSHIP BETWEEN A CARRIER AND A CONSIGNEE

Notifying a Consignee on Arrival of Shipment Article 758

(1) A carrier shall be bound to notify a consignee without delay that the shipment has arrived, to place it at his disposal as stipulated, and to submit to him the bill of lading, if issued.

(2) Should the bill of lading contain the clauses "by order" or "to bearer", he shall be obliged to proceed according to the preceding paragraph only if there is an indication in the bill as to a person at the point of destination who must be notified of the arrival of shipment.

Delivery of Shipment after Issuing a Duplicate of a Waybill Article 759

A carrier may refuse delivery of a shipment if he is not simultaneously presented with a duplicate of the bill of lading, containing an indication that the shipment has been accepted by the consignee.

Right of Consignee to Request Delivery of Shipment Article 760

(1) A consignee may realize rights out of the contract of carriage against a carrier, and request to be presented with the bill of lading and the shipment, only when the shipment has arrived at its destination point.

(2) At the consignee's request the carrier shall be obliged to deliver to him the shipment prior to its arrival to the destination point only if authorized accordingly by the sender.

(3) The consignee may realize the rights out of the contract of carriage, and request from the carrier delivery of the shipment only if he meets terms and conditions specified in the contract of carriage.

Establishing Identity and Condition of Shipment Article 761

- (1) An authorized person shall be entitled to demand that the identity of a shipment be established and recorded, and should the shipment be damaged, that the fact of damage be entered.
- (2) After establishing that a shipment is not the one delivered to the carrier, or that damage is more serious than stated by the carrier, the expenses of establishing the condition of the shipment shall be born by the carrier.

Duty of a Consignee to Pay the Carriage Charge Article 762

- (1) By accepting delivery of shipment and the bill of lading if issued, a consignee shall assume a duty to pay to a carrier the carriage charge, unless otherwise stipulated in the contract of carriage or bill, and to pay to him the shipment charges.
- (2) Should the consignee consider that he is not obliged to pay to the carrier the amount required by him, he may realize the rights out of contract only after depositing at the court the contested amount.

Section 4 LIABILITY OF A CARRIER FOR LOSS, DAMAGE, AND DELAY IN SHIPMENT

Loss or Damage of Shipment Article 763

- (1) A carrier shall be liable for loss or damage of the shipment which occurs from the moment of its being accepted for transportation until its delivery, unless caused by an act of the authorized person, by the properties of the shipment, or by external causes which could not have been foreseen, prevented or eliminated.
- (2) A carrier shall be liable for damage up to the amount set out by law or international treaty.
- (3) Clauses in the contract of carriage, general terms and conditions of carriage, in tariffs or any other general act, shall be null and void if they seek to reduce liability.
- (4) But a clause by which highest amount of compensation of damage is determined in advance shall be valid, on condition that it not be in obvious disproportion to the damage.
- (5) Such limit of the amount of compensation for damage shall not apply should the damage be caused by the carrier through his intentional misconduct or gross negligence.
- (6) Unless otherwise specified by contract, the amount of compensation for damage shall be determined according to the market price of the shipment at the time and in the place of its delivery for transport.

Loss or Damage of Shipment of Valuable Objects Article 764

(1) In the case of loss or damage of a shipment of valuables, securities, or other expensive items, the carrier shall be obliged to redress the corresponding loss only if notified, at the moment of delivering the objects for transport, of the nature of such objects and of their value, or if he causes the loss through intentional misconduct or gross negligence.

(2) Should other goods be placed together in the shipment with the objects mentioned in the paragraph 1 of present Article, liability for their loss or damage shall be the carrier's according to the general rules of carrier's liability.

Restitution of Carriage Charge Paid Article 765

In the case of total loss of the shipment, the carrier shall be bound, in addition to redressing the loss, to retribute to the sender the carriage charge eventually paid.

A Case of a Consignee Accepting the Shipment without Objections Article 766

(1) If a consignee accepts a shipment without objections and pays the carrier the amount of his claim, the liability of the carrier shall be terminated, unless the damage has been established by way of record prior to taking over of the shipment.

(2) The carrier shall remain liable for damage to the shipment which could not have been noticed at the moment of delivery, if the consignee notifies him of such damage immediately after discovering it, but not later than eight days after delivery.

(3) The carrier shall not invoke the provisions of the preceding paragraphs if he has caused the damage through intentional misconduct or gross negligence.

Liability of Carrier for Delay Article 767

A carrier shall be liable for loss or damage caused by delay, unless the delay was caused by a fact which excluded his liability for loss or damage of the object.

Liability for Assistants Article 768

A carrier shall be liable for persons being engaged at his order in performing the transportation.

Section 5 PARTICIPATION OF SEVERAL CARRIERS IN TRANSPORTING A SHIPMENT

Cases of Their Joint Liability Article 769

- (1) A carrier entrusting complete or partial performance of the transport of shipment he has accepted for transportation to another carrier, shall still remain liable for its transportation from the moment of its acceptance until its delivery, but shall be entitled to be paid the carriage charge by the carrier to whom he has entrusted the shipment.
- (2) Should the second carrier take over the bill of lading from the first carrier together with the shipment, he shall become a contracting party in the contract of carriage, with rights and duties of a joint debtor and joint creditor, proportionate to his participation in the transport.
- (3) The provision from paragraph 2 of present Article shall apply in the case of a contract for transportation of a shipment by several carriers performing the transportation one after another.
- (4) Each of the several carriers shall be entitled to request that condition of shipment be established at the moment of his accepting it for transport in order to perform his part of the transportation.
- (5) Joint and several carriers shall participate in covering loss in proportion to their shares in the transportation, except one being successful in proving that the damage did not occur while he was transporting the shipment.
- (6) Objections raised against a subsequent carrier shall also be effective against all previous cases.

Divided Liability of Carriers Article 770

Should performance of transportation of the same shipment be effected by several carriers one after the other, as designated by the sender, each one shall be liable only for his part of the transportation.

Section 6 RIGHT OF LIEN

Right of Pledge Pertaining to Carrier Article 771

- (1) In order to secure payment of carriage charge and of necessary expenses incurred by him in connection with transport, the carrier shall have the right of lien over the objects delivered to him for transport, and in relation to the transport, the lien shall be effective while these objects are in his possession or while he holds the document enabling him to dispose of them.

- (2) After several consecutive carriers have participated in performing the transport, their claims in relation to such transport shall be also secured by such lien, and the last of the carriers, unless the bill of lading states otherwise, shall be bound to effect collection of all claims on the grounds of the bill of lading.
- (3) The claims of an earlier carrier, as well as the right of lien, shall be transferred, by law, to the subsequent carrier who pays to him such claims.
- (4) The same shall apply if the carrier has paid the forwarder's claims.

Colliding Rights of Lien Article 772

- (1) Should, besides the right of lien of a carrier, the same object be charged with simultaneous rights of lien of a commission agent, forwarder and storekeeper, the priority in payment shall be with the claims of any of these creditors arising from forwarding or transport, and in the order opposite to their origination.
- (2) The remaining claims of the commission agent and the storekeeper, as well as claims of the forwarder and the carrier, created by advance payments, shall be collected only after paying the claims specified in the preceding paragraph, and in the order of their origination.

SUBTITLE 3 CONTRACT OF TRANSPORTATION OF PASSENGERS

General Provisions Article 773

A carrier shall be obliged to perform the transportation of passengers safely in a transportation vehicle designated by the contract of transportation, and to provide such conditions of comfort and hygiene which are considered necessary according to the kind of the relevant vehicle and the length of the journey.

Right of Passenger to Specific Seat Article 774

A carrier shall be liable to provide the passenger with such seat and in such transportation vehicle as stipulated.

Liability of Carrier for Delay Article 775

- (1) A carrier shall be liable to transport the passenger to the specified place on time.
- (2) He shall be liable for losses sustained by the passenger due to delay, unless delay was due to a cause impossible to be eliminated by him even after applying expert care.

Responsibility of Carrier for Safety of Passengers Article 776

- (1) A carrier shall be responsible for the safety of passengers from the commencement of transportation to its end, both in case of paid transportation and of free transportation, so that he shall be obliged to compensate loss occurring through harm to health, injury or death of a passenger, unless these are caused by the action of the passenger or by an unforeseeable external cause which can not be avoided or eliminated.
- (2) Clauses of a contract as well as those of general terms and conditions of transport, tariffs or other general act, by which such liability is reduced shall be null and void.

Responsibility for Luggage Handed over for Transportation and for other Objects Article 777

- (1) A carrier shall be bound to transport the luggage handed over to him and at the same time as the passenger, and he shall present it to him when the transportation is over.
- (2) A carrier shall be liable for loss or damage to luggage handed over by a passenger to him according to the provisions relating to the carriage of objects.
- (3) A carrier shall be liable for damage to objects carried by a passenger according to the general rules of liability.

Title XX LICENSING AGREEMENT

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 778

By a licensing agreement a licensor shall assume the obligation to assign to a licensee, entirely or partially, the right of use of an invention, technical know-how and experience, trade-mark, sample or model, while the licensee shall assume the obligation to pay a specified fee in return.

Form Article 779

- (1) A licensing agreement must be concluded in written form.
- (2) Agreement which is not concluded in written form shall be null and void.

License Period
Article 780

A license for the use of a patented invention, sample or model, shall not be concluded for a period longer than the one covered by statutory protection of such rights.

Exclusive License
Article 781

- (1) A licensee shall acquire by licensing agreement an exclusive right of use of the subject of license only after this has been expressly stipulated (exclusive license).
- (2) Other means of using the subject of license shall be reserved by the licensor.
- (3) Should there be no indication in the licensing agreement as to the kind of license, it shall be considered that a non-exclusive license has been granted to him.

Area Limit of the Right of Use
Article 782

- (1) A right to use the subject of license may be limited to certain area only if this is not contrary to freedom of market economy.
- (2) Should there be no area limit in the licensing agreement of the right to use the subject of license, license shall be considered as not restricted in terms of area.

SUBTITLE 2
OBLIGATIONS OF LICENSOR

Delivery of the Subject of License
Article 783

- (1) A licensor shall be obliged to deliver to a licensee the subject of the license within the designated time limit.
- (2) A licensor shall also be obliged to deliver to a licensee the technical documentation necessary for practical implementation of the subject of license.

Providing Instructions and Information
Article 784

A licensor shall be obliged to provide a licensee with all instructions and information necessary for the successful use of the subject of license.

**Duty of Guarantee
Article 785**

A licensor shall guarantee to the licensee the technical feasibility and technical fitness of the subject of license.

**Guarantee
Article 786**

- (1) A licensor shall guarantee that the right of use which is the subject of the agreement belongs to him, that there is no lien on it and that it is not restricted in favor of a third person.
- (2) Should the subject of agreement be an exclusive license, the licensor shall guarantee that he has not assigned the right of use to another, either entirely or partially.
- (3) A licensor shall be bound to protect and defend the right which he has assigned to the licensee against all third parties' requests.

**Duty of a Licensor of an Exclusive License
Article 787**

Should an exclusive license be stipulated, the licensor shall not in any way use the subject of license alone, or some of its parts, nor shall he entrust that to another within the limits of territorial validity of license.

**SUBTITLE 3
OBLIGATIONS OF THE LICENSEE**

**Use of the Subject of License
Article 788**

A licensee shall be bound to use the subject of license in the way, within the scope, and in the limits stipulated.

**Use of Subsequent Advancements
Article 789**

Unless otherwise determined by law or by contract, a licensee shall not be authorized to use subsequent improvements in the subject of license.

**Keeping Secret the Subject of License
Article 790**

Should the subject of license be a non-patented invention or secret technical know-how, the licensee shall be bound to keep it confidential.

Quality Article 791

- (1) Should a manufacturing license be assigned together with a license concerning the use of a trade- mark, the licensee shall be entitled to put goods with such trademark on the market only if its quality is the same as the quality of goods otherwise manufactured by the licensor.
- (2) A contrary agreement shall have no legal effect.

Marking Article 792

A licensee shall be obliged to put a designation on the goods that they are manufactured according to license.

Compensation Article 793

A licensee shall be bound to pay to a licensor the fee stipulated, at the time and in the way provided for by the agreement.

Submitting a Report Article 794

Should a fee be agreed in relation to the scope of use of the subject of license, the licensee shall be obliged to submit to the licensor a report on the scope of use and to make an annual fee account, unless a shorter time limit is stipulated in the matter.

Changing a Stipulated Fee Article 795

Should the stipulated fee be obviously inadequate in relation to the revenue generated by the licensee through the use of the subject of license, the interested party may request a change in the stipulated fee.

SUBTITLE 4 SUBLICENSE

When Can it Be Granted Article 796

- (1) A licensee of an exclusive license may issue to another the right of use of the subject of license(sublicense).
- (2) A contract can provide that a licensee be precluded from granting a sublicense to another, or from granting it without the licensor's permission.

When a Licensor May Refuse Permission
Article 797

Should permission by licensor be needed for granting a sublicense, he may only refuse it to the licensee of an exclusive license for serious reasons.

Cancellation due to a Prohibited Sublicense
Article 798

A licensor may cancel the licensing agreement without extending a period of notice if a sublicense has been granted without his permission, should permission be necessary on the ground of law or contract.

Direct Request by a Licensor
Article 799

(1) A sublicensing agreement shall create no particular legal relationship as between the sub-licensee and the licensor, even if the licensor granted the necessary permission to make the sublicensing agreement possible.

(2) But in order to collect his claims against the licensee on the ground of license, the licensor may request the payment of the amount owed to the sub-licensor on the ground of sublicense directly from the sub-licensee.

SUBTITLE 5
TERMINATION OF AGREEMENT

Expiration of Time Specified
Article 800

A licensing agreement for a definite period shall be terminated on expiration of the period stipulated, so that there shall be no need for cancellation.

Implicit Renewal of a License
Article 801

(1) Should after the expiration of a definite period specified in the licensing agreement the licensee continue to use the subject of license, but the licensor fail to object, a new agreement shall be considered to have been made for the license covering an indefinite period, and under the same terms and conditions as the previous one.

(2) Security instruments supplied by third parties regarding the first license shall be terminated with the expiration of the validity period of that license.

Notice
Article 802

- (1) A licensing agreement whose validity period is not determined shall be terminated by cancellation which may be given by either party, after honoring a determined period of notice.
- (2) Should the period of notice not be stipulated by agreement, it shall be six months, but the licensor may not cancel the agreement during the first year of its validity.

Death, Bankruptcy and Regular Liquidation
Article 803

- (1) In the case of death of a licensor, the license shall continue to be effective for his successors, unless otherwise stipulated by the agreement.
- (2) In the case of death of a licensee, the license shall continue to be effective for his successors continuing his activity.
- (3) In the case of a bankruptcy or liquidation of a licensee, a licensor may rescind the agreement.

Title XXI
DEPOSIT (OF OBJECTS OF PROPERTY)

SUBTITLE 1
GENERALLY ON DEPOSIT

Section 1
GENERAL PROVISIONS

Notion
Article 804

- (1) By a contract of deposit (of objects of property) the depositary shall assume the obligation to accept an object from the depositor, to store it and to restore it at his request.
- (2) Only movables may be the subject of deposit of objects.

Deposit of Another Person's Object
Article 805

- (1) A contract of deposit of objects may be validly entered into also by a person, in his own behalf, who is not the owner of the object, and the depositary shall be bound to restore the object to him, unless he discovers that the object was stolen.

(2) Should a third party claim at the court the object from the depositary as an owner, the depositary shall be obliged to inform the court of the name of person from whom the object was accepted, and at the same time notify the depositor on the action filed with the court.

Section 2 OBLIGATIONS OF A DEPOSITARY

Duty of Storing and Informing Article 806

(1) A depositary shall be bound to store the object as his own, and should the deposit be for a fee – as a good businessman, or good head of household.

(2) Should the place or manner of storing the object be stipulated, the depositary may change them only if this is required by changed circumstances; he shall otherwise be liable for accidental loss or accidental damage to the object.

(3) A depositary shall be obliged to notify a depositor about all changes noticed in the object, and about dangers threatening damage of any kind to it.

Delivering an Object to Another for Storing Article 807

A depositary may not, without the depositor's consent or without necessity, deliver the object to another for storing; he shall otherwise be liable for its accidental loss or damage.

Using the Object Article 808

(1) A depositary shall not be entitled to use the object entrusted to him for storage.

(2) In case of unpermitted use of the object, the depositary shall owe to the depositor corresponding compensation, and shall be liable for accidental loss or damage of the object which occurs.

(3) Should a durable object be deposited with the depositary, coupled with his right to use it, the relations between the contracting parties shall be governed by the rules of contract of loan for use, while only the questions of time and place of restoring the object shall be regulated by the rules of contract of deposit, unless contracting parties have agreed otherwise.

Using and Delivering the Object to Another Article 809

A depositary who, without the depositor's consent and without necessity, contrary to contract, use the object, changes the place or manner of storage, or delivers the object to another for storage, shall not be liable for accidental loss or damage of the object which would ensue anyway in spite of his proceeding according to the contract.

Restoring the Object Article 810

- (1) A depositary shall be bound to restore the object immediately upon a corresponding request by the depositor, including all yields and other benefits arising from the object.
- (2) Should a time limit be determined for restoring the object, the depositor may request that the object be restored to him even prior to the expiration of such time limit, unless the time limit was stipulated entirely in the interest of the depositor.
- (3) The restoration shall be effected at the place of delivery of the object to the depositary, unless another place be stipulated for the purpose, and in such case the depositary shall be entitled to reimbursement of expenses of transporting the object.

Section 3 RIGHTS OF A DEPOSITARY

Reimbursement of Expenses and Compensation of Loss Article 811

A depositary shall be entitled to request reimbursement from the depositor for expenses incurred justifiably by him in order to store the object, and to redress loss sustained due to such storing.

Compensation for Storing Article 812

A depositary shall not be entitled to compensation for his efforts, unless compensation is agreed, and if the depositary is engaged in the business of storing, or if compensation was expected due to circumstances of the transaction.

Restoring the Object in Case of Depositing Free of Charge Article 813

- (1) A depositary assuming an obligation to store the object free of charge for a definite period, may restore it to the depositor prior to the expiration of the stipulated time limit, if the object would be exposed to danger of loss or damage, or if further storing would cause damage to him.
- (2) Should a time limit not be stipulated, the depositary specified in the preceding paragraph may rescind the contract at any time, but shall be obliged to the depositor to determine a reasonable time limit for taking the object over.

Section 4 PARTICULAR CASES OF DEPOSIT

A Non Genuine Deposit Article 814

Should replaceable objects be entrusted for deposit with the right of the depositary to consume them and with a duty to restore the same quantity of objects of the same kind, his relations with the depositor shall be regulated by the rules of the loan agreements and only the questions of time and place of restoring the object shall be governed by rules of deposit, unless the contracting parties have stipulated otherwise in that respect.

Deposit in Case of Emergency Article 815

The one to whom an object is entrusted in case of an emergency, such as fire, earthquake or flood, shall be bound to keep it with increased care.

SUBTITLE 2 INNKEEPER'S DEPOSIT

Innkeeper as a Depositary Article 816

(1) An innkeeper shall be considered as a depositary regarding objects brought in by guests, and shall be liable for their disappearance or damage up to a maximum amount to be determined by particular regulations.

(2) There shall be no such liability if the objects have perished or were damaged due to circumstances which were impossible to avoid or eliminate, due to a cause inherent to the object itself, if they were lost or damaged due to the conduct of the guest himself, or due to the conduct of persons accompanying him, or of those visiting him as guests.

(3) The innkeeper shall be liable for total loss if the guest entrusted the object to him for storing, or if damage occurred through his fault or the fault of persons under his responsibility.

Objects Brought in by a Guest Article 817

(1) Following shall be considered as objects brought in by a guest to a facility pertaining to hospitality industry:

- 1) objects kept in the hospitality facility for the entire duration of guest's accommodation therein;
- 2) objects kept outside hospitality facility, in place designated or kept under supervision by the innkeeper, or supervision of person under his responsibility, for the entire duration guests accommodation;

- 3) objects for which innkeeper or person under his responsibility assumes duty of supervision inside or outside of the hospitality facility within reasonable time prior to or after the period of accommodation.
- (2) Provisions on liability for things brought by guest shall not apply to vehicles, objects and animals kept in vehicles, unless otherwise stipulated by contract.

Obligations of Innkeeper to Accept Objects for Storing

Article 818

- (1) An innkeeper shall be bound to accept for storing the objects brought in by the guests for such purpose, unless he has no adequate space for keeping them, or if such storage exceeds his resources in some other way.
- (2) An innkeeper unjustifiably refusing to accept an object for storing, shall be liable for the entire loss sustained by a guest.

Duty of Guest to Report Damage

Article 819

A guest shall be obliged to report loss or damage of the object as soon as he becomes aware of it; he shall otherwise be entitled to damages only after proving that the damage was caused by the innkeeper's fault or by the fault of persons under his responsibility.

Notices on Excluding Liability

Article 820

Notices displayed in the premises of the innkeeper by which his liability concerning objects brought in by the guests is excluded, limited or made dependent, shall have no legal effect.

Right of Retention (Lien)

Article 821

An innkeeper accepting guests for overnight accommodation shall be entitled to keep the objects brought in by the guests until complete payment of the claim covering the accommodation and other services.

Extending the Application of Provisions on Innkeeper's Deposit

Article 822

The provisions on innkeeper's deposit shall apply accordingly to hospitals, public garages, railway sleeping-cars, organized camping sites, and the like.

Title XXII WAREHOUSING

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 823

- (1) By a contract of warehousing the warehouse keeper shall assume the obligation to accept and store specified merchandise and to take necessary or stipulated measures in order to preserve it in the agreed condition, as well as to deliver it at the depositor's request, or at the request of other authorized person, while the depositor shall assume the obligation to pay to him in return an agreed fee.
- (2) In delivering the merchandise the depositor shall be obliged to provide all necessary information on the merchandise, and to state its value.

Exclusion of Liability and some Obligations of a Warehouse Keeper Article 824

- (1) A warehouse keeper shall be liable for damage to the merchandise, unless he proves that the damage was caused by circumstances which could not have been avoided or eliminated, or that it was caused by fault of the depositor, by shortcomings or natural properties of the merchandise, or by inadequate packaging.
- (2) A warehouse keeper shall be obliged to warn the depositor about the defects or natural properties of the merchandise, or about the inadequate packaging, due to which damage to merchandise may ensue, and he shall do that as soon as he becomes aware of such deficiencies, or as soon as he should have become aware of them.
- (3) Should the merchandise be exposed to such irremediable changes so as to cause danger of perishing or loss, the warehouse keeper shall be bound, if the depositor is unable although being invited by him, to sell the merchandise immediately and in the most convenient way.
- (4) A warehouse keeper shall be bound to take action in order to preserve the rights of the depositor in relation to the carrier delivering the merchandise to him for the account of the depositor, if the merchandise is damaged or is defective.

Duty to Insure Article 825

- (1) A warehouse keeper shall be obliged to insure the merchandise accepted for storage only should this be stipulated.
- (2) Should there be no stipulation regarding the kind of risk to be covered by insurance, the warehouse keeper shall be obliged to insure the merchandise against usual risks.

Limitation of Damages Article 826

Damages which must be paid by a warehouse keeper due to loss, partial loss or damage to the merchandise in the period between its acceptance and delivery, shall not exceed the real value of the merchandise, unless damage was caused by him intentionally or through gross negligence.

Mixing of Replaceable Objects Article 827

(1) A warehouse keeper shall not mix the accepted replaceable objects with objects of the same kind and same quality, unless a depositor has agreed accordingly, or unless it becomes obvious that objects are of such a nature that there would be no danger to the depositor from mixing them.

(2) Should the objects be mixed, the warehouse keeper may, at the request of an authorized person and without the participation of other authorized persons, set apart from the mixture of replaceable objects the part belonging to him.

Inspection of Merchandise and Taking of Samples Article 828

A warehouse keeper shall permit an authorized person to inspect the merchandise and take corresponding samples.

Warehouse Keeper's Claim and the Right of Lien Article 829

(1) In addition to the storage fee, the warehouse keeper shall be entitled to reimbursement of expenses which were necessary for keeping the merchandise.

(2) A warehouse keeper shall have the right of lien over the merchandise, to cover his contractual claims of warehousing, and for other claims relating to the storage of merchandise.

Collecting of Merchandise and Sale of Uncollected Merchandise Article 830

(1) A depositor shall be entitled to collect the merchandise even prior to the stipulated time limit.

(2) Should a depositor of merchandise fail to collect the merchandise after the expiration of the stipulated time limit, or after one year – should a time limit for storage be not stipulated – the warehouse keeper may sell the merchandise for his account at a public sale, but shall be obliged to notify him beforehand of his intention, and shall leave to him a subsequent minimum eight day time limit to collect merchandise.

Defects at the Acceptance of Merchandise Article 831

- (1) A consignee shall be obliged to inspect the merchandise at the moment of taking the delivery.
- (2) After noticing defects on taking delivery, the consignee shall be bound to warn the warehouse keeper thereof immediately, otherwise the merchandise shall be considered to have been accepted in a regular way.
- (3) The consignee shall be obliged to notify the warehouse keeper in a reliable way, within a seven day time limit, counting from the day of taking delivery, of defects in the merchandise which could not be established at the moment of taking delivery, otherwise merchandise shall be considered as having been accepted in a regular state.

Application of the Rules of Deposit Article 832

The rules of deposit shall apply accordingly to the contract of warehousing, unless otherwise regulated by the rules of warehousing.

SUBTITLE 2 WAREHOUSE WARRANT

Duty of Issuing a Warehouse Warrant Article 833

A warehouse keeper being authorized by law to issue a warehouse warrant covering the merchandise accepted for storage, shall issue such warrant to the depositor at his request.

Elements and Contents of Warehouse Warrant Article 834

- (1) A warehouse warrant shall consist of a receipt and a mortgage-deed.
- (2) The receipt and the pledge bond shall include the following: title or name and profession of the depositor, his business seat or permanent residence, title and business address of the warehouse keeper, date and number of the warehouse warrant, location of the warehouse, kind, nature and quantity of merchandise, information concerning the amount of insurance for the merchandise, as well as other data necessary to identify the merchandise and to determine its value.
- (3) The receipt and mortgage-deed shall refer to each other.

A Warehouse Warrant for Parts of the Merchandise Article 835

- (1) A depositor may demand that the warehouse keeper separates the merchandise into specific parts and issue to him a separate warehouse warrant for each such part.
- (2) After he has already obtained a warehouse warrant covering the entire quantity of merchandise, he may demand that the warehouse keeper separates the merchandise into specific parts and issues him, while replacing the already obtained warehouse warrant, the separate warehouse warrants covering each part of the merchandise.
- (3) A depositor may demand the warehouse keeper to issue him the warehouse warrant for only one part of the replaceable merchandise left by him at the warehouse keeper.

Right of a Holder of the Warehouse Warrant Article 836

- (1) A holder of a warehouse warrant may demand that the merchandise indicated therein be delivered to him.
- (2) He may dispose of the merchandise indicated in the warehouse warrant by transferring the warehouse warrant.

Transferring the Receipt and the Mortgage-deed Article 837

- (1) A receipt and a mortgage-deed may be transferred by endorsement, together or separately.
- (2) In effecting such transfer a date must be indicated for each transfer.
- (3) At the request of the recipient of the receipt or the mortgage-deed, the transfer affected to his benefit shall be recorded in the warehouse ledger, where also his business seat of permanent residence, shall be noted.

Right of a Holder of the Receipt Article 838

- (1) A transfer of a receipt without a mortgage-deed shall entitle the recipient to claim delivery of merchandise only after paying the holder of the mortgage-deed, or depositing the amount which should be paid to him on the day of maturity of the claim to the warehouse keeper for the holder of the mortgage-deed.
- (2) A holder of the receipt without the mortgage-deed may request that the merchandise be sold, if the price to be achieved covers the amount to which the holder of the mortgage-deed is entitled, on condition that the surplus realized be remitted to him.
- (3) In case of replaceable objects, the holder of the receipt without the mortgage-deed may request that the warehouse keeper deliver to him one part of the merchandise, on condition that he deposits a corresponding amount of money to the warehouse keeper for the account of the holder of mortgage-deed.

Rights of a Holder of the Mortgage-Deed
Article 839

- (1) A transfer of the mortgage-deed without the receipt shall entitle the recipient to a lien over the merchandise.
- (2) On the occasion of the first transfer the mortgage-deed shall include the title or name and profession of the creditor, his business seat or permanent residence, the amount of his claim, including the interest, and the maturity date.
- (3) The first recipient of the mortgage-deed shall be obliged to notify without delay the warehouse keeper that the mortgage-deed is transferred to him, while the warehouse shall be obliged to record such transfer into the warehouse ledger, indicating on the face of the mortgage- deed the fact of making such transcription.
- (4) Without the actions specified in the preceding paragraph, it shall not be possible to transfer further the mortgage-deed by endorsement.
- (5) A mortgage-deed without the indication as to the amount of claim of the pledgee, shall be binding in favor of the pledgee up to the entire value of the objects indicated therein.

Complaint for Failing to Pay and Selling of Merchandise
Article 840

- (1) A holder of the mortgage-deed without the receipt, whose claim secured by the mortgage-deed is not paid in the specified time, shall be bound, under threat of forfeiting his right to claim payment from transferors, to file a protest in conformity with the legislation regulating bills of exchange.
- (2) A holder of the mortgage-deed who has filed the protest shall be entitled, after the expiration of the eight day time limit from the maturity of the claim, to demand the sale of the mortgaged merchandise, while the same right shall also pertain to a transferor who has paid to the mortgage-deed holder the claim secured by the mortgage-deed.
- (3) The amount achieved by the sale shall serve to cover the sale expenses, the warehouse keeper's claim under the contract of warehousing, and other claims of the warehouse keeper connected to the stored merchandise, as well as for covering payment of the secured claim of the mortgage-deed holder, while the remainder shall belong to the holder of the receipt.

Requesting Payment from Transferors of the Mortgage-Deed
Article 841

- (1) A holder of the mortgage-deed may demand payment from a transferor only if not successful in the total settlement by selling the mortgaged merchandise.
- (2) Such request must be filed within the time limit determined by the legislation regulating bills of exchange in case of request against the endorsers, and that time limit shall begin to run from the day of selling the merchandise.

(3) The mortgage-deed holder shall forfeit the right to demand payment from the transferors after failing to request the sale of merchandise at the latest within a month from the day of protest.

Title XXIII ORDER

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 842

(1) By a contract of order the person accepting the order shall assume the obligation and be authorized to undertake specific transaction for the account of the orderer.

(2) The person accepting an order shall be entitled to remuneration for his effort, unless otherwise provided by the contract or resulting from the nature of the mutual relations of the parties.

Persons Obligated to Respond to Offering an Order Article 843

A person professionally engaged in performing other persons' transactions, or a person who publicly offers to perform such transactions, shall be bound, if unwilling to accept an offered order relating to such transactions, to notify without delay the other party thereof, otherwise he shall be liable for loss sustained by such party.

SUBTITLE 2 OBLIGATIONS OF THE PERSON RECEIVING AN ORDER

Performing an Order as It Stands Article 844

(1) A person accepting an order shall be obliged to perform the order in conformity with instructions received, and with the care of a good businessman, or head of household, while remaining within the limits of the order and, generally, taking care of the orderer's interests which shall serve as his guidelines.

(2) Should the person accepting the order consider that following the order according to instructions received would be harmful to the orderer, he shall draw his attention accordingly and request new instructions.

(3) Should the orderer fail to supply specific instructions concerning the job to be done, the person accepting the order shall, while being guided by the interests of the orderer, proceed as a good businessmen or head of household, and should the order be without remuneration (free of charge), he shall proceed as he would with his own matters under the same circumstances.

Departures from Order and from Instructions Article 845

- (1) A person accepting an order may depart from the order and instructions accepted only in agreement with the orderer, and should it be impossible, due to shortage of time or some other reason, to demand the orderer's consent, he may depart from the order and instructions only if, assessing all the circumstances, he is able to reasonably conclude that this is required in the interests of the orderer.
- (2) Should the person accepting the order exceed the limits of the order or depart from the instructions received, he shall not be considered as a person accepting an order, but as a manager of another's affairs, unless the orderer subsequently approve what was done by him.

Substitution Article 846

- (1) A person accepting an order shall perform the order personally.
- (2) He may entrust the performance of the order to another only after obtaining permission from the orderer, or if compelled by circumstances to do what he did.
- (3) In such cases he shall be liable only for the choice of person substituting him and for the instructions communicated to such person.
- (4) In remaining cases he shall be liable for the work of his substitute, and for accidental loss or damage to the object, which occurs with the person substituting him.
- (5) The orderer in each case may demand, directly from the substitute, the carrying out of the obligation in the order.

Rendering Account Article 847

A person accepting an order shall be obliged to render account of the transaction performed, while handing over to the orderer without delay everything he received on the ground of the affairs performed, regardless of whether what was received by him for the orderer was owed to the latter or not.

Submitting Reports Article 848

A person accepting an order shall be obliged, at the orderer's request, to submit a report concerning the state of affairs, and render account even prior to the designated time.

Liability for Use of Orderer's Money Article 849

If a person accepting an order uses for his own needs the money received for the orderer, he shall be bound to pay interest at the highest permitted contractual rate, counting from the

day of use, and regarding other money owed and not handed over on time, he shall pay default interest, counting from the day he was obliged to hand the money over.

Joint and Several Liability of Persons Accepting an Order
Article 850

Should performing a transaction be entrusted by the same order to several persons to perform it jointly, they shall be jointly and severally liable for obligations in such order, unless otherwise stipulated.

SUBTITLE 3
OBLIGATIONS OF ORDERER

Advance Money
Article 851

At the request by person accepting an order, the orderer shall be bound to pay to him a sum of money to cover anticipated expenses.

Reimbursement of Expenses and Assuming Obligations
Article 852

(1) An orderer shall reimburse a person accepting the order, even if his effort is not successful without his fault, all necessary expenses incurred by him in performing the order, together with interest from the day of expenditure.

(2) He shall be bound to assume the obligations of the person accepting the order while engaging on his own behalf in affairs entrusted to him, or shall disengage him from obligations in some other way.

Compensating Loss
Article 853

An orderer shall compensate loss suffered by the person performing the order through no fault of his own.

Level of Compensation
Article 854

Unless otherwise stipulated, the orderer shall owe a usual amount of compensation and should there be no trade usage in this respect, he shall owe equitable amount.

Payment of Compensation
Article 855

(1) Unless otherwise stipulated, the orderer shall be obliged to pay remuneration to the person accepting the order when his job is done.

(2) Should the person accepting the order, without fault on his part, complete the order only partially, he shall be entitled to a proportionate part of the remuneration.

(3) Should remuneration stipulated in advance be in obvious disproportion to services rendered, the orderer may request its reduction.

Right of Lien Article 856

In order to secure remuneration and recovery of expenses, the person accepting the order shall be entitled to acquire a lien over the orderer's movables received under order, and over the sums of money he has collected for the account of orderer.

Joint and Several Liability of the Orderers Article 857

Should several persons entrust the performance of an order to a person accepting the order, they shall be jointly and severally liable to him.

SUBTITLE 4 TERMINATION OF ORDER

Withdrawing from Contract Article 858

(1) An orderer may withdraw from a contract.

(2) In case of withdrawing from a contract providing for compensation to the benefit of the person accepting the order, the orderer shall be obliged to pay to the latter a corresponding part of compensation, as well as redress loss sustained by him due to withdrawing from the contract – should there be no well-grounded reasons.

Cancellation Article 859

(1) A person accepting an order may cancel it by his own choice, but not at a bad time.

(2) He shall be obliged to redress the loss to the orderer, if sustained by him because of cancellation of the order at a bad time, unless well-grounded reasons existed for cancellation.

(3) The person accepting the order shall be obliged to continue, after the cancellation, with performance of the transactions not permitting postponement, until the orderer becomes able to take care of them.

Death, Termination of a Corporate Body Article 860

(1) An order shall be terminated by the death of a person accepting it.

- (2) Successors of the person accepting the order shall be obliged to notify the orderer of his death without delay, and to take measures necessary for protection of orderer's interests, until he becomes able to take care of them himself.
- (3) An order shall be terminated by death of the orderer only if so provided in the contract, or if the person accepting the order accepted it because of his personal relations with the orderer.
- (4) In case from the paragraph 3 of present Article the person accepting the order shall be obliged to continue with the entrusted transactions, to prevent eventual loss for the successors, until they become able to take care of them.
- (5) If either the orderer or the person accepting the order is a legal person, the order shall come to an end on the termination of such legal person.

Bankruptcy, Loss of Business Capacity Article 861

An order shall be terminated on the bankruptcy of the orderer or person accepting the order, or if either of them loses business capacity.

Moment of Termination of Order Article 862

- (1) If the orderer repudiates the contract, or in the case of his death or bankruptcy, or if he completely or partially loses business capacity, the order shall come to an end at the moment the person accepting the order becomes aware of the event causing the termination of order.
- (2) Should written authorization be issued to the person accepting the order, he shall be bound to return it after the termination of the order.

Exceptions Article 863

Should an order be given to enable the person accepting it to achieve fulfillment of some of its claims against the orderer, the orderer shall not be entitled to withdraw from the contract, and the order shall not come to an end by death or bankruptcy of either the orderer or the person accepting the order; nor shall it come to an end should one of them be deprived, entirely or partially, of business capacity.

Title XXIV COMMISSION BUSINESS

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 864

(1) By a contract of commission business the commission agent shall assume the obligation to perform, for a fee, on his own behalf and for the account of the client, one or several transactions entrusted to him by the client.

(2) A commission agent shall be entitled to commission fee even if it has not been stipulated.

Application of Rules of the Contract of Order Article 865

The rules relating to orders shall apply to the contract of commission business, unless the rules of commission business provide otherwise.

Transacting under Terms Different from Order Article 866

(1) Should a commission agent transact a deal under terms less favorable than the ones determined by the order, when not allowed to do so, he shall be bound to reimburse the difference to the client and redress the loss caused.

(2) In the case specified paragraph 1 of present Article, the client may refuse to accept the deal, but shall notify the commission agent thereof without delay.

(3) However, the client shall forfeit the right from the paragraph 2 of present Article if the commission agent is ready to pay the difference immediately and redress the loss caused. Should a deal be transacted under more favorable terms than determined by the order, all gains resulting thereof shall belong to the client.

Sale of Merchandise to a Person Burdened with Debts Article 867

A commission agent shall be liable to a client for losses if he sells the merchandise to a person heavily in debt, provided he is aware of the fact or should have been aware of it.

**A Case of Commission Agent himself Purchasing Client's Merchandise or Selling him
His Own Merchandise
Article 868**

- (1) A commission agent entrusted to sell or buy merchandise being listed in the stock exchange or in the market, may with the client's permission, keep the merchandise for himself as a purchaser or deliver it as a seller, at the price effective at the time of executing the transaction entrusted.
- (2) In case from the paragraph 1 of present Article the relations stemming out of contract of sale shall ensue between the commission agent and the client.
- (3) Should the stock exchange price or market price, and the price determined by the client fail to coincide, the commission agent-seller shall be entitled to the lower of the two prices, while the commission agent-buyer shall be obliged to pay the price which is higher.

**SUBTITLE 2
OBLIGATIONS OF COMMISSION AGENT**

**Preserving and Insuring
Article 869**

- (1) A commission agent shall be bound to preserve the merchandise entrusted to him with the care of a good businessman.
- (2) He shall also be liable for accidental loss or damage of the merchandise, if he does not insure it although obliged to do that in terms of the order.

**Notification about Condition of the Merchandise Accepted
Article 870**

- (1) On the occasion of taking delivery of merchandise from a carrier, forwarded to him by the client, a commission agent shall be obliged to establish its condition, and shall notify the client without delay on the date of arrival of the merchandise, as well as on visible defects or shortage, otherwise he shall be liable for loss caused to the client due to such omission.
- (2) He shall be obliged to take all necessary measures to preserve the rights of the client against the liable person.

**Notification about Changes of Merchandise
Article 871**

A commission agent shall be bound to notify the client about all changes to the merchandise by which it could lose in its value, and if there is no time to wait for instructions, or if the client is late in sending the instructions – where there is danger of considerable damage to the merchandise – the commission agent shall be obliged to sell it in the most adequate way.

Notifying the Client on Names of the Contracting Partners Article 872

- (1) A commission agent shall be bound to notify the client on the name of person with whom he has effected the transaction entrusted to him by the client.
- (2) This rule shall not apply in the case of sale of movables in the commission shops, unless otherwise provided by the contract.

Rendering Account Article 873

- (1) A commission agent shall be obliged to render account of the transaction performed, without unnecessary delay.
- (2) He shall be bound to hand over to the client everything he has received under the transaction effected for his account.
- (3) A commission agent shall be bound to transfer to the client the claims and other rights acquired by him against a third party to the transaction effected in his own behalf and for his account.

Del Credere Article 874

- (1) A commission agent shall be liable to fulfill the obligations of his contracting partner only in case if he specifically guarantees that he shall do so (del credere), in which case he shall be jointly and severally liable.
- (2) A commission agent guaranteeing the fulfillment of obligations of his contracting partner shall be entitled to a special fee (del credere commission fee).

SUBTITLE 3 OBLIGATIONS OF CLIENT

Commission Fee Article 875

- (1) The client shall be bound to pay to the commission agent a fee when the transaction entrusted to him has been performed, and if performance of the transaction be prevented due to a cause within the scope of client's responsibility.
- (2) In case of gradual performance, the commission agent may demand a proportionate part of the fee after each partial fulfillment.
- (3) Should the concluded transaction not be performed due to a cause outside the responsibility of both the client and the commission agent, the commission agent shall be entitled to a corresponding fee for his effort.

- (4) A commission agent disloyal towards his client shall not be entitled to a fee.

Amount of Commission Fee
Article 876

- (1) Should the amount of commission fee be not determined by contract or a tariff, the commission agent shall be entitled to a commission fee in conformity with the transaction effected and the result achieved.
- (2) Should in a specific case the commission fee be out of proportion to the transaction effected and the result achieved, the court may, at the client's request, reduce it to an equitable amount.

Reimbursement of Expenses
Article 877

- (1) A client shall be bound to reimburse to the commission agent the expenses necessary for performing the order, including interest from the day of expenditure.
- (2) A client shall be obliged to pay to a commission agent special compensation to cover the use of his storehouses and transportation facilities, should this be not included in the fee provided for performance of the transaction.

Advance Payment to the Commission Agent
Article 878

Unless otherwise provided by the contract of commission, the client shall not be bound to make advance payments to the commission agent relating to means necessary for performing the transaction stipulated by contract.

SUBTITLE 4

Right of Lien
Article 879

- (1) A commission agent shall acquire the right of lien relating to merchandise covered by the commission contract while in his possession, or in the possession of someone holding them on his behalf, or while he remains the holder of a document enabling him to dispose of them.
- (2) A commission agent shall be entitled to collect, from the value of the merchandise from paragraph 1 of present Article, before other creditors of the client, his claims on the ground of all commission transactions dealt with the client, as well as under loans and advance payments granted to the client, regardless of whether they were created in connection with it or some other goods.
- (3) The right of precedence in collecting shall pertain to the commission agent out of claims acquired by him for the account of client while carrying out his order.

SUBTITLE 5 RELATIONS WITH THIRD PARTIES

Client's Right to Claims Originating from a Transaction with a Third Party Article 880

(1) A client may demand fulfillment of claims from the transaction entered into by a commission agent with a third party and for his account, only if the commission agent has assigned them to him.

(2) However, in terms of the relation between a client and a commission agent and his creditors, such claims shall be treated from their inception as the client's claims.

Limitation of Rights of Commission Agent's Creditors Article 881

Commission agent's creditors shall not, in order to collect their claims, even in case of his bankruptcy, take measures of execution against rights and objects of property acquired by the commission agent in performing the order on his own behalf but for the account of the client, except in the case of claims in relation to acquiring these rights and objects of property.

Bankruptcy of a Commission Agent Article 882

(1) In case of a commission agent's bankruptcy, the client may request separation of goods handed over by him to the commission agent to be sold on his account out of the bankrupt's assets, as well as of goods acquired by the commission agent on his account.

(2) In such case the client may request from a third party to whom the commission agent has delivered the objects, their price or any unpaid part.

Title XXV CONTRACT OF COMMERCIAL AGENCY

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 883

(1) By a contract of commercial agency the agent shall assume the obligation to take permanent care that third persons enter into contracts with his principal, and to mediate in that respect between them and the principal, as well as to enter into contracts, after obtaining authorization, with third persons on behalf and for the account of the principal, while the principal shall assume the obligation to pay to him, for each contract concluded, an agreed fee (brokerage).

- (2) A principal may have several agents in the same area for the same kind of business.
- (3) One agent shall not, without his principal's consent, assume the obligation to work for another principal regarding the same kind of business in the same area.

Form
Article 884

- (1) A contract of commercial agency must be concluded in written form.
- (2) Contract which is not concluded in written form shall be null and void.

Concluding Contracts on Behalf of a Principal
Article 885

An agent may conclude contracts on behalf and for the account of his principal only after obtaining from him a corresponding special or general authorization.

Accepting Fulfillment
Article 886

An agent may not demand nor accept fulfillment of a claim of his principal, unless particularly authorized.

Statements to Agent for the Principal
Article 887

Should a contract be concluded by mediation of the agent, then a contracting partner of the principal may validly make statements to the agent concerning defects in the subject of contract, as well as other statements relating to such contract – with the purpose of preserving or realizing rights from the contract.

Statements on Behalf of the Principal
Article 888

In order to preserve the rights of his principal, an agent shall be authorized to make necessary statements to his contracting partner.

Security Measures
Article 889

In order to protect the interest of the principal, an agent may demand necessary security measures.

SUBTITLE 2 OBLIGATIONS OF AN AGENT

Taking Care of the Interests of the Principal Article 890

(1) An agent shall be obliged to take care of the interests of the principal, to proceed in all transactions undertaken by him with the care of a good businessman and conform to the instructions given by the principal.

(2) He shall be bound to supply the principal with all necessary information concerning the market situation, and particularly those significant for each particular transaction.

Participation in Concluding Transactions Article 891

An agent shall be bound to participate following the instructions of the principal in concluding transactions until their full completion.

Confidentiality Article 892

(1) An agent shall keep those business secrets of his principal which become known to him in connection with the transaction entrusted.

(2) Agent shall be liable if he uses them or discloses them to another even after the termination of the contract of commercial agency.

Restitution of Objects Given to Be Used Article 893

After termination of the commercial agency contract, the agent shall be bound to retribute to the principal all objects handed over by him for use in the course of the contract.

Particular Case of Liability Article 894

(1) An agent shall be liable to the principal for fulfillment of obligations arising from the contract concluded through his mediation, or concluded by him under authorization on behalf of the principal, only if he gives special written guarantee in that respect.

(2) In case referred to in paragraph 1 of this Article he shall also be entitled to a special fee (del credere fee).

SUBTITLE 3 OBLIGATIONS OF THE PRINCIPAL

Material and Documentation Article 895

Should specific material or specific documentation be necessary for the agent to do his business, the principal shall be obliged to provide them to him.

Duty of Informing Article 896

(1) A principal may accept or reject as he pleases the conclusion of a contract transacted by the agent, but shall be obliged to inform the agent about his decision without delay.

(2) A principal shall be bound to inform the agent without delay on the need to reduce the scope of transactions concluded through his mediation, the scope being reasonably expected by the agent, so that the latter can reduce his own business efforts to an adequate degree on time; the principal shall otherwise be liable for loss sustained by the agent in this respect.

Remuneration (Brokerage) Article 897

(1) A principal shall be bound to pay to the agent remuneration (brokerage) for contracts concluded through his mediation, as well as for contracts concluded by the agent himself, if authorized accordingly.

(2) An agent shall also be entitled to brokerage for contracts concluded directly by the principal with clients found by the agent.

Acquiring the Right to Compensation Article 898

Unless otherwise stipulated between the contracting parties, the right to remuneration shall accrue to the agent after the contract has been performed, but such right shall belong to him even if the contract remains unfulfilled, if this is due to a reason for which the principal is to blame.

Level of Remuneration Article 899

(1) Should the amount of remuneration be not agreed either by contract or a tariff, the agent shall be entitled to usual remuneration.

(2) Should remuneration in a specific case be excessively high in comparison to the service rendered, the court may, at the principal's request, reduce it to an equitable amount.

Special Remuneration Article 900

An agent successful in collecting the principal's claims after being authorized accordingly, shall be entitled to particular remuneration from the amount collected.

Expenses Article 901

- (1) An agent shall not be entitled, unless otherwise stipulated, to reimbursement of expenses originating from regular performance of broker's transactions.
- (2) He shall, however, be entitled to remuneration for special expenses incurred by him to the benefit of the principal or at his order.

SUBTITLE 4

The Right of Lien Article 902

In order to secure collection of his due claims originated in connection with the contract, an agent shall have a right of lien against the amounts collected for the principal after his authorization, as well as well as regarding all objects of the principal received from him, or from another person, in connection with the contract while these objects remain in his possession, or in possession of another holding them for him, or while he remains in possession of a document enabling him to dispose of them.

SUBTITLE 5 TERMINATION OF CONTRACT

Terminating of Contract Concluded for an Indefinite Period of Time Article 903

- (1) Should the period of validity of a contract of commercial agency be not determined by contract, or if it cannot be determined from circumstances of the transaction, each party may terminate the contract at the end of each calendar quarter.
- (2) Notice shall be communicated to the other party at least one month prior to expiration of the calendar quarter, and if the contract has lasted for three years, the other party must be given notice two months prior to expiration of the calendar quarter.
- (3) Contracting parties may provide for different time limits of notice on termination and of termination of contract, but a minimum one month time limit must be left between the notice and the termination of contract.

Rescinding of Contract without Time Limit for Notice Article 904

- (1) Each party may rescind the contract without a period of notice on the ground of serious causes, which must be stated.
- (2) Should the statement of rescinding of contract be made with no serious reasons, it shall be considered as a notice of termination with the regular period of notice.
- (3) An agent whose activity is interrupted due to an unfounded notice shall be entitled to compensation to cover his lost commission, and should he cancel the contract without grounds, the right to redress shall belong to the principal.
- (4) An unfounded notice shall entitle the other party to rescind the contract without observance of period of notice.

Termination of Contract Concluded for a Definite Period of Time Article 905

- (1) Should a contract of commercial agency be agreed for a definite period of time, it shall be terminated by the expiration of the time specified.
- (2) Should such contract be impliedly extended, it shall be treated as a contract agreed for an indefinite period.

Title XXVI MEDIATION

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 906

By a contract of mediation the mediator shall assume an obligation to try to find and connect his principal with a person who will negotiate with him to enter into a specific contract, while the principal shall assume the obligation to pay to him determined fee should such contract be concluded.

Applying Provisions of Law of Contract for Services Article 907

Should it be stipulated that the mediator shall be entitled to determined remuneration even should his effort remain without result, such contract shall be treated according to the provisions applicable to contracts for services.

**Accepting the Fulfillment
Article 908**

A mediation order shall not imply authorization for the mediator to accept the fulfillment of a contractual obligation for his principal concluded through his mediation, but a written authorization shall be needed for it.

**Revocation of a Mediation Order
Article 909**

A principal shall be entitled to revoke a mediation order whenever he pleases, if he does not renounce such right and on condition that the revocation is not contrary to good faith.

**Absence of Duty of Principal to Conclude a Contract
Article 910**

A principal shall not be obliged to engage himself in negotiations for concluding a contract with a person found by the mediator, neither shall he be obliged to conclude a contract with him under terms related to the mediator, but he shall be liable for damages if he does not act in good faith.

**SUBTITLE 2
OBLIGATIONS OF THE MEDIATOR**

**A Duty to Look for an Opportunity
Article 911**

- (1) A mediator shall look for an opportunity to conclude a particular contract and to direct the principal to it with the care of a good businessman.
- (2) A mediator shall mediate in negotiations and Endeavour that contract be concluded, if he has assumed a specific obligation in that respect.
- (3) He shall not be liable if, in spite of necessary care applied, he was not successful in his endeavor.

**Duty to Inform
Article 912**

A mediator shall notify his principal of all circumstances relevant to the intended transaction which are known to him or which should be known to him.

**Liability of Mediator
Article 913**

- (1) A mediator shall be liable for loss to be potentially sustained by one or the other party involved in his mediation, which occurs because of his mediation on behalf of a person without business capacity, whose incapacity was known, or should have been known to him,

or on behalf of a person of whose incapacity to meet the contractual obligations he was aware, or should have been aware, and shall generally be liable for all loss caused through his fault.

(2) A mediator shall be liable for loss sustained by his principal if he informs a third party of the substance of the order, on negotiations going on, or on terms and conditions of a contract concluded, without his principal's permission.

Mediator's Day Book and Sheet Article 914

A commercial mediator shall note down in a particular book (mediator's day book) essential information about a contract entered into through his mediation, and shall issue an excerpt from such book signed by him (mediator's sheet).

SUBTITLE 3 OBLIGATIONS OF THE PRINCIPAL

Remuneration Article 915

(1) A mediator shall be entitled to compensation even if it is not stipulated.

(2) Should the amount of remuneration be not determined either by a tariff or other general enactment, or by contract or trade custom, it shall be determined by the court according to the mediator's effort and the service rendered

(3) The stipulated mediator's remuneration may be reduced by the court at the principal's request, if it finds that it is excessively high in comparison to the mediator's effort and the service rendered.

(4) Reduction of the stipulated remuneration shall not be requested if paid to the mediator after entering into a contract mediated by him.

When a Mediator Is Entitled to Remuneration Article 916

(1) A mediator shall acquire the right to remuneration at the moment of entering into contract he has mediated, unless otherwise stipulated.

(2) However, should a contract be concluded under condition precedent, the realization of such condition shall be a prerequisite to the mediator's acquiring the right to remuneration.

(3) Should a contract be concluded under condition subsequent, the realization of the condition shall not affect the mediator's remuneration.

(4) In case of a contract which is not valid, the mediator shall be entitled to remuneration if the cause of invalidity be unknown to him.

Reimbursement of Expenses Article 917

- (1) A mediator shall not be entitled, unless stipulated to the contrary, to reimbursement of expenses incurred in carrying out the order.
- (2) But should his right to reimbursement of expenses be recognized by contract, he shall be entitled to such reimbursement even if the contract has not been concluded.

Mediation for both Parties Article 918

- (1) Unless otherwise stipulated, a mediator who receives an order for mediation by both parties, may request from each only half of the mediator's remuneration, and reimbursement of half of his expenses, should reimbursement of expenses be stipulated.
- (2) A mediator shall be obliged to care for the interests of both parties he is mediating between as a good businessman.

Forfeiture of the Right to Compensation Article 919

A mediator working for the other party contrary to the contract or contrary to the interests of his principal shall forfeit his right to remuneration and to the reimbursement of expenses.

Title XXVII FORWARDING (DISPATCH)

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 920

- (1) By a contract of forwarding a forwarding agent shall assume the obligation to conclude, in order to effect the transport of a specific object, on his own behalf and for the account of his principal, a contract of carriage and other contracts necessary for effecting transport, as well as to perform other usual transactions and actions, while the orderer shall assume the obligation to pay particular remuneration to him.
- (2) Should it be stipulated, the forwarding agent may enter into contracts of carriage and take other legal actions on behalf of his principal.

Withdrawing from Contract Article 921

A principal may withdraw from a contract if he wishes, but in such case he shall reimburse to the forwarder all expenses incurred by him until that moment, and to pay to him a corresponding part of remuneration for the work done.

Application of the Rules of Commission Business or of Commercial Agency Article 922

The rules of commission business or commercial agency shall apply accordingly to relations between a principal and a forwarding agent not regulated in the present Title.

SUBTITLE 2 OBLIGATIONS OF THE FORWARDING AGENT

Warning about Defects in the Order Article 923

A forwarding agent shall warn his principal about defects in his order, and more particularly about those exposing him to higher expenses or loss.

Warning about Deficiencies in Packaging Article 924

If an object is not packed or otherwise not sufficiently ready for transport, the forwarding agent shall warn the principal about such deficiencies, but if waiting for the principal to eliminate them would be damaging to him, the forwarding agent shall be bound to eliminate them at the expense of his principal.

Preserving the Interests of the Principal Article 925

(1) A forwarding agent shall be obliged to proceed according to the interests of the principal, and to act with the care of a good businessman.

(2) He shall be obliged to notify the principal without delay of damage to his goods, as well as about all events relevant to him, and to take all necessary measures in order to preserve his rights against a liable person.

Proceeding According to the Principal's Instructions Article 926

(1) A forwarding agent shall be obliged to follow instructions relating to itinerary, means and manner of transportation, as well as other instructions received from the principal.

- (2) Should it be impossible to proceed according to instructions in the order, the forwarding agent shall be bound to request new instructions, and should there be no time or possibility to wait for them, the forwarding agent shall proceed as required in the interest of the principal.
- (3) A forwarding agent shall be bound to notify his principal without delay of every diverging from the order.
- (4) Should the principal fail to determine either the itinerary or the means, or the manner of transportation, the forwarding agent shall determine them according to his interests.
- (5) Should a forwarding agent diverge from instructions received, he shall also be liable for damage caused by Force Majeure, unless successful in proving that the damage would have occurred even if he had followed instructions.

Liability of Forwarding Agent for Other Persons **Article 927**

- (1) A forwarding agent shall be liable for the choice of carrier, and other persons he has entered into contract with, while performing the order (such as storage of goods), but shall not be liable for their work unless he has assumed that responsibility by contract.
- (2) A forwarding agent entrusting the performance of order to another agent, instead of doing it himself, shall be liable for his work.
- (3) Should the order include, either expressly or impliedly, an authorization to the forwarding agent to entrust the performance of the order to another agent, or if this was obviously in the interest of the principal, he shall be liable only for the choice thereof, unless having assumed the responsibility for his work.
- (4) Liabilities specified in the paragraphs 1, 2, and 3 of the present article shall not be excluded or limited by contract.

Customs Clearance Procedures and Payment of Customs Duty **Article 928**

Unless otherwise specified by contract, an order to forward goods over a state border shall include the forwarding agent's duty to follow necessary customs clearance procedure and pay customs duty for the account of the orderer.

A Case of a Forwarding Agent Performing Transport or other Matters Himself **Article 929**

- (1) Unless otherwise stipulated, a forwarding agent may also perform, entirely or partially, the transport of objects whose forwarding is entrusted to him, himself.
- (2) Should the forwarding agent perform the transport himself or part of the transport, he shall obtain the rights and duties of a carrier, and in such case shall be entitled to a corresponding carriage charge (fee), in addition to remuneration for forwarding, and to reimbursement of expenses incurred in relation to forwarding.

(3) Provisions from paragraphs 1 and 2 of present Article also apply in respect to other matters included in the order, encompassed by trade practices, or by general terms and conditions.

Insurance of Shipment Article 930

(1) A forwarding agent shall be obliged to insure the shipment only if this is stipulated in the contract.

(2) Should the kind of risk to be covered by insurance not be specified in the contract, the forwarding agent shall insure the goods against usual risks.

Rendering Account Article 931

(1) A forwarding agent shall render an account to the principal after the transaction has been completed.

(2) If so requested by the principal, the forwarding agent shall also render account in the course of carrying out the order.

SUBTITLE 3 OBLIGATIONS OF THE PRINCIPAL

Remuneration Article 932

A principal shall pay to the forwarding agent remuneration according to the contract, but if remuneration is not included in the contract, according to tariff or other general provisions, and if there are no such provisions, remuneration shall be determined by the court.

When a Forwarding Agent May Request Remuneration Article 933

A forwarding agent may request remuneration after fulfilling his obligations from the forwarding contract.

Expenses and Advance Payment Article 934

(1) A principal shall reimburse the forwarding agent necessary expenses incurred in order to carry out the order of forwarding the objects.

(2) A forwarding agent may demand reimbursement of expenses immediately after incurring them.

(3) At the forwarding agent's demand, the principal shall make an advance payment to him to cover expenses necessary to carry out the order for forwarding the objects.

Stipulation that Remuneration Be Paid by the Consignee
Article 935

Should it be stipulated that the forwarding agent shall collect his claims from the consignee, the forwarding agent shall keep the right to demand remuneration from the principal should the consignee refuse to pay it to him.

Dangerous Objects and Valuables
Article 936

(1) A principal shall notify the forwarding agent of properties of objects creating a potential danger to the safety of people and property, or danger of damage.

(2) Should a shipment contain valuables, securities, or other expensive items, the principal shall notify the forwarding agent accordingly, and inform him of their value at the moment of delivery for forwarding.

SUBTITLE 4
PARTICULAR CASES OF FORWARDING

Forwarding with Fixed Fee
Article 937

(1) Should a lump sum be determined by forwarding contract for carrying out the forwarding order, such sum shall include, unless otherwise stipulated, the remuneration for forwarding and payment for the transport, as well as reimbursement of all other expenses.

(2) In such case, the forwarding agent shall also be responsible for the work of the carrier and other persons engaged by him by corresponding authorization in the contract.

Collective Forwarding
Article 938

(1) While carrying out orders received, a forwarding agent may organize collective forwarding, unless this be excluded by contract.

(2) After achieving a difference in the freightage to the benefit of the principal by collective forwarding, the forwarding agent shall be entitled to special additional remuneration.

(3) In the case of collective forwarding the forwarding agent shall be liable for loss or damage of the object in transport which otherwise would not take place if it were not for the collective forwarding.

SUBTITLE 5

Forwarding Agent's Right of Lien Article 939

- (1) In order to secure the collection of his claims originated in relation to the forwarding contract, the forwarding agent shall have the right of lien regarding the objects handed over for forwarding and in relation to forwarding, while he keeps them in his possession or while he is in possession of the document entitling him to dispose of them.
- (2) Should yet another agent participate in effecting the forwarding, he shall be obliged to take care of collecting the claims and realizing the right of lien of the previous forwarding agents.
- (3) Should another agent pay off the forwarding agent's claims against the principal such claims and the forwarder's right of lien shall be transferred to him by law.
- (4) The same shall apply, should the other forwarding agent pay off the carrier's claims.

Title XXVIII CONTRACT OF CONTROL OF MERCHANDISE AND SERVICES

Notion Article 940

- (1) By a contract of control of merchandise one contracting party (controller) shall assume the obligation to perform, professionally and impartially, the stipulated control of merchandise, and issue a certificate thereof, while the other party (principal) shall assume the obligation to pay for the control performed a stipulated amount of fee.
- (2) The control of merchandise may consist of determining the identity, quality, quantity and other characteristics of the merchandise.

Scope of Control Article 941

A controller shall be obliged to effect control within the scope, and in the manner, specified in the contract, and should nothing be specified in the contract in that respect, within the scope and in the manner corresponding to the nature of the object.

Nullity of some Clauses of Contract Article 942

- (1) Clauses of a contract by which duties are imposed on the controller which could affect the impartiality of control or authenticity of the certificate on the control effected shall be null and void.

- (2) The control shall be considered carried out only after issuing the certificate.

Keeping of Merchandise or Samples
Article 943

(1) A controller shall be obliged to keep the merchandise handed over to him by the principal in order to carry out the control provided by contract, and shall take care to prevent substitution.

(2) Unless otherwise stipulated, the controller shall be obliged to keep samples handed over to him for at least six months.

Duty of Notifying the Principal
Article 944

A controller shall be obliged to notify the principal of all significant circumstances in course of control and of keeping the merchandise on time, and, more particularly, about necessary and useful expenses effected for his account.

Remuneration
Article 945

(1) For the performed control and keeping of merchandise, the controller shall be entitled to a stipulated or usual fee.

(2) A controller shall also be entitled to reimbursement of all necessary and useful expenses incurred for the account of the orderer of control.

The Right of Lien
Article 946

In order to secure the stipulated or customary fee and the reimbursement of necessary and useful expenses, the controller shall have the right of lien over the merchandise entrusted to him for control.

Entrusting Control of Merchandise to Another Controller
Article 947

(1) A controller may entrust performing of control to another, unless the principal has expressly forbidden it.

(2) A controller shall be responsible to his principal for the work of the other controllers.

Control of Merchandise with Undertaking Legal Work Article 948

(1) On the ground of an express order by the principal the controller shall be entitled, in addition to carrying out the control of merchandise as stipulated by contract, to undertake some legal work on behalf and for the account of the principal.

(2) A controller shall be entitled to special customary or stipulated remuneration for performing certain legal matters on behalf and for the account of the principal.

Control of Merchandise with a Guarantee Article 949

(1) A controller may guarantee non-changeability of properties of controlled merchandise within the terms provided by contract.

(2) For the guarantee assumed in relation to properties of merchandise, the controller shall be entitled to special stipulated or customary remuneration.

Control of Services and Goods not Intended for Trade Article 950

Should performance of control relate to services or objects not intended for trade, the controller and the principal shall have same rights and duties as in the case of control of merchandise.

Rescinding of Contract Article 951

A principal may declare rescinding of the contract until the control ordered has been carried out, but in such case he shall be obliged to pay to the controller a proportionate part fee and to reimburse necessary and useful expenses incurred, as well as redress the loss sustained by him.

Title XXIX CONTRACT OF ORGANIZATION OF TRAVEL

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 952

By a contract of organization of travel a travel organizer shall assume the obligation to procure to a traveler a set of services consisting of transportation, stay and other services

relating to them, while a passenger shall assume the obligation to pay to the organizer a total sum (lump sum) as a price.

Issuing a Travel Certificate Article 953

- (1) A travel organizer shall issue a travel certificate to a traveler on entering into contract.
- (2) The travel certificate should include the following: place and date of issue, address of the travel organizer, name of the traveler; place and date of departure and of the end of journey, dates of stay, necessary details concerning transportation and stay as well as other services included in the flat price; the minimum number of travelers (needed for the travel); the fixed prices for the set of services provided for by the contract; terms and conditions to be met for the rescission of contract by the traveler, as well as other figures and data deemed necessary to be included in the certificate.
- (3) If prior to issuing a travel certificate to the traveler he was served with a travel program containing data specified in the paragraph 2 of present Article, the travel certificate may include only reference to that program.

Advertising Material Article 954

- (1) Advertising material, such as programs of travel or brochures, related to vacation package, which the travel organizer made accessible to the passenger shall not contain misleading information regarding price or any other term of contract on organization of travel.
- (2) Advertising material placed at the disposal of the passenger shall contain clear, complete and correct information as to the price of travel package, destination; means; characteristics and category of transportation; type of accommodation facility; its location and category; its basic characteristics and touristic classification according to the applicable law of country where facility is located; number of meals per day, itinerary; amount or percentage of advance; number and amount of installments for repayment of remainder of the price, border crossing, visa and health related formalities with regard to travel and stay at destination; minimum number of passengers necessary to organize travel as well as time limit within which the passenger shall be notified on cancellation of travel, should there be no sufficient number of passengers who applied.
- (3) Information contained in advertising material shall be binding on the travel organizer and may be altered only based on the agreement with passenger, or were the passenger informed thereon prior to conclusion of contract, in which case such possibility must be expressly stated in advertizing material.

Relationship between Contract and a Travel Certificate Article 955

- (1) The existence and validity of a contract of organization of travel shall be independent of the existence of the travel certificate and its contents.
- (2) However, the travel organizer shall be liable for all losses sustained by the other party due to his failing to issue the travel certificate or because of its incorrectness.

Presumption of Correctness of the Certificate
Article 956

Everything indicated in the certificate shall be considered correct as long as the contrary is not proved.

SUBTITLE 2
OBLIGATIONS OF THE TRAVEL ORGANIZER

Protection of Traveler's Rights and Interests
Article 957

A travel organizer shall be obliged to provide the traveler with services encompassing the substance and features otherwise specified by contract, by certificate, or advertising material from Article 954 of present Law, and shall take care of the passenger's rights and interests in accordance with fair trade practices in this line of business.

Duty of Notification
Article 958

A travel organizer shall be obliged to provide the traveler within reasonable time limit prior to starting of travel, either in written form or via electronic mail, with necessary information concerning prices and terms of transportation, stay and particular services, as well as with information relating to quality of the means of transportation and accommodation, time-table, state borders and customs formalities, and to sanitary, monetary and other administrative regulations.

Duty of Confidentiality
Article 959

Information received about the passenger, his luggage and his whereabouts may be related to third parties by the travel organizer only after obtaining permission from the traveler, or at the request of a competent agency.

Liability for Organizing Travel
Article 960

A travel organizer shall be liable for loss caused by him to a traveler by total or partial failure to fulfill the obligations relating to the organization of travel provided for by the contract and the present Law.

Liability of Travel Organizer Performing himself Particular Services
Article 961

Should he himself supply services of transportation, accommodation and other services relating to carrying out of organized travel, the organizer shall be liable for loss caused to the passenger, on the ground of regulations covering such services.

Liability of Travel Organizer Entrusting the Performance of some Services to Third Parties
Article 962

- (1) A travel organizer entrusting the performance of transportation services, lodging and other services relating to realization of travel to third parties shall be liable to the traveler for loss occurring due to total or partial failure to fulfill such services, in accordance with regulations relating to them.
- (2) But even if the services are performed in accordance with the contract and regulations relating to them, the organizer shall be liable for loss sustained by the traveler in relation to their performance, unless successful in proving that he acted as a careful travel organizer in making his choice of persons performing such services.
- (3) The traveler shall be entitled to demand directly from the third party liable for damage, the entire or additional compensation for loss he has suffered.
- (4) To the degree of his redressing the loss sustained by the traveler, the travel organizer shall acquire all rights which would otherwise pertain to the traveler against the third party liable for such loss (the right of redress).
- (5) Passenger shall be bound to assign to the travel organizer documents and all that is necessary for enforcement of the right to redress.

Price Reduction
Article 963

- (1) Should services arising from a contract of travel organization be incomplete or of low quality, the traveler may demand a proportionate price reduction, on condition that he raises the objection against the travel organizer within eight days from the day of termination of travel.
- (2) The demand for a price reduction shall not affect the traveler's right to request damages.

Exclusion and Limitation of Travel Organizer's Liability
Article 964

- (1) Clauses of a contract of travel organization by which liability of the travel organizer is excluded or limited shall be void.
- (2) However, a written clause in the contract shall be valid by which the highest amount of compensation is determined in advance, on condition that it be not in obvious disproportion to the loss.
- (3) Such limitation of amount of compensation shall not be applicable if the organizer caused damage by willful misconduct or gross negligence.

Insurance Article 965

- (1) Travel organizer shall be bound to conclude a contract on insurance from liability for damage foreseen by present Law.
- (2) Travel organizer may stipulate by agreement with traveler to insure him against other risks of travel.

Guarantee for Organized Travels Article 966

- (1) Organizer of travels shall be obliged to provide guarantee with the bank or insurance company for restitution of price to a traveler, if due to his bankruptcy or incapacity to pay, a travel should not take place, or redress of costs for returning of travelers in the place of departure, or if for any reasons travel should be interrupted.
- (2) Guarantee may be given in form of insurance policy, deposited cash or bank guarantee.
- (3) Organizer of travels shall be under a duty to issue to a traveler the confirmation on provision of a guarantee which enables the later to directly realize his rights towards bank or insurance company.

SUBTITLE 3 OBLIGATIONS OF THE TRAVELER

Payment of Price Article 967

A traveler shall be obliged to pay to the travel organizer the stipulated price of the travel, at the time as stipulated or as customary.

Duty of Supplying Information Article 968

At the organizer's request a traveler shall be obliged to supply on time all information necessary for the organization of travel, and more particularly that necessary for obtaining tickets for transport, lodging reservations, as well as documents needed for crossing state borders.

Notification on Defects of Performance Article 969

- (1) Traveler shall be obligated to, in written or other corresponding form, notify a person rendering service on non-performance or poor performance of any service stipulated by contract, as soon as possible, and organizer of travel within eight days from completion of travel.

(2) Duty of the traveler from the paragraph 1 of present Article must be clearly and expressly stated in the contract on organizing of travel.

Meeting Requirements Set Forth by Regulations Article 970

A traveler shall be obliged to take care that he personally, his identity documents, and his luggage meet the state borders and customs requirements, sanitary, monetary and other administrative regulations.

Traveler's Liability for Damage Article 971

A traveler shall be liable for loss caused to the travel organizer by his failure to perform his contractual obligations and under the provisions of the present Law.

SUBTITLE 4 PARTICULAR RIGHTS AND OBLIGATIONS OF CONTRACTING PARTIES

Substituting a Traveler with Another Person Article 972

Unless otherwise stipulated, a traveler may determine another person to use the services instead of him, on condition that such person meets particular requirements for the specific travel, and that such passenger reimburse to the travel organizer the expenses incurred by the replacement.

Raising a Stipulated Price Article 973

(1) A travel organizer may demand an increase of the stipulated price only if, after entering into contract, the foreign currency exchange rate or carrier's tariffs affecting the price of travel have been changed.

(2) The right to increase the stipulated price as specified in the preceding paragraph, may be effected by the travel organizer only after being provided for in the certificate of travel.

(3) Should the increase of stipulated price exceed ten percent, the traveler may rescind the contract without being obliged to redress the loss.

(4) In the case from paragraph 3 of present Article the traveler shall be entitled to restitution of the amount paid to the travel organizer.

(5) Price stipulated by contract may not be increased twenty days prior to commencement of the travel.

(6) Should the changes from paragraph 1 of present Article cause decrease of the price of travel, travel organizer shall be bound to retribute to the traveler the difference in price.

Traveler's Right to Withdraw from Contract Article 974

(1) A traveler may at any time withdraw from contract, entirely or partially.

(2) Should the traveler withdraw from the contract prior to the commencement of the travel within a reasonable time limit, which shall be determined with regard to the kind of package deal (withdrawing on time), the travel organizer shall be entitled only to reimbursement of current office expenses.

(3) In case of an untimely withdrawal from contract, the travel organizer may request from the traveler compensation in a percentage of the stipulated price, which shall be determined in proportion to the time left over before commencement of the travel, and which must be justified economically.

(4) The travel organizer shall be entitled only to reimbursement of expenses incurred, if the passenger withdraws from contract due to circumstances impossible to avoid or eliminate by him, and which – had they existed at the time of entering into contract – would have amounted to a justified ground for him not to enter into contract, or if the traveler has provided a corresponding replacement for him, or the replacement has been found by the organizer himself.

(5) Should the traveler withdraw from contract after the travel has commenced, and the relevant grounds were not the circumstances specified in the paragraph 4 of the present article, the organizer shall be entitled to the full amount of the stipulated price of the travel.

Right of Travel Organizer to Withdraw from Contract Article 975

(1) A travel organizer may withdraw from contract, entirely or partially, without being obliged to redress losses, should prior or in course of performing the contract extraordinary circumstances take place which could not have been foreseen, avoided or eliminated, and which – had they existed at the time of entering into contract – would have amounted to a justified ground for the travel organizer not to enter into contract.

(2) The travel organizer may also withdraw from contract without being obliged to redress the loss should there be no minimum number of travelers as anticipated in the certificate of travel, on condition that the organizer notifies the traveler accordingly and in due time, which time shall not be shorter than five days prior to the scheduled date of travel.

(3) In case of withdrawing from contract prior to its being performed, the organizer shall retribute to the traveler the entire amount received by him.

(4) Should the organizer withdraw from contract in course of its performance, he shall be entitled to equitable compensation to cover the services realized and provided by contract, while being obliged to take all necessary measures to protect the interests of the traveler.

Change of Travel Program Article 976

- (1) Changes in the travel program may be effected only if caused by extraordinary circumstances which could not have been foreseen, avoided or eliminated by the travel organizer.
- (2) Expenses caused due to changes in the program shall be at the charge of the travel organizer, while reduction of expenses shall be to the credit of the traveler.
- (3) Changing the stipulated lodging may be effected only by using a facility of the same category, or by using the premises of a higher category in the place as stipulated by contract – at the charge of the organizer.
- (4) Should essential changes be made to the travel program without justified ground, the travel organizer shall be obliged to retribute to the traveler the entire amount paid to him if the traveler withdraws from travel due to the above.
- (5) Should essential changes in the program be made in course of performing the contract, the traveler– if he withdraws from the contract – shall bear only actual expenses of the services realized until then.

Title XXX INTERMEDIARY CONTRACT OF TRAVEL

Notion Article 977

By an intermediary contract of travel, the intermediary shall assume the obligation to conclude, on behalf and for the account of a passenger, a contract of organizing a travel or a contract of performing one or several particular services making possible travel or stay, while the passenger shall assume the obligation to pay in return a corresponding fee.

Duty of Issuing an Acknowledgment Article 978

- (1) Should an obligation be assumed by the intermediate contract of travel to conclude a contract of travel organization, the intermediary shall be obliged, at the conclusion of contract, to issue an acknowledgment of travel which, in addition to data relating to the travel and an indication of the travel organizer and his address, must include the address of the intermediary, as well as information that he is acting as an intermediary.
- (2) Should he fail to indicate in the acknowledgment of travel his capacity as intermediary, the intermediary in the organization of travel shall be considered as the travel organizer.
- (3) Should the intermediate contract of travel be related to concluding a contract of a specific service, the intermediary shall be obliged to issue an acknowledgment relating to such service, indicating the amount paid for the services.

Proceeding According to Instructions of the Traveler
Article 979

(1) The intermediary shall be obliged to proceed according to instructions given to him on time by the traveler, if such instructions are in accordance with the contract, with the usual business activity of an intermediary, and with the interests of the traveler.

(2) Should a traveler fail to supply necessary instructions, the intermediary shall be obliged to act for the traveler in the way most appropriate in the given circumstances.

Choice of Third Parties
Article 980

An intermediary shall be obliged to choose in good faith third parties who must perform services provided by the contract, and shall be responsible to the passenger for such choice.

Corresponding Application of Terms of the Contract of Travel Organization
Article 981

The provisions of the present Law relating to the contract of travel organization shall apply accordingly to the intermediate contract of travel, unless otherwise specified by provisions of the present Chapter.

Title XXX
THE CONTRACT OF ENGAGING CATERING CAPACITIES
(CONTRACT OF ALLOTMENT)

SUBTITLE 1
GENERAL PROVISIONS

Notion
Article 982

(1) By a contract of allotment, the caterer shall assume the obligation to place at the disposal of a tourist agency, in course of a specified period of time, a number of beds in a designated facility, to provide catering services for persons sent by the agency, and to pay to it a specified fee, while the agency shall assume the obligation to endeavor to fill that capacities or to inform, within the determined time limit, that this is not possible, and to pay the price for catering services supplied, if using the engaged hotel capacities.

(2) Unless otherwise provided by the contract, the lodging capacities shall be considered placed at disposal in the course of one year.

**Form of Contract
Article 983**

- (1) The contract of allotment must be concluded in written form.
- (2) The contract which is not concluded in written form shall be null and void.

**SUBTITLE 2
OBLIGATIONS OF A TOURIST AGENCY**

**Duty of Notification
Article 984**

- (1) A tourist agency shall be obliged to notify the caterer in the course of filling up of accommodation capacities.
- (2) If not able to fill up all engaged accommodation capacities, a tourist agency shall be obliged to notify, within stipulated or customary time limits, the caterer of the fact, and to send him the list of guests, as well as to determine in such notification the time limit up to which the caterer may freely dispose of the capacities engaged.
- (3) The catering capacities which are not designated in the guest list as filled up, shall be considered vacant from the day of acknowledging of such list by the hotel, for the period covered by the list.
- (4) After the expiration of such time limit, the tourist agency shall again acquire the right to fill up the engaged capacities.

**Duty of Complying with Prices Provided for in the Contract
Article 985**

A tourist agency shall not charge higher prices for catering services to persons sent by it to a catering facility, than the ones provided by the contract of allotment or by caterer's price list.

**Q1Duty of Payment for Catering Services
Article 986**

- (1) Unless otherwise provided by contract, the price of the effected catering services shall be paid by the tourist agency to the caterer after the services have been provided.
- (2) The caterer shall be entitled to demand an adequate advance payment.

**Duty of Issuing a Particular Certificate
Article 987**

- (1) A tourist agency shall be obliged to issue to a person sent by it, on the ground of an allotment contract, a particular certificate.

- (2) The particular certificate shall be made out to name or to a specific group of persons; it shall not be transferrable and shall contain an order to the caterer to supply services indicated therein.
- (3) The particular certificate shall serve as proof that the person indicated is a client of the tourist agency which concluded the contract of allotment with the caterer.
- (4) The particular certificate shall serve as a ground for settling mutual claims between the tourist agency and the caterer.

Subtitle 3 OBLIGATIONS OF A CATERER

Duty of Making Available the Stipulated Accommodation Capacities Article 988

- (1) A caterer shall assume a final and irrevocable obligation to make available, during a specified period of time, the stipulated number of beds and to supply the persons sent by the tourist agency with services indicated in the particular certificate.
- (2) The caterer shall not make an agreement with another tourist agency for engaging capacities which have been already reserved on the ground of an allotment contract.

Duty of Non-discrimination Article 989

A caterer shall be obliged to supply persons sent by the tourist agency with services of the same quality as the ones extended to persons with whom he has entered into a direct agreement on catering services.

Duty of a Caterer not to Change Prices of the Services Article 990

- (1) A caterer shall not change stipulated prices unless he notifies the tourist agency accordingly at least six months in advance, except in case of change in the foreign currency exchange rate affecting the price stipulated.
- (2) New prices may be applied only after the expiration of one month from the day of their referral to the attention of the tourist agency.
- (3) The new prices shall not apply to services covered by the guest list already delivered to the caterer.
- (4) In any case the changed prices shall not affect the reservations (bookings) confirmed by the caterer.

**Duty of Payment of Fee
Article 991**

- (1) A caterer shall be obliged to pay to a tourist agency a fee against turnover effected on the ground of the contract of allotment.
- (2) The fee shall be determined as a percentage of the price of the catering services which are provided.
- (3) Should the percentage fee not be determined by contract, the tourist agency shall be entitled to a fee as specified by general terms and conditions of tourist trade, or, in the absence of such terms and conditions, by corresponding trade practices.

**SUBTITLE 4
A RIGHT OF TOURIST AGENCY TO REPUDIATE THE CONTRACT**

**A Right to Withdraw from Engaged Accommodation Capacities
Article 992**

- (1) A tourist agency may temporarily withdraw from the use of engaged accommodation capacities, and still not rescind the contract of allotment, and not create its own obligation to redress loss to the caterer, if it notifies the caterer on the withdrawal from use within the stipulated time limit.
- (2) Should the time limit for notification on withdrawal be not specified by contract, it shall be determined on the ground of catering business trade practices.
- (3) Should the notification of withdrawal not be communicated within the specified time limit, the caterer shall be entitled to damages.
- (4) A tourist agency may rescind the contract in its entirety, without being bound to redress loss, if it communicates notification of repudiation within the stipulated time limit.

**Duty of a Tourist Agency to Fill in the Engaged Capacities
Article 993**

- (1) An allotment contract may include a special clause binding the tourist agency to fill in the engaged catering capacities.
- (2) Should it fail in such case to fill in the engaged catering capacities, the tourist agency shall be obliged to pay to the caterer compensation against unused beds per day.
- (3) The tourist agency in such case shall have no right to repudiate the contract by notification on time either entirely or partially.

Title XXXII INSURANCE

SUBTITLE 1 JOINT PROVISIONS FOR PROPERTY INSURANCE AND INSURANCE OF PERSONS

Section 1 GENERAL PROVISIONS

Notion Article 994

By a contract of insurance a negotiator of insurance shall assume the obligation to pay a specific amount to an insurance organization (insurer), while the organization shall assume the obligation, should an event take place which represents the case covered by insurance, to pay to the insured person, or to a third party, compensation, the stipulated amount, or to do something else.

Case Covered by Insurance Article 995

- (1) An event serving as a ground for concluding insurance (an insurance case) must be a future event, uncertain and entirely independent of the contracting party's will.
- (2) A contract of insurance shall be void if, at the moment of its conclusion, the insurance case has already materialized, or is at the point of occurring or if it is certain that it is going to occur, or if, even at that time, there was no possibility of its occurring.
- (3) However, after stipulating that the insurance shall encompass a specified period of time preceding the conclusion of contract, the contract shall be null only if, at the moment of its conclusion, the interested party was aware that the case covered by insurance had already taken place, or that even then the possibility of its taking place had ceased to exist.

Exclusion of some Kinds of Insurance Article 996

- (1) Provisions of the present Title shall not apply to navigation insurance, or to other kinds of insurance subject to the rules of navigation insurance.
- (2) Mentioned provisions shall not apply to the insurance of claims either, or to relations arising from re-insurance.

Departure from Provisions of the Present Title Article 997

- (1) It may be possible to depart in a contract from provisions of the present Title, if such departure is expressly provided by such provisions, or from provisions leaving contracting parties the option to proceed as they wish.

(2) Departure from the remaining provisions, if not prohibited by the present Law or other laws, shall be permitted only if it is to the obvious interest of the person insured.

Section 2 CONCLUDING A CONTRACT

When a Contract is Concluded Article 998

(1) A contract of insurance shall be concluded when the contracting parties have signed the insurance policy or the list of coverage.

(2) A written offer made to an insurer to enter into a contract of insurance shall be binding on the offeror – unless he has determined a shorter time limit, for eight days after the offer has reached the insurer, and should medical examination be necessary, then in course of thirty days.

(3) Should the insurer fail, within the time limit from paragraph 2 of present Article, to decline the offer which does not differ from terms and conditions of his usual provision of the proposed insurance, he shall be considered as having accepted the offer and that the contract has been concluded.

(4) In case from paragraph 3 of present Article the contract shall be considered as concluded at the moment of the offer reaching the insurer.

Policy and the List of Cover Article 999

(1) The following must be indicated in the policy: contracting parties, the insured object, or insured person, risk covered by insurance, duration of insurance and period of cover, amount of insurance or an indication that the insurance is unlimited, insurance premium or allowance, date of issuing the policy, and signatures of contracting parties.

(2) The insurance policy may be temporarily substituted by a list of cover, which shall include the essential constituent elements of contract.

(3) The insurer shall be obliged to warn the person concluding a contract of insurance that general and particular terms and conditions of insurance make a component part of the contract, and to hand over to him the relevant text, should such terms and conditions not be printed on the insurance policy itself.

(4) The performance of obligation specified in the paragraph 3 of present Article must be expressly indicated as done in the insurance policy.

(5) In the case of discrepancy between a provision of the general or particular terms and conditions, and an insurance policy clause, the clause of the policy shall apply, while in the case of discrepancy between an insurance policy printed clause and a clause which is handwritten, the latter shall apply.

(6) The contracting parties may agree that a policy be made out either to specific person, by order or to bearer.

Insurance without Policy
Article 1000

Terms of insurance may provide cases in which contractual relationship from insurance shall ensue due to only payment of premium.

Unauthorized Conclusion of Contract on Behalf of Another
Article 1001

(1) A person concluding a contract of insurance on behalf of another without his authorization, shall be liable to the insurer for obligations stemming out of such contract, until the person on whose behalf the contract is concluded has accepted it.

(2) The party interested may approve of the contract even after the case covered has taken place.

(3) Should approval be declined, the person concluding the insurance shall owe the insurance premium for the period of insurance within which the insurer was notified of declining the approval.

(4) But a manager of another's affairs shall not be liable for obligations stemming out of the insurance if he notifies the insurer of his acting without authorization and on behalf of and for the account of another.

Insurance for Another Person's Account or for the Account of the Party Interested
Article 1002

(1) In case of insurance for another person's account or for the account of the party interested, the duties of payment of insurance premium and other contractual obligations shall be met by the person concluding the insurance, but he shall not be entitled to effect rights on the ground of insurance, even after being in possession of the policy, without the consent of the person whose interest is insured and who is the holder of these rights.

(2) The person concluding the insurance shall not be obliged to hand over the policy to the interested party, unless he is reimbursed for the amount paid for the insurance premium to the insurer, together with the expenses of the contract.

(3) The person concluding the insurance shall have the right of priority in collecting these claims out of compensation due, and the right to demand their discharge directly from the insurer.

(4) An insurer may raise all defenses otherwise pertaining to him on the ground of the contract against the negotiator of insurance against every user of the insurance for another person's account.

Insurance Agents
Article 1003

(1) Should an insurer authorize someone to represent him, while not specifying the scope of his powers, such agent shall be entitled to conclude, on behalf and for the account

of the insurer, the contract of insurance, to negotiate and conclude alterations of contracts or extend their validity, to issue insurance policies, to collect premium payments, and to accept statements communicated to the insurer.

(2) Should the insurer limit his agent while this fact is not known to the negotiator of insurance, such limitations shall be considered as nonexistent.

Section 3

OBLIGATIONS OF AN INSURED OR OF A NEGOTIATOR OF INSURANCE

I. REPORTING THE CIRCUMSTANCES MATERIAL IN ASSESSING THE RISK

Duty of Reporting Article 1004

A person concluding the insurance shall be obliged to report to the insurer, at the conclusion of the contract, all circumstances which are material in assessing the risk, and which were known, or could not have been unknown, to him.

Deliberately Incorrect Reporting or Concealing Facts Article 1005

(1) Should a person concluding the insurance deliberately file an incorrect application, or intentionally suppress circumstances being of a nature which would induce the insurer, if he knew the real situation, not to enter into contract, the insurer shall be entitled to seek avoidance of contract.

(2) In the case of avoidance of contract on the ground of reasons specified in the paragraph 1 of present Article, the insurer shall keep the collected insurance premiums, and shall be entitled to request payment of the premium for the insurance period within which he has requested the avoidance of contract.

(3) The insurer's right to request avoidance of contract of insurance shall be terminated if within a three month period from the day of his becoming aware of the incorrectness of the application or of suppressing the facts, he fails to notify the person concluding the insurance of his intention to use such a right.

Unintentional Incorrectness or Incompleteness of Application Article 1006

(1) Should a negotiator of insurance make an incorrect application or omit to supply necessary information unintentionally, the insurer may, at his own choice, within one month after becoming aware of the incorrectness or incompleteness of the application, declare that he is rescinding the contract, or propose an increase of the insurance premium, proportionally to the higher risk involved.

(2) In case from paragraph 1 of present Article the contract shall be terminated on the expiration of fourteen days from the day of the insurer's notifying the negotiator of insurance of cancellation, while in the case of the insurer's proposal for insurance premium increase,

the rescission shall take effect by operation of law, should the negotiator of insurance fail to accept the proposal within the fourteen day period after being notified about it.

(3) In case of rescission, the insurer shall be obliged to reconstitute the part of insurance premium relating to the remaining share of the insurance period.

(4) Should the case covered by insurance take place prior to finding the incorrectness or incompleteness of the application, or after that but prior to the rescission, or prior to reaching an agreement on the premium increase, the compensation shall be reduced proportionally between the rate of the paid insurance premiums and the rate of insurance premiums which would have to be paid according to the real risk.

Extending the Application of the Preceding Articles Article 1007

The provisions of the preceding articles concerning the consequences of incorrect application or of suppressing circumstances relevant for assessing the risk, shall also apply in cases of insurance concluded on behalf and for the account of another, or to the benefit of a third party, should such persons be aware of incorrectness of the application or of suppressing the circumstances relevant for the assessment of risk.

Cases Where the Insurer is Unable to Invoke Incorrectness or Incompleteness of Application Article 1008

(1) An insurer who, at the moment of entering into contract, was aware, or could not have been unaware, of circumstances relevant for assessing the risk, which were incorrectly notified or suppressed by the negotiator of insurance, shall not invoke incorrectness of the application or the fact of suppression.

(2) Provision from paragraph 1 of present Article shall apply if the insurer becomes aware of these circumstances in course of the insurance period, but fails to use his legal rights.

II. PAYMENT OF INSURANCE PREMIUM

Duty of Paying and Accepting the Insurance Premium Article 1009

(1) A negotiator of insurance shall be obliged to accept payment of the insurance premium from any person with a legal interest that it is paid.

(2) The premium shall be paid within the stipulated time limits, and should it be paid as a lump sum, it shall be paid on entering into contract.

(3) The place of payment of the insurance premium shall be the place of the seat or place of permanent residence of the negotiator of insurance, unless another place be designated by contract.

Consequences of Failing to Pay the Insurance Premium Article 1010

- (1) Should it be stipulated that the insurance premium be paid on entering into contract, the duty of the insurer to pay compensation or the amount specified by contract, shall commence on the day following the day of payment of insurance premium.
- (2) Should it be stipulated that the insurance premium be paid after entering into contract, the duty of insurer to pay the compensation or the amount specified by contract shall commence from the day determined in the contract as a day of commencement of insurance.
- (3) But should the negotiator of insurance fail to pay the premium due after entering into contract until its maturity, or should this not be done by another interested person, the contract of insurance shall be terminated by operation of law after the expiration of thirty days from the day the negotiator of insurance receives a registered letter of the insurer, notifying him of the maturity of the premium; however, such time limit shall run out prior to the expiration of a thirty day period from the day of maturity of the insurance premium.
- (4) In any event, the insurance contract shall be terminated by operation of law if the premium is not paid within one year time counting from the maturity.
- (5) The provisions of the present article shall not apply to life insurance.

III. NOTIFYING THE INSURER ON CHANGES OF RISK

Increase in Risk Article 1011

- (1) A negotiator of insurance shall be obliged, in case of property insurance, to notify the insurer of every change in circumstances which may be relevant for assessing the risk, and in case of life insurance, only if the risk has increased because the insured person has changed his occupation.
- (2) He shall be obliged to notify the insurer without delay of the increase in risk should the risk be increased by an act on his part, and should the increase of risk take place without his participation, he shall be obliged to notify the insurer accordingly within fourteen days after becoming aware of the fact.
- (3) Should the increase in risk be of such scope that the insurer would not have concluded the contract if such situation had existed at the time of its conclusion, he shall be entitled to rescind the contract.
- (4) But if the increase in risk is of such scope that the insurer would have concluded the contract but only with an increased premium, if such situation existed at the time of entering into contract, he shall be entitled to propose a new rate for the insurance premium.
- (5) Should the negotiator of insurance decline the new rate of premium within a fourteen day time limit after being notified about the proposal of the new rate, the contract shall be terminated by operation of law.
- (6) But the contract shall remain valid and the insurer shall no longer avail himself of the right to propose a new rate of insurance premium to the negotiator of insurance or to rescind

the contract, should he fail to exercise such rights within a one month time limit from the day of his becoming aware, by whatever means, of the increase in risk or if, even prior to the expiration of such time limit, he shows in some way his consent to the continuation of contract (by accepting payment of the premium, by paying the compensation for a case covered by insurance, which case has taken place after the increase of risk, and the like).

Should a Case Covered by Insurance Take Place in the Meantime Article 1012

Should a case covered by insurance take place prior to notifying the insurer of the increase in risk, or if he was notified of the increase in risk, but prior to the rescission of contract by him or reaching agreement with the negotiator of insurance regarding the increase of insurance premium, the compensation shall be reduced proportionately to the premiums already paid and those which would have to be paid according to the increased risk.

Reduction of Risk Article 1013

- (1) Should after entering into contract of insurance, a reduction of risk take place, the negotiator of insurance shall be entitled to demand a corresponding reduction of insurance premium, counting from the day of his notifying the insurer of such reduction of risk.
- (2) Should the insurer fail to accept the reduction of insurance premium, the negotiator of insurance may rescind the contract.

Duty to Notify of the Occurrence of an Event Covered by Insurance Article 1014

- (1) Except in the case of life insurance, the insured person shall be obliged to notify the insurer about occurrence of the event covered by insurance, within three days at the latest, counting from the day of his becoming aware of it.
- (2) Should he fail to fulfill this obligation within the time limit from paragraph 1 of present Article, he shall be obliged to compensate the insurer for loss sustained due to the above.

Nullity of Clauses of Forfeiture of Right Article 1015

Clauses of a contract which provide for the forfeiture of the right to compensation or to the amount insured, should the insured person, after the occurrence of the event covered by insurance, fail to execute some of the prescribed or stipulated obligations shall be void.

Section 4 OBLIGATIONS OF THE INSURER

Payment of Compensation or of the Amount Stipulated Article 1016

- (1) When the event covered by insurance takes place, the insurer shall be bound to pay the compensation or the amount specified by contract within the stipulated time limit which shall not exceed fourteen days, counting from the notification received by the insurer of the occurrence of the insured event.
- (2) But should some time be needed to establish the existence of the insurer's obligation or its amount, time limit from paragraph 1 of present Article shall begin to run from the day of establishing the existence of his obligation and its amount.
- (3) Should the amount of insurer's obligation not be established within the time limit specified in paragraph 1 of the present Article, the insurer shall be obliged, at the request by an authorized person, to pay the undisputed part of his obligation as an advance payment.
- (4) Should insurer fail to fulfill his obligation within time limits from present Article, he shall owe to the insured persons default interest from the day of receipt of notification on occurrence of insured case, as well as to redress damages incurred to the later thereby.

Exclusion of Liability of the Insurer in Case of Intentional Misconduct or Fraud Article 1017

If the negotiator of insurance, the insured person or the beneficiary of insurance provoked the event covered by insurance by their intentional misconduct or fraud, the insurer shall have no obligation whatsoever, while a contractual clause contrary to that shall have no legal effect.

Defences of the Insurer Article 1018

- (1) The insurer shall be entitled, against the request by the bearer of the policy, as well as request of any other person referring to it, to set up all defenses otherwise at his disposal on the ground of contract towards the person with whom he has concluded the contract of insurance.
- (2) In the case of mandatory liability insurance the insurer shall not be entitled to raise against the claim for indemnity brought by a third party such defenses to which he would be entitled against the insured.
- (3) As an exception, the insurer may raise only those defences which originated prior to the occurrence of the insured event, against a claim by the third party in case of voluntary liability insurance, and claims by holders of specific rights on the insured object, whose right has been passed by operation of law from the destroyed or damaged object to the insurance compensation.

Section 5 DURATION OF INSURANCE

Commencement of Effect of the Insurance Article 1019

- (1) Unless otherwise stipulated, the contract of insurance shall begin to take effect twenty four hours from the day designated in the insurance policy as the day of commencement of insurance, and shall continue to be effective until the end of the last day of the time limit stipulated for the insurance.
- (2) Should an insurance time limit be not provided by contract, each party shall be entitled to a rescission of the contract becoming effective on the day of maturity of the insurance premium, after notifying the other party accordingly in writing, three months before the maturity of the premium, at the latest.
- (3) Should insurance be stipulated for a period exceeding five years, each party shall be entitled, after the expiration of that time limit, to notify the other party by letter of its intent to rescind the contract, honoring the six month period of notice.
- (4) It shall not be possible to exclude by contract the right of each party to rescind the contract as specified above.
- (5) The provisions of the present article shall not apply to life insurance.

Effect of Bankruptcy on Insurance Article 1020

- (1) In the case of bankruptcy of the negotiator of insurance, the insurance shall continue, but each party shall be entitled to rescind the contract of insurance within a three month time limit from the institution of bankruptcy proceedings, in which case the negotiator's estate in bankruptcy shall be increased by the part of the paid insurance premium corresponding to the remaining time of insurance.
- (2) In the case of bankruptcy of the insurer, the insurance contract shall be terminated thirty days after the institution of bankruptcy proceedings.

SUBTITLE 2 PROPERTY INSURANCE

Section 1 GENERAL PROVISIONS

The Interest in Insurance Article 1021

- (1) Property insurance may be contracted by any person having an interest that the insured event does not take place, since otherwise such person would suffer a material loss.

(2) The insurance rights may pertain only to persons having material interest that the insured event does not take place at the moment of occurrence of damage.

Purpose of the Property Insurance Article 1022

(1) By means of the property insurance the redress of damages inflicted on the property of the insured due to occurrence of the insured event shall be provided for.

(2) The amount of compensation may not exceed the loss suffered by the insured person by occurrence of insured event.

(3) In the case of crop insurance, or insurance of other agricultural products, the amount of damage shall be determined in relation to the value such crop would have at the time of harvest, unless otherwise provided by contract.

(4) Clauses of a contract by which the amount of compensation is limited to a sum which is lower than the amount of damage shall be valid.

(5) In assessing the amount of damage, the profit lost shall be taken in consideration only if so provided by contract.

(6) Should in course of the same period of insurance several insured events take place one after the other, the insurance compensation for each one of them shall be determined and paid off entirely by taking in consideration the total amount insured, without reducing it by the amount of compensation previously paid within such period.

(7) Should the value of the insured object be determined by agreement, the compensation shall be determined according to such value, unless the insurer is successful in proving that the value stipulated is excessively higher than the real value, and that there is no justified ground for such difference (for instance, insuring a used object at the value of a new one, or insuring a subjective, personal, value).

Preventing the Insured Event, and Salvage Article 1023

(1) An insured person shall be obliged to take regulated, stipulated and all other necessary measures to prevent the occurrence of the insured event, and if such event does take place, he shall be obliged to take every possible measure to limit consequential damage.

(2) The insurer shall be obliged to compensate expenses, losses, and other losses caused by reasonable attempts to eliminate the direct danger of occurrence of the insured event, including that caused by attempt to limit its damaging consequences, even if such attempts are not successful.

(3) The insurer shall be obliged to pay such compensation even if, taken together with compensation of damage from the insured event, it exceeds the amount of insurance.

(4) Should the insured person fail to fulfill his obligation to prevent the occurrence of the insured event, or the obligation of salvage, while having no justified reason, the obligation of the insurer shall be reduced by an amount equal to the increase of damage due to such omission.

Leaving the Insured Object after Damage Article 1024

Unless otherwise provided by contract, the insured person shall not be entitled to leave the insured object after damage to the insurer, after the insured event has occurred, and to request from him the payment of the full amount of insurance.

Loss of Object due to an Event not Provided for in the Insurance Policy Article 1025

(1) Should an insured object or object whose use is the ground of concluding a liability insurance is lost in course of the insurance period, due to an event not provided for in the insurance policy, the contract shall cease to be valid for the future, while the insurer shall be obliged to reconstitute to the negotiator of insurance part of the insurance premium, proportionate to the remaining time period.

(2) Should one of several objects encompassed by one contract be lost due to an event not provided for in the insurance policy, the insurance shall remain valid regarding the remaining objects, but necessary amendments shall be introduced because of the reduction of the subject of insurance.

Section 2 LIMITATION OF THE INSURED RISKS

Damage Covered by Insurance Article 1026

(1) The insurer shall be bound to compensate loss which occurred accidentally, or through fault of the negotiator of insurance or the beneficiary of the insurance, unless regarding specific damage such obligation of the insurer be expressly excluded by the contract of insurance.

(2) He shall not be liable for damage caused by persons from paragraph 1 of present Article through intentional misconduct, so that an insurance policy clause which would specify such liability of the insurer shall be void.

(3) But if the insured event has taken place, the insurer shall be obliged to compensate every loss caused by a person under the responsibility, on any ground whatsoever, of the insured person, regardless of whether the loss was caused by intentional misconduct or negligence.

Damage Caused by Defects in the Insured Object Article 1027

The insurer shall not be liable for damage to the insured object due to its defects, unless otherwise provided by contract.

Damage Caused by War Operations and Rebellions
Article 1028

- (1) An insurer shall not be obliged to redress a damage caused by war operations or rebellions, unless otherwise provided by contract.
- (2) The insurer shall be bound to prove that the damage is caused by some of these events.

Section 3
OVERINSURANCE AND A CONTRACT WITH SEVERAL INSURERS

Over-insurance
Article 1029

- (1) Should at conclusion of the contract one party deceive the other, stipulating an amount of insurance which is higher than the real value of the insured object, the other party shall be entitled to request voidance of contract.
- (2) Should the stipulated amount of insurance be higher than the value of the insured object, and if both parties are in good faith, the contract shall remain valid and the amount of insurance shall be reduced to the real value of the insured object, while the premium shall be reduced proportionally.
- (3) In cases from paragraphs 1 and 2 of present Article an insurer in good faith shall keep the insurance premiums received, and shall be entitled to a non-reduced premium for the current insurance period.

Subsequent Reduction of Value
Article 1030

Should the insured amount be reduced in course of insurance period, each contracting party shall be entitled to a corresponding reduction of insurance amount and of premium, beginning from the day the first party submits to the other his request for reduction.

Multiple and Double Insurance
Article 1031

- (1) Should an object be insured with two or more insurers against the same risk, for the same interest and for the same period of time, so that the sum of the insured amounts does not exceed the value of such objects (multiple insurance), each insurer shall be responsible for complete performance of obligations created out of the contract he has entered into.
- (2) Should, however, the sum of the insurance amounts exceed the value of the insured object (double insurance), and the negotiator of insurance did not act contrary to good faith, all such insurances shall be full and valid, and each insurer shall be entitled to the stipulated insurance premium for the current insurance period, while the insured person shall be entitled to demand from each insurer the compensation according to the contract entered into with him, but no more, in total, than the amount of damage.

(3) After the occurrence of the insured event, the negotiator of insurance shall be bound to notify each insurer of the same risk accordingly and to communicate to him the names and addresses of the remaining insurers, together with information on the amounts of insurance provided in particular contracts concluded with them.

(4) After paying compensation to the insured person, each insurer shall bear the part of compensation in proportion between the insurance amount he is obliged to pay and the sum of insurance amounts, so that the insurer paying more shall be entitled to demand from other insurers reimbursement of the surplus paid.

(5) Should a contract be concluded without indicating the insurance amount or with an unlimited coverage, it shall be considered as a contract concluded with the highest amount of insurance.

(6) The remaining insurers shall be liable for the part to the charge of an insurer unable to pay, proportionally to their respective parts.

(7) A negotiator of insurance concluding a contract of insurance by which double insurance has taken place, while not knowing about a previously concluded insurance, may request – regardless of whether the previous insurance was concluded by himself or by another – within one month from his becoming aware of such insurance, a corresponding reduction of the insured amount and of the premiums of the subsequent insurance, but the insurer shall keep the already received premiums and shall be entitled to the insurance premium for the current insurance period.

(8) If the double insurance has taken place due to the reduction of value of the insured object in the course of the insurance period, the negotiator of insurance shall be entitled to a corresponding reduction in the insurance amount and of the premiums, from the day his request for reduction reaches the insurer.

(9) If in the event of double insurance the negotiator of insurance fails to act in good faith, each insurer may request voidance of contract, keep the premiums received and demand the non-reduced premium for the current insurance period.

Co-insurance Article 1032

Should a contract of insurance be concluded with several insurers who agree on joint bearing and distribution of risk, each insurer designated in the insurance policy shall be liable to the insured person for the entire compensation.

Section 4 SUB – INSURANCE

Article 1033

(1) Should it be established that at the beginning of a relevant period of insurance, the value of the insured object was higher than the amount of insurance, the amount of compensation owed by the insurer shall be proportionally reduced, unless otherwise provided by contract.

(2) The insurer shall be liable to pay the entire compensation up to the amount of insurance, if it is stipulated that the relationship between the value of the object and the amount of insurance shall have no relevance in determining the amount of compensation.

Section 5

TRANSFER OF CONTRACT AND THE PAYMENT OF INSURANCE COMPENSATION TO ANOTHER

Transfer of Contract to the Acquirer of lost Object Article 1034

(1) In the case of transferring the insured object to another, or the subject being a ground for concluding liability insurance, the rights and duties of the negotiator of insurance shall pass by law to the acquirer, unless otherwise provided by contract.

(2) But should only one part of the insured objects be transferred which, in terms of insurance, do not make an entirety, the contract of insurance regarding the transferred objects shall come to an end by law.

(3) Should, due to the transfer of objects, the probability of occurrence of the insured event be increased or reduced, the general provisions on increasing or reducing of risk shall apply.

(4) A negotiator of insurance failing to notify the insurer that the insured object has been transferred to another, shall remain obliged to pay insurance premiums becoming due even after the day of transfer.

(5) The insurer and the acquirer of the insured object may withdraw from the insurance, honoring a fifteen day period of notice, on condition that their notice is submitted within thirty days of becoming aware of the transfer.

(6) The contract of insurance may not be rescinded should the insurance policy be issued to bearer or on order.

Granting of Compensation to Holders of Security and Other Rights Article 1035

(1) After the occurrence of an insured event, a right of security and other rights existing previously in relation to the insured object shall have as their subject the compensation owed, both in the case of insuring one's own objects, and in the case of insuring other person's objects because of a duty to keep and retribute them, so that the insurer shall not be able to pay compensation to the insured person without the consent of the holder of such rights.

(2) Holders of the rights from paragraph 1 of present Article may directly demand that the insurer pay to them their claims within the limits of the amount of insurance, and according to the statutory order of payment.

(3) However, if the insurer at the moment of payment was not aware, or could not have been aware, of such rights, the payment of compensation to the insured person shall remain valid.

Section 6

TRANSFER OF INSURED PERSON'S RIGHTS AGAINST THE LIABLE PERSON TO THE INSURER (SUBROGATION)

Article 1036

- (1) On payment of compensation from insurance, the insurer shall acquire, by law, all rights of the insured person against the person liable for damage on whatever ground, up to the total amount of compensation.
- (2) Should such transfer be made entirely or partially impossible through the fault of the insured person, the insurer shall be released correspondingly from his obligation towards the insured person.
- (3) The transfer of right from the insured person to the insurer shall not be to the detriment of the insured person, so that should compensation received by the insured person from the insurer be, on whatever ground, lower than the damage sustained by him, the insured person shall be entitled to reimbursement from liable party's means for the remaining part of compensation, prior to the payment of insurer's claim on the ground of rights which have been transferred him.
- (4) As an exception to the rules of transfer of an insured person's rights to the insurer, these rights shall not pass to the insurer if damage was caused by a relative in direct line of descendency with the insured person or person under the care and responsibility of the insured person, or a person living with him in the same household, or a person who is an employee of the insured person, unless such persons caused the damage by intentional misconduct.
- (5) However, should some of the persons specified in the paragraph 4 of present Article be insured against liability, the insurer may demand the redress of the amount paid to the insured person from his insurer.

Section 7

LIABILITY INSURANCE

Liability of the Insurer

Article 1037

- (1) In case of liability insurance, the insurer shall be liable for damage caused by the insured event only if the third party sustaining damage request compensation.
- (2) The insurer shall bear, within the limits of the amount of insurance, the expenses of litigation over the liability of the insured person.

Personal Right of the Person Sustaining Damage and Direct Action

Article 1038

- (1) In case of liability insurance the person sustaining damage may request the compensation for loss sustained due to an event falling within the sphere of liability of the insured person directly from the insurer, but only up to the amount of the insurer's obligation.

(2) The person sustaining damage shall have, from the day of occurrence of the insured event, his own right to compensation from the insurance, so that any subsequent change in the insured person's rights against the insurer shall have no effect on the right of a person sustaining damage to compensation.

SUBTITLE 3 INSURANCE OF PERSONS

Section 1 GENERAL PROVISIONS

Determination of the Insured Amount Article 1039

In contracts of insurance of persons (life insurance and accident insurance), the amount of insurance to be paid by the insurer on the occurrence of the insured event, shall be determined in the insurance policy by agreement between the contracting parties.

Life Insurance Policy Article 1040

(1) In addition to elements which are constituent for every insurance policy, the life insurance policy shall include indications of the name and last name of a person whose life is insured, his date of birth and event or time limit being a prerequisite for requesting payment of the amount insured.

(2) The life insurance policy may be made out to a specific person or to order, but it shall not be made out to bearer.

(3) For an endorsement of the insurance policy made out to order to be full and valid, it must contain an indication of the name of the beneficiary, the date of endorsing and the signature of the endorser.

Incorrect Reporting of Age of the Insured Person Article 1041

As an exception to the general provisions of the present Title concerning consequences of incorrect applications or of suppressing the circumstances relevant for the assessment of risk, the following rules shall apply regarding incorrect reporting of age in life insurance contracts:

- 1) a life insurance contract shall be void and the insurer shall be obliged in any case to repay all received premiums, should at the moment of its conclusion the age of the insured person be incorrectly stated, while his real age exceeded the limit up to which the insurer, by his terms and tariffs, normally enters into life insurance transactions.
- 2) should it be incorrectly reported that the insured person is of a lower age, but his real age does not exceed the limit up to which the insurer normally enters into life insurance transactions, the contract shall be valid, but the insured amount shall be reduced in proportion to the stipulated insurance premium and the insurance premium provided for the life insurance of a person of the age of the insured person.

- 3) Should the insured person be of lower age than reported in the application to enter into contract, the insurance premium shall be reduced by a corresponding amount, while the insurer shall be obliged to repay the difference between the insurance premiums received and the premiums he is entitled to.

Consequences of Failing to Pay Insurance Premium and Reduction of the Insured Amount
Article 1042

- (1) Should a negotiator of life insurance fail to pay some of the insurance premiums when due, the insurer shall not be entitled to demand payment by instituting legal proceedings.
- (2) Should a negotiator of insurance, invited by the insurer by means of registered mail, fail to pay an insurance premium due within the time limit indicated in insurer's letter – such time limit being shorter than one month, counting from the day of delivery of the letter – or should such payment not be made by another interested party, the insurer shall be entitled, if at least three annual insurance premiums have been paid by then, only to state to the negotiator of insurance that he is going to reduce the amount of insurance to the level of the re-purchase value of insurance, or that, in a contrary case, he shall repudiate the contract.
- (3) Should the insured event occur prior to repudiation of contract or of reduction of the insured amount, the insured amount shall be considered reduced, or as if the contract is repudiated – depending on whether insurance premiums were paid for at least three years or not.

Insuring a Third Party
Article 1043

- (1) Life insurance may relate to the life of the negotiator of insurance, and it may relate to the life of a third party.
- (2) The same shall apply to the accident insurance.
- (3) Should insurance relate to the death of a third party, the validity of contract shall depend on his written consent, indicated on the face of the insurance policy, or in a separate letter at the moment of signing the insurance policy, with an indication of the insured amount.

Insurance in Case of Death of a Minor and of Persons Deprived of Business Capacity
Article 1044

- (1) Insurance shall be void relating to the death of a third party younger than fourteen, or to a person completely deprived of business capacity, so that the insurer shall be bound to repay to the negotiator of insurance all insurance premiums received under such contract.
- (2) The validity of insurance in case of death of a third party older than fourteen shall depend on the written consent by his legal representative, and the written consent of the insured person himself.

Cumulating Compensation and the Insured Amount Article 1045

- (1) In the case of life insurance, an insurer paying the insured amount shall have no right whatsoever to compensation against a third party liable for the occurrence of the insured event.
- (2) The right to compensation against a third party liable for the occurrence of the insured event shall belong to the insured person, or beneficiary, independently of his right to the insured amount.
- (3) Provisions of the preceding paragraphs shall not apply to insurance covering the consequences of accident stipulated as liability insurance.

Section 2 EXCLUDED RISKS

Suicide of the Insured Person Article 1046

- (1) The contract of insurance covering the case of death shall not include the risk of suicide of the insured person, if it happened in the first year of the insurance period.
- (2) If the suicide happens within a three year period from the day of entering into contract, the insurer shall not be obliged to pay to the beneficiary the insured amount, but only the mathematical reserve of the contract.

Premeditated Murder of the Insured Person Article 1047

An insurer shall be released from obligation to pay to the beneficiary the insured amount if he intentionally caused the death of the insured person, but if until then at least three annual insurance premiums have been paid, he shall be obliged to pay the mathematical reserve to the negotiator of insurance, and should he be the insured person, the payment shall be made to his successors.

Intentional Causing of Accident Article 1048

An insurer shall be released from obligation in the insurance contract covering an accident, if the insured person intentionally caused the accident.

War Operations Article 1049

- (1) Should death of the insured person be caused by war operations, the insurer – unless otherwise provided by contract – shall not be bound to pay to the beneficiary the insured amount, but shall be obliged to pay to him the mathematical reserve from the contract.

(2) Unless otherwise provided by contract, the insurer shall be released from obligation from the accident insurance contract, if the accident was caused by war operations.

Contractual Exclusion of Risk Article 1050

Other risks may also be excluded by contract covering cases of death or accident.

Section 3 RIGHTS OF THE NEGOTIATOR OF INSURANCE PRIOR TO OCCURRENCE OF THE INSURED EVENT

Repurchase Article 1051

(1) Upon demand by the negotiator of a life insurance, concluded for the lifetime of the insured person, the insurer shall be obliged to pay to him the repurchasing value of the insurance policy, if at least three annual insurance premiums have been paid.

(2) The insurance policy shall include terms and conditions by which the insurance negotiator may request payment of its repurchase value, as well as an indication of the method of calculation of that value, in accordance to the insurance terms and conditions.

(3) The rights to request repurchase shall not be realized by the creditors of the negotiator of insurance, or by the beneficiary of insurance, but the repurchase value shall be paid to the beneficiary at his request, if the designation of the beneficiary is irrevocable.

(4) As an exception to the paragraph 3 of present Article, the repurchase of the insurance policy may be demanded by a creditor receiving the policy as security, if the claim supported by security has not been settled at maturity.

Advance Payment Article 1052

(1) On request by a negotiator of life insurance which is concluded for the lifetime of the insured person, the insurer may pay to him in advance a part of the amount insured, up to the repurchase value of the insurance policy, which part may be subsequently repaid by the negotiator of insurance.

(2) The negotiator of insurance shall be obliged to pay interest to be determined against the advance payment received.

(3) Should the insurance negotiator be late with payment of the interest due, it shall be proceeded as if he requested repurchase.

(4) The terms of granting the advance payment must be indicated in the insurance policy, together with the possibility of paying back the amount accepted as advance payment to the insurer, the amount of interest rate, the consequences of failure to pay the interest due – as provided for by insurance terms and conditions.

**Insurance Policy as Security
Article 1053**

- (1) A life insurance policy may be given as security.
- (2) Giving the insurance policy as security shall affect the insurer only if he has been notified in writing that the policy has been given as security to the specific creditor.
- (3) Should a policy be made out to order, the security shall be effected by endorsement.

**Section 4
LIFE INSURANCE FOR THE BENEFIT OF A THIRD PARTY**

**Designating a Beneficiary
Article 1054**

- (1) A negotiator of life insurance may designate in the contract, as well as in other subsequent legal transaction, including a will, a person who shall acquire the rights out of contract.
- (2) Should the insurance relate to the life of another person, the designation of the beneficiary shall also need his written consent.
- (3) A beneficiary need not be designated by name, since it shall suffice that the deed contain data necessary for designation.
- (4) Should children or descendants be designated as beneficiaries, the benefit shall also accrue to those who are born later, while the benefit intended for a spouse shall accrue to the person married to the insured person at the moment of his death.

**Sharing the Benefit Among Several Beneficiaries
Article 1055**

If children, descendants and, in general, successors are designated as beneficiaries, and the negotiator of insurance has not determined the way of distribution of benefit among them, such distribution shall be done proportionally to their inheritance shares, and if beneficiaries are not successors on the ground of inheritance, the amount insured shall be distributed in equal shares.

**Revoking a Clause Designating a Beneficiary
Article 1056**

- (1) A clause by which the insurance benefit is granted to a specific person may be revoked only by the negotiator of insurance, and such right shall not be effected either by his creditors or his legal successors.
- (2) The negotiator of insurance may revoke the clause on benefit only until the beneficiary comes to acknowledge it by stating, in any way whatsoever, his intention to accept the benefit – after which the clause shall become irrevocable.

(3) However, the negotiator may revoke the benefit clause even after beneficiary's statement of acceptance, if the beneficiary has attempted to murder the insured person, and if the benefit is granted without consideration, the revocation shall be subjected to provisions regulating the revoking of a gift.

(4) The beneficiary shall be considered as having refused the benefit intended for him, if he fails, after the death of the negotiator of insurance, on his invitation of his successors, to acknowledge its acceptance within one month.

Personal and Direct Right of the Beneficiary **Article 1057**

(1) The insured amount to be paid to the beneficiary shall not enter into the total estate of inheritance of the insurance negotiator, even if the beneficiaries are his own successors.

(2) The right to the insured amount shall pertain to the beneficiary, from the moment of entering into contract, and regardless of the way and time of his being designated for beneficiary, and regardless of whether he has stated his acceptance prior to or after the death of the insured person, so that he shall be entitled to request payment of the insured amount directly from the insurer.

(3) After the insurance negotiator has designated his children, his descendants and, generally, his successors as beneficiaries, each one of these beneficiaries shall be entitled to a corresponding part of the insured amount, even if they have renounced the inheritance.

Creditors of a Negotiator of Insurance and of the Insured Person **Article 1058**

(1) Creditors of a negotiator of insurance and of an insured person shall have no right whatsoever to the insured amount contracted for the beneficiary.

(2) However, if insurance premiums paid by the negotiator of insurance are disproportionally high, compared to his possibilities at the moment of payment, his creditors may request for them a part of such payments of the premium, exceeding his possibilities – if requirements are met by which the creditors are entitled to oppose the debtor's legal actions.

Assignment of the Insured Amount **Article 1059**

A beneficiary may transfer his right to the insured amount to another, even prior to the occurrence of the insured event, but shall need for that a consent in writing from the negotiator of insurance, where the name of the proposed assignee must be indicated, and should the insurance relate to life of another person, the same consent shall be necessary from that person as well.

Death of Designated Beneficiary Prior to Maturity **Article 1060**

If a person designated without consideration as a beneficiary dies prior to the maturity of the insured principal or annuity, the insurance benefit shall not belong to his successors, but to

the next beneficiary, and should one be not designated, then to the estate of the negotiator of insurance.

Life Insurance without a Designated Beneficiary
Article 1061

Should a negotiator of life insurance fail to designate a beneficiary, or should the clause on determining the beneficiary remain ineffective due to revocation, or to refusal by the designated person, or due to some other reason, and the negotiator of insurance fail to determine another beneficiary, the insured amount shall belong to the estate of the negotiator of insurance, and its part shall pass, together with his remaining rights, to his successors.

Bona fide Payment of the Insured Amount to an Unauthorized Person
Article 1062

(1) Should the insurer pay the insured amount to a person who would be entitled to it if the negotiator of insurance failed to designate the beneficiary, he shall be released from his obligation from the contract of insurance if, at the moment of payment, he was not aware, or could not have been aware, that the beneficiary was designated by will, or by some other act not related to his knowledge, but the beneficiary shall be entitled to request repayment from the person who has accepted the amount insured.

(2) Provision from paragraph 1 of present Article shall apply in case of replacement of the beneficiary.

Title XXXIII
ASSIGNMENT AND DISTRIBUTION OF PROPERTY DURING
LIFETIME

Notion
Article 1063

By a contract on assignment and distribution of property during lifetime the ancestor (transferor) shall assume the obligation to assign his property to the descendants during his lifetime without consideration.

Validity of a Contract
Article 1064

(1) Contract shall be valid only if all transferor's descendants who shall be invited according to the law to inherit him have consented to assignment and distribution.

(2) Should any of the descendants decline consent to assignment and distribution of property, such descendant may extend his consent subsequently.

(3) Contract shall also be valid in cases should a descendant declining consent die prior to transferor issueless, or waive his right to inheritance, or become excluded from inheritance or be unworthy.

Form Article 1065

(1) Contract must be concluded in written form and certified by a notary who shall be under a duty, prior to certifying, to read the contract to the contracting parties, and especially to warn them about the fact that assigned property shall not be included in the transferor's estate of inheritance as well as that the legal successors may not be settled from it.

(2) Notary shall place his confirmation that the actions prescribed by paragraph 1 of present Article were effected on the face of the contract.

(3) A contract made contrary to paragraphs 1 and 2 of present Article shall be null and void.

Subject Article 1066

(1) Contract may include only transferor's property existing in the moment of assignment and distribution, either wholly or partially.

(2) Provision of a contract foreseeing distribution of goods as found in the transferor's estate of inheritance shall be null and void.

(3) Assigned property shall not be included in the estate of inheritance.

What shall Constitute Estate of Inheritance of the Transferor Article 1067

Upon death of the transferor, his estate of inheritance shall consist of goods which are not covered by contract on assignment and distribution, as well as goods acquired by him subsequently.

When shall the Assigned Portions be Deemed Gifts Article 1068

(1) Should any of descendants who became an heir decline his consent to assignment and distribution of property, portions of property assigned to other heirs shall be deemed to be gifts.

(2) It shall be proceeded in the manner referred to in the paragraph 1 of present Article, even should to a transferor, after assignment and distribution of property made in agreement with all heirs, a child be born or appear another heir, who was previously declared dead.

Reserving of Right Article 1069

(1) Transferor shall be entitled, at the time of assigning and distribution, to reserve for himself or his spouse, or for both, or for another party, a right of enjoyment of all or only some of the ceded goods; he may stipulate lifelong annuity either in goods or in money, lifelong support or some other compensation.

(2) Should, in case if enjoyment or lifelong annuity be stipulated in favor of transferor and his spouse jointly, one of them die, enjoyment or annuity shall be attributed wholly to another one, until such one's death, unless otherwise stipulated, or unless otherwise should ensue from circumstances.

Right of the Transferor's Spouse Article 1070

(1) Transferor shall be entitled to include his spouse in assignment and distribution in which case the consent of the latter shall be required.

(2) Should a spouse not be included, that spouse's right to a compulsory share of inheritance shall remain unimpaired. In such case assignment and distribution shall remain valid, but, at the time of establishment of value of estate of inheritance for the purpose of determining the compulsory share of surviving spouse, portions of deceased's property assigned to his descendants shall be considered as gifts.

Transferors Debts and Contesting of Assignment Article 1071

(1) Descendants amongst which the transferor distributed his property shall not be liable for his debts, unless otherwise is stipulated.

(2) Transferor's creditors shall be entitled to contest the contract under conditions applicable to contesting disposals without consideration.

Surety Obligation Article 1072

Surety obligation which ensues amongst co-heirs after distribution, shall ensue amongst descendants after assigning and distribution of property.

Revoking Article 1073

(1) Transferor shall be entitled to claim from his descendant restoring of all what that descendant received, should the latter demonstrate grave ingratitude to transferor.

(2) Transferor shall be entitled to a right from paragraph 1 of present Article also in case if a descendant fails to provide support to him or to another party, if determined by contract on assigning and distribution, or fails to settle transferor's debts, the settlement of which was ordered to him by the contract.

(3) In other cases of non-performance of encumbrances determined by contract on assignment and distribution, the court, taking care of importance of a charge for the transferor and of other circumstances, shall decide on whether assignor shall be entitled to restitution of assigned goods, or shall be entitled to claim enforced execution of the encumbrance.

Right of Descendants after Revoking Article 1074

(1) Descendant who was obliged to retribute to the transferor what he received at the time of assignment and distribution shall be entitled to claim his compulsory share in inheritance after transferor's death, unless he be excluded from succession, or unworthy to inherit the transferor, or should he not have waived the succession.

(2) In computing the size of his compulsory share in inheritance, portions of property which the deceased has assigned and distributed during life to his remaining descendants shall be considered as gifts.

Title XXXIV LIFELONG SUPPORT

Notion Article 1075

(1) By a contract on lifelong support one party (provider of support) shall assume an obligation to provide support for other party or for third person (recipient of support) until his death, while the other party shall assume the obligation to transfer to former party entire or portion of latter party's property, under condition that acquiring of objects and rights shall be postponed until the moment of death of the recipient of support.

(2) Recipient of support may cover by the contract only things or rights which exist at the moment of concluding of the contract.

(3) Obligation of providing support, unless otherwise stipulated, shall especially include providing of housing, food, clothes and footwear, adequate care in case of illness and old age, expenses for medical treatment and dues for ordinary everyday needs.

Form Article 1076

(1) Contract on lifelong support must be concluded in written form and certified by a notary, who is under a duty to, prior to certification, read the contract to the parties and particularly warn the recipient of the support of the fact that property subject to contract shall not be included in his estate of inheritance and that shares of his compulsory heir may not be settled out of it.

(2) Notary shall confirm on the face of the document that actions referred to in paragraph 1 of present Articles were effected.

(3) Contract concluded contrary to paragraphs 1 and 2 of present Article shall be null and void.

Special Ground for Nullity of Contract Article 1077

Contract under which provider of support should be an individual or legal person who cares of the recipient of support within exercise of his profession or business activity (medical personnel, hospitals, agencies of various kinds and the like) shall be null and void, unless prior to concluding of the contract permission is received from the public agency in charge of guardianship.

Lifelong Support of Several Persons Article 1078

Should lifelong support be stipulated for two or more persons, each of them shall be separately entitled to determined prestations.

Lifelong Support in Favor of Third Parties Article 1079

(1) Should a lifelong support be stipulated in favor of third party, provider of support shall acquire ownership right to objects of the contract in the moment of death of his contracting partner, unless contract provides that ownership right shall be transferred in the moment of death of third party.

(2) Obligation of support shall last until the death of third party.

Securing of the Rights from Contract Article 1080

(1) Provider of support may secure his right from contract by registering it in the public records.

(2) Third party to whose benefit the support was stipulated shall also be entitled to a right from paragraph 1 of present Article, upon death of the contracting partner of the provider of support.

Non-transferable Rights Article 1081

Claims of the recipient of support may not be transferred to another.

Rescinding of Contract due to Disturbed Relations Article 1082

- (1) Contractual parties may rescind the contract on lifelong support by mutual agreement even after its implementation has started.
- (2) Should in accordance with the contract on lifelong support contracting parties live jointly, and should their relations become so disturbed, that their joint life becomes insupportable, each party shall be entitled to claim the rescission of the contract before the court.
- (3) Any party shall be entitled to claim rescission of the contract should the other party fail to perform its obligations.
- (4) Should the contract be rescinded each party shall reserve the right to claim compensation from the other party attributable to it under general rules of law on obligations and property.
- (5) Should contract on lifelong support be stipulated to the benefit of third person, person in whose favor support is stipulated shall also be entitled to claim rescission of the contract upon death of the contracting partner of the provider of support.

Rescission of Contract due to Changed circumstances Article 1083

- (1) Should after concluding of the contract, circumstances change to such extent that its performance becomes significantly aggravated, court may, upon claim by one or other contracting party, either rearrange their mutual relationship, or order rescission.
- (2) Court may convert the right of recipient of the support into lifelong annuity, should that be suitable for both contracting parties.
- (3) Should lifelong support be stipulated to the benefit of third person, after death of the contracting partner of the provider of support, person to whose benefit support is stipulated shall be entitled to claim rescission of the contract.

Right of Legal Heirs of the Recipient of Support Article 1084

- (1) On demand of legal heirs of the recipient of support, court may avoid the contract on lifelong support should, due to illness or old age of the recipient of support, contract constituted no uncertainty for the provider of support.
- (2) Legal heirs may claim avoidance of the contract within one year from the date of becoming aware of the contract, and at latest within three years from the day of recipient's death.
- (3) One year time limit shall not start to run prior to the death of recipient.

Death of the Provider of Support Article 1085

- (1) After death of provider of support his obligation shall pass to his spouse and descendants which are invited to succession, should they agree.
- (2) Should persons from paragraph 1 of this Article deny consent to continuation of contract on lifelong support, contract shall be rescinded, and they shall not be entitled to claim recovery for previously provided support.

Compensation by Recipient of Support Article 1086

- (1) Should spouse and descendants of the provider of support not be capable to take over contractual obligations, they shall be entitled to claim compensation from the recipient of support.
- (2) Court shall establish such compensation at his discretion, taking into account economic situation of the recipient of support and persons who were authorized to prolong the contract.

Title XXXV LIFELONG ANNUITY

Notion Article 1087

- (1) By a contract on lifelong annuity, one contracting party (creditor of the annuity) shall assume an obligation to transfer to his contracting partner (debtor of the annuity) the right of ownership on specified objects, or some other rights, or to pay him a specified amount of money, while the latter shall assume an obligation, in consideration for that, of payment to either former party or third person, of specified amounts of money or some other replaceable goods within specified time limits until the end of his life.
- (2) The duration of the annuity may be determined by duration of life of third party or creditor of the annuity, in which case, after the creditor's death, the annuity shall be passed to his successors, unless otherwise agreed upon.

Form Article 1088

- (1) For validity of contract on lifelong annuity it shall be necessary that it be concluded in written form.
- (2) Contract which is not concluded in written form shall be null and void.

Amount of the Annuity
Article 1089

- (1) Amount of the annuity shall be determined freely by contracting parties.
- (2) Contracting parties may agree that the amount of annuity for each period shall be specified according to a defined index.

Securing of the Claims of Annuity
Article 1090

For the purpose of securing of his claims of annuity, creditor may claim that it is registered in the Cadastre of Real Estate as an encumbrance on the real estate of the debtor.

Payment of the Annuity
Article 1091

- (1) Instalments of lifelong annuity shall be paid quarterly in advance, on the first day of each quarter, unless otherwise stipulated.
- (2) Should it be stipulated that the payment shall take place upon expiry of specified period of time, and should the creditor die during such period, his heirs shall be entitled to such part of an installment, which is proportionate to expired part of the time period.

If one Annuity is Stipulated in favor of Several Persons
Article 1092

- (1) If one lifelong annuity is established in favor of two or more persons, creditor shall be under a duty to pay entire amount of the annuity, even after death of some of them, to remaining persons, until death of the last of them.
- (2) In case from paragraph 1 of present Article, it shall not be permitted to stipulate transfer of annuity to a child which is neither born nor conceived at time of establishing of the annuity.

Transfer to Another
Article 1093

- (1) Right to a lifelong annuity may be transferred to another; however, even in such case it shall extinguish with the death of person in whose favor it was established.
- (2) When annuity is established by gratuitous transaction, donor, or testator, may determine that it may not be transferred to another.

Attachment on Lifelong Annuity
Article 1094

- (1) Lifelong annuity may be attached on the ground of debts of the annuitant.

(2) When annuity is established through gratuitous legal transaction, donor, or testator may determine that it may not be subject to attachment.

(3) Such provision shall be presumed, should the annuity be established by gratuitous transaction for the purpose of securing the compulsory support of the annuitant.

Nullity of the Contract Article 1095

(1) Court shall annul the contract on lifelong annuity upon claim by the interested person, should it establish that due to old age or illness of the annuity creditor, contract shall not constitute any risk for annuity debtor.

(2) Contract shall remain in effect, should it be determined that the creditor of annuity, when stipulating low amount of annuity, intended to make a gift to a debtor.

Revision of Annuity Article 1096

(1) In case of increase of the costs of living by more than twenty percent, creditor of annuity shall be entitled to claim corresponding increase of the annuity.

(2) Increase of the annuity shall not exceed increase in costs of living, or increase of value of objects or rights delivered to the annuity debtor

Rescission of the Contract by the Debtor Article 1097

(1) Debtor of annuity shall be entitled to, upon expiry of three years from concluding of the contract, rescind the contract and be released of his obligation.

(2) Debtor shall be under duty to restore to the creditor of annuity such objects and rights as he received from him in consideration of the obligation of giving the annuity, but shall keep the civil and natural fruit and benefits yielded from such objects.

(3) Should the annuity be established by another through the contract with debtor, or should it be a gift or legacy to the annuity creditor, as well as should it be awarded by court as a redress of damages, debtor may be released from his obligation after expiry of three years from its creation, should creditor agree that debtor pays him at once fifteen fold amount of the annuity.

(4) In cases foreseen by paragraphs 1, 2 and 3 of present Article, creditor shall withhold the installments of annuity he already received, and shall be entitled to claim payment of due installments.

(5) Debtor is under a duty to communicate his intention to be released from the obligation of payment of annuity at least three months in advance.

Rescission of the Contract by Creditor Article 1098

(1) Should debtor be in delay with payment of two installments of annuity, creditor shall be entitled, at his discretion, to either rescind the contract or claim separation from debtor's assets, of necessary amount of money, whereby the annual interest accrued on such amount would be equal to annual amount of annuity; he shall be entitled to deposit such amount with a bank on the name of debtor, but with a lifelong entitlement to a creditor to enjoy interest up to the amount of annuity.

(2) Should the contract be rescinded, debtor shall be obligated to restitute to the annuity creditor objects and rights which he received in compensation for the obligation of giving the annuity, but shall be entitled to withhold fruits and benefits he obtained from them, while the creditor shall withhold the annuity installments received, and is entitled to claim payment of installments due.

(3) Should objects and rights received by debtor no longer be in his property, he shall be obligated to redress the creditor for their value.

Debtor's Bankruptcy Article 1099

In case of bankruptcy of the annuity debtor, creditor shall be entitled to claim payment of the sum of money which could yield the annuity in the same amount until the end of his life

Title XXXVII WARRANTY (GUARANTEE)

SUBTITLE 1 GENERAL PROVISIONS

Notion Article 1100

By a contract of warranty (guarantee) warrantor (guarantor) shall assume an obligation to a creditor to fulfill a valid and due obligation of a debtor, should the latter fail to do so.

Form Article 1101

(1) A contract of warranty shall produce an obligation for the warrantor only after his statement on warranty is made in writing.

(2) Should the declaration on warranty not be made in writing, such contract shall be null and void.

Capacity for Warranting Article 1102

Only a person with full business capacity may assume an obligation by contract of warranty.

Warranting for a Person without Business Capacity Article 1103

Whoever assumes an obligation as a warrantor for a person without business capacity shall be liable to the creditor in the same way as a warrantor of a person with business capacity.

The Subject of Warranting Article 1104

- (1) A warranty may be given for every valid obligation, regardless of its substance.
- (2) It shall also be possible to warrant a conditional obligation and a specific future obligation.
- (3) A warranty for a future obligation may be revoked prior to occurrence of such obligation, if a time limit was not provided.
- (4) A warranty may also be given for an obligation of another warrantor (warrantor's warrantor).

Scope of Warrantor's Liability Article 1105

- (1) A warrantor's obligation shall not exceed the obligation of the principal debtor, and if it is stipulated that it will exceed this, it shall be reduced to the scope of debtor's obligation.
- (2) A warrantor shall be liable to fulfill the entire obligation he has warranted, if his liability is not limited to a part of it, or is not subjected in some other way to less strict conditions.
- (3) He shall be liable to reimburse the necessary expenses incurred by the creditor in order to collect the debt from the principal debtor.
- (4) The warrantor shall also be liable for every increase in obligation ensuing from the debtor's delay or fault, unless otherwise provided by contract.
- (5) He shall be liable only for interest stipulated, which becomes due after entering into the contract of warranty.

Transfer of Creditor's Rights to the Warrantor (Subrogation) Article 1106

A creditor's claim, settled by a warrantor, shall pass to him along with all secondary rights and guarantees for its fulfillment.

SUBTITLE 2

RELATIONSHIP BETWEEN A CREDITOR AND A WARRANTOR

Forms of Warranty **Article 1107**

- (1) Fulfilment of an obligation may be demanded from a warrantor only after the principal debtor fails to fulfill it within the time limit specified in written notice (subsidiary warranty).
- (2) A creditor may demand fulfillment from a warrantor although he has not previously notified the principal debtor to fulfill the obligation, should it be obvious that its fulfillment cannot be effected out of the principal debtor's means, or if the principal debtor has gone bankrupt.
- (3) Should a warrantor assume an obligation as a warrantor-payer, he shall be liable to the creditor as a principal debtor for the entire obligation, so that the creditor may demand its fulfillment either from the principal debtor or the warrantor, or from both of them at the same time (joint and several warranty).
- (4) Unless otherwise stipulated, a warrantor for an obligation created on the ground of a commercial contract shall be liable as a warrantor-payer.

Joint and Several Warranty **Article 1108**

Several warrantors for a debt shall be jointly and severally liable, regardless of whether they have warranted together, or each one of them has assumed an individual obligation to the creditor, unless their liability be regulated differently by contract.

Loss of the Right to Time Limit **Article 1109**

Unless otherwise stipulated, if a debtor has lost the right to a time limit determined for the fulfillment of his obligation, a creditor shall still not be entitled to demand fulfillment from the warrantor prior to expiration of that time limit.

Principal Debtor's Bankruptcy **Article 1110**

- (1) In case of bankruptcy of a principal debtor, the creditor shall file his claim in the bankruptcy proceedings, and shall inform the warrantor thereof; otherwise he shall be liable to the warrantor for the ensuing loss sustained by him
- (2) Reducing the obligation of the principal debtor in bankruptcy proceedings or in proceedings of compulsory settlement of accounts, shall not result in a corresponding decrease in the warrantor's obligation, so that the warrantor shall still be liable to the creditor for the entire amount of his obligation.

In the Case of Reduced Liability of Debtor's Successor Article 1111

A warrantor shall also be liable for the entire amount of obligation he has warranted should a debtor's successor be liable only to pay that part of obligation which corresponds to the value of inherited property.

Warrantor's Objections Article 1112

- (1) A warrantor may raise against creditor's claim all defenses available to the principal debtor, including the defense of setoff, but not purely personal defenses belonging to the debtor.
- (2) If the debtor renounces a defense or recognizes a creditor's claim, this shall have no effect on a warrantor.
- (3) A warrantor may also raise his own defenses against a creditor, such as nullity of warranty contract, unenforceability due to statute of limitations of the creditor's claim against him, or the setoff of mutual claims.

Duty of Notifying a Warrantor on Debtor's Omission Article 1113

Should a debtor fail to fulfill his obligation on time, a creditor shall be obliged to notify the warrantor thereof, otherwise he shall be liable to him for the ensuing loss sustained by the warrantor.

Releasing a Warrantor due to Creditor's Delay Article 1114

- (1) A warrantor shall be released from liability should a creditor, if notified by him after the maturity of the claim, fail to demand fulfillment from the principal debtor within a month after such notice.
- (2) Should the time limit for fulfillment be not determined, the warrantor shall be released from liability if the creditor, on notice after the expiration of a year since entering into contract of warranty, fail to make a statement necessary for determining the date of fulfillment, within a one month time limit from such notice.

Releasing a Warrantor due to Abandoning Guarantees Article 1115

- (1) Should a creditor abandon a security or any other right by which fulfillment of his claim is guaranteed, or should he lose it by his negligence, thus preventing the passing of such right to the warrantor, the latter shall be released from his obligation to the creditor for the amount he could earn by effecting such right.
- (2) The rule specified in the paragraph 1 of present Article shall apply both in case of the right ensuing prior to entering into contract of warranty, and in the case of it's ensuing after.

SUBTITLE 3

RELATIONSHIP BETWEEN A WARRANTOR AND A DEBTOR

The Right to Demand Compensation from a Debtor **Article 1116**

- (1) A warrantor who has paid a creditor may demand from the debtor compensation for everything paid by him on his account, including interest from the day of payment.
- (2) He shall be entitled to reimbursement of expenses in litigation against the creditor from the moment of his notifying the debtor about such litigation, and for compensation for losses, if any.

The Right of a Warrantor of a Joint Debtor **Article 1117**

A warrantor for one of more joint and several debtors may demand compensation of the amount he has paid to the creditor from any of them as well as reimbursement of expenses.

The Right of a Warrantor to Preliminary Guarantee **Article 1118**

Even prior to meeting his duty toward a creditor, a warrantor assuming an obligation after corresponding knowledge or permission of the debtor, shall be entitled to demand that the debtor supply him with any necessary guarantee to secure his eventual requests in the following cases: if the debtor has failed to fulfill his obligation when due, if the creditor has demanded from the court the collection from the warrantor, or if the financial situation of debtor has considerably deteriorated since entering into the contract of warranty.

Loss of the Right to Compensation **Article 1119**

- (1) A debtor may use against the warrantor who has paid out creditor's claim without his knowledge all legal means which were at his disposal at the moment of such payment as instruments for denying creditor's request
- (2) A warrantor who has paid out a creditor's claim, while failing to notify the debtor thereof, so that the latter, not knowing of such payment, paid the claim, shall not be able to demand compensation from the debtor, but shall be entitled to request from the creditor the repayment of sum paid to him.

The Right to Repayment **Article 1120**

A warrantor who, without the knowledge of a debtor, has paid a creditor's claim which was subsequently cancelled at the debtor's request, or settled by setoff, shall be entitled only to demand the corresponding repayment from the creditor.

SUBTITLE 4

Redress of the Payer against the Remaining Warrantors Article 1121

Should there be several warrantors, the one paying the claim due shall be entitled to demand that each of the remaining warrantors compensate the part corresponding to him.

SUBTITLE 5

Expiry Due to Statute of Limitations Article 1122

- (1) After an obligation of the principal debtor expires (becomes unenforceable) due to statute of limitations, the obligation of the warrantor shall also be expired.
- (2) If the period for expiry due to statute of limitations of the obligation of the principal debtor is longer than two years, the warrantor's obligation shall expire on the above ground two years after the maturity of the obligation of the principal debtor, except if the warrantor is jointly and severally liable with the debtor.
- (3) The interruption of the expiration period of the claim toward the principal debtor shall have effect towards warrantor as well, only if the interruption took place due to a motion of the creditor in court against the principal debtor.
- (4) The suspension of the expiration period of principal debtor's obligation shall have no effect for the warrantor.

Title XXXVII DIRECTING (ASSIGNMENT)

SUBTITLE 1

Concept of the Contract Article 1123

By directing (an assignment) one party – the director (assignor), shall authorize another party – the directee (assignee), to perform something on his account for the benefit of a third party – the recipient of the direction (recipient), while authorizing him to accept such performance in his own name.

SUBTITLE 2 RELATIONS BETWEEN A RECIPIENT AND AN ASSIGNEE

Acceptance by the Assignee Article 1124

- (1) A recipient of the assignment shall acquire the right to demand performance from the assignee only after notifying him of his acceptance of the assignment.
- (2) Acceptance of the assignment may not be revoked.

Objections of the Assignee Article 1125

- (1) By accepting the assignment a debt relationship shall arise between the recipient and the assignee, independent of the relationship between the assignor and the assignee, and the relationship between the assignor and the recipient of the assignment.
- (2) An assignee accepting the assignment may raise against the recipient of the assignment only those defenses which relate to validity of acceptance, objections based on the contents of acceptance or on the contents of assignment itself, as well as personal objections he has against him.

Transferring the Assignment Article 1126

- (1) A recipient of the assignment shall be entitled to transfer the assignment to another prior to acceptance by the assignee, and the transferee can transfer it further, except when the assignment itself, or specific circumstances indicate that it is non-transferable.
- (2) Should an assignee notify a recipient of the assignment that he accepts the assignment, such acceptance shall be effective with respect to all persons to whom the assignment might subsequently be transferred.
- (3) Should the assignee notify the transferee to whom the recipient of the assignment has transferred the assignment, that he accepts it, he shall not raise against the transferee personal objections that he has against the recipient of the assignment.

Expiry due to Statute of Limitations Article 1127

- (1) The right of a recipient of the assignment to demand performance from the assignee shall be time barred after one year.
- (2) Should the time limit for performance be not provided, the period for expiry shall commence to run when the assignee accepts the assignment and if he accepted it before it was delivered to the recipient of the assignment, then when it is delivered to him.

SUBTITLE 3

RELATIONSHIP BETWEEN A RECIPIENT AND AN ASSIGNOR

If a Recipient of the Assignment is the Creditor of the Assignor

Article 1128

- (1) A creditor shall not be obliged to consent to an assignment made for him by a debtor as full satisfaction of his obligation, but he shall have a duty to notify the debtor of his refusal without delay; otherwise, he shall be liable to him for loss.
- (2) A creditor who has consented to the assignment shall be obliged to call upon the assignee to perform it.

An Assignment is not Performance

Article 1129

- (1) After a creditor has consented to an assignment made by his debtor in full satisfaction of an obligation, that obligation shall not be terminated, unless otherwise agreed, either by his consent to the assignment or by its acceptance by the assignee, but only by performance on the part of the assignee.
- (2) A creditor who has consented to the assignment made by his debtor can demand from the assignor that he perform what is owed for him only if he has not received performance from the assignee within the time provided in the assignment.

Duty of a Recipient to Notify the Assignor

Article 1130

Should an assignee decline his consent to the assignment, or refuse the performance demanded from him by the recipient of the assignment, or state in advance that he will not perform it, the recipient of the assignment shall be obliged to immediately notify the assignor of it; otherwise, he shall be liable to him for loss.

Renouncing an Accepted Assignment

Article 1131

A recipient of the assignment who is not a creditor of the assignor and who does not want the benefit of the assignment, may renounce it even if he has already stated that he accepted it, but he has a duty to notify the assignor without delay.

Revocation of Authorization Given to the Recipient of the Assignment

Article 1132

An assignor may revoke the authorization given to a recipient by means of an assignment, unless the assignment was given in full satisfaction of his own debt to him, and generally, if the assignment was given in the interest of the recipient.

SUBTITLE 4

RELATIONSHIP BETWEEN AN ASSIGNOR AND AN ASSIGNEE

If an Assignee is a Debtor of an Assignor **Article 1133**

- (1) An assignee shall have no duty to accept the assignment even if he is a debtor of the assignor, unless he promised it to him.
- (2) However, should the assignment be made on the basis of the assignee's debt to the assignor, the assignee shall be bound to perform it in the amount of the debt, provided it is not more difficult for him than performance of his obligation to the assignor, for any reason.
- (3) By performing the assignment made on the basis of the assignee's debt to the assignor, the assignee shall be released in the same measure from his debt to the assignor.

Revocation of Authorization Given to an Assignee **Article 1134**

- (1) An assignor may revoke the authorization given to an assignee in an assignment until the assignee notifies the recipient of the assignment that he accepts the assignment, or until he performs it.
- (2) He may revoke it even if the assignment provides it is irrevocable, or if by revocation some obligations of his to the recipient of the assignment would be violated.
- (3) Instituting bankruptcy proceedings against the assignor's property shall bring with it revocation of the assignment by law, except if the assignee had already accepted the assignment prior to instituting the bankruptcy proceedings, or if, at the moment of acceptance, he did not know or should not have known of the bankruptcy.

SUBTITLE 5

DEATH AND LOSS OF BUSINESS CAPACITY

Article 1135

Death of the assignor, recipient of the assignment, or the assignee, and loss of business capacity by any of them, shall have no effect on the assignment.

SUBTITLE 6

An Assignment in the Form of Bearer Paper **Article 1136**

- (1) A written assignment can be made out to bearer.
- (2) In the case of paragraph 1 of present Article every holder of the paper shall have the position of a recipient of the assignment with respect to the assignee.

(3) The relations created in an assignment between the recipient of the assignment and the assignor shall arise in this case only between each holder of the paper and the person who ceded the paper to him.

SUBTITLE 7

The Assignment in Form of a Paper Made Out to Order Article 1137

A written assignment that relates to money, to securities, or to negotiable property can be issued with the provision "to order", if the assignee is a person engaged in business activity, and if what should be performed enters within the scope of that activity.

Title XXXVIII BANK MONEY DEPOSITS

SUBTITLE 1 MONEY DEPOSIT

Notion Article 1138

(1) A contract of money deposit shall be concluded if a bank assume the obligation to accept, and the depositor assume the obligation to deposit at the bank, a specific amount of money.

(2) The bank shall acquire by a contract from paragraph 1 of present Article the right to dispose of the deposited money and shall be bound to repay it under the terms provided for by contract.

Opening an Account Article 1139

(1) On the ground of a contract of money deposit, the bank shall open an account to the benefit and to the charge of which it shall enter all claims and debts from transactions with the depositor, or on his account with third parties.

(2) The claims or debts which are agreed by the contracting parties to be excluded shall not be entered in the account.

Eliminating the Debit Balance Article 1140

(1) The bank shall be obliged to effect payments from the account within the limits of available means.

(2) Should the bank effect one or more in and out payments within the scope of the contract of deposit, which make the balance passive, it shall notify the depositor thereof without delay, and the latter shall be bound to take immediate measures to eliminate the debit balance.

Kinds of Money Deposits Article 1141

(1) A money deposit may be at sight deposit or a time deposit, with or without period of notice, with special purpose or without purpose.

(2) Unless the contrary be provided by contract, a money deposit account shall be considered as a sight deposit, so that the depositor of the account shall be entitled to dispose at any moment of the part or of the entire amount of balance.

Statement of Account Article 1142

(1) A bank shall be obliged to notify the depositor on every change in the position of his account.

(2) By the end of every year the bank shall be obliged to send a statement of the account (amount of balance) and, if provided by contract or custom, it shall do this more frequently.

The Place of Paying in and Paying out Article 1143

Unless otherwise agreed between the contracting parties, orders for paying in and out of depositor's account shall be directed to the seat of the bank in which the account was opened.

Existence of Several Accounts Article 1144

Should the same person have several accounts with one bank, or with several of its branches, each of these accounts shall be independent.

Payment of Interest Article 1145

(1) The bank shall pay the interest on assets deposited with it, unless otherwise provided by law.

(2) The amount of interest shall be determined by the contract of deposit of assets, and if there is no indication in the contract to that respect, statutory interest shall be paid.

SUBTITLE 2 SAVINGS DEPOSIT

Savings Book Article 1146

- (1) Should a money deposit be accepted as savings deposit, the bank or the savings and credit institution, shall issue a savings book to the depositor.
- (2) A savings book may be issued only in the name of the specific person or to bearer.

Entry in the Book Article 1147

- (1) All payments and withdrawals of money shall be entered into the savings book.
- (2) Entries in the book confirmed by the bank's seal and signature of the authorized person shall serve as proof of payments or withdrawals, and of the relations between the bank and the depositor.
- (3) Provisions on contract on money deposit contrary to provisions from paragraphs 1 and 2 of present Article shall be void.

Payment of Interest Article 1148

Interest shall be paid on savings deposits.

Kinds of Savings Deposits Article 1149

Savings deposits may be sight deposits or time deposits, with or without a period of notice.

Title XXXIX DEPOSIT OF SECURITIES

Notion Article 1150

By a contract of deposit of securities a bank shall assume the obligation to take over the securities against compensation, for the purpose of keeping them and of exercising the rights and duties required in relation to that.

Exercising of Rights Article 1151

Unless otherwise stipulated, the bank may exercise rights stemming from securities deposited only for the account of the depositor.

Duties of the Bank Article 1152

- (1) The bank shall be obliged to ensure the keeping of securities with care required from a depository against compensation, and to take all actions for the account of the depositor necessary for preserving and realizing his rights out of the securities.
- (2) Unless otherwise stipulated by the contracting parties, the bank shall be obliged to collect the interest due, the principal amount and, generally, all amounts which deposited securities entitle the holder to, as soon as they become due for payment.
- (3) The bank shall be obliged to place at the disposal of the depositor the amounts collected, and if the latter has opened an account with the bank to make money deposits, to enter them to the credit of such account.

Restitution of Securities Article 1153

- (1) At depositor's request the bank shall be bound to reconstitute the securities at any time.
- (2) The restitution shall be effected, as a rule, at the place where the depositing was made.
- (3) The subject of restitution shall be the securities as such, unless the contracting parties have agreed that it can be effected by paying a corresponding amount.
- (4) The restitution may be effected only to the depositor or his legal successors, or to persons designated by them, even if it is obvious from the securities themselves that they belong to a third party.

Third Parties' Claims Article 1154

Every claim by a third party regarding the securities lodged shall be communicated by the bank to the depositor.

Title XL

BANK CURRENT ACCOUNT

Notion **Article 1155**

By a contract of bank current account the bank shall assume the obligation to open a particular account to a person, and to accept through it all payments within the limits of his assets and credit granted.

Form of Contract **Article 1156**

- (1) A contract of opening a current account shall be concluded in writing.
- (2) Contract which is not concluded in written form shall be null and void.

Assets in the Current Account **Article 1157**

- (1) Money assets in a current account shall be effected by depositor's payments and by collecting money amounts made for his account.
- (2) The bank shall be obliged to make payments from the current account for the depositor, even if it is without funds, within the scope provided for by contract of opening the current account, or by special agreement.
- (3) Such obligation of the bank may be excluded by the contract of opening the current account.

Balance Setoff of Several Accounts **Article 1158**

If a depositor has several current accounts with the same bank, the plus and minus balances of these accounts shall be mutually offset, unless otherwise provided by contract.

Disposing of Balance **Article 1159**

The beneficiary of a current account may at any moment dispose of the balance figuring on the account to his credit, unless a period of notice be provided by contract.

Applying the Rules of the Contract of Order **Article 1160**

- (1) A bank shall be liable for carrying out orders of the depositor according to the rules of the contract of order.

(2) If an order should be carried out at a place where the bank has no branch, it may effect the transaction through another bank.

Duration of Account Article 1161

If period of duration of a current account is not determined by contract, each party shall be entitled to close it, while honoring a fifteen day period of notice.

Bank Commission and Compensation of Expenses Article 1162

(1) A bank shall be entitled to charge commission for services rendered, included in the contract of the current account, as well as to repayment of particular expenses incurred in relation to these services.

(2) Claims from paragraph 1 of present Article shall be entered by the bank to its credit in the current account, unless otherwise stipulated by the contracting parties.

Delivering Statements of Account Article 1163

(1) At every change of the current account the bank shall be obliged to issue a statement of the account, with an indication of balance, and to deliver it to the client in the way agreed upon.

(2) The statement of account shall be considered as approved if not contested within the agreed time limit or, in the absence of the relevant agreement, within a fifteen day period.

(3) Even after approval, the statement of account may be contested because of a mistake in writing or in accounting, or omission or duplication, but such contesting must be effected within one year, at the latest, from the day of accepting the account on settling the balance after the closing of the current account; otherwise, such right shall be forfeited.

Title XLI THE CONTRACT OF SAFE-DEPOSIT BOX

Notion Article 1164

(1) By a contract of safe-deposit box, a bank shall assume the obligation to provide a beneficiary with a safe-deposit box for a definite period of time, while the beneficiary shall assume the obligation to pay in return the specified fee.

(2) The bank shall be obliged to take all necessary measures to ensure the good condition of the safe- deposit box and to provide supervision over it.

**Admittance to Safe-Deposit Box
Article 1165**

- (1) Access to a safe-deposit box shall be permitted only to the beneficiary or to his representative.
- (2) The bank shall not be allowed to keep a duplicate of key or keys handed over to the beneficiary.

**Objects which Shall not Be Placed in the Safe-Deposit Box
Article 1166**

- (1) A beneficiary shall not be allowed to place in his safe-deposit box an object or a product which could imperil the safety of the bank or other safe-deposit boxes.
- (2) Should the beneficiary fail to adhere to that obligation, the bank may declare its intention to rescind the contract of safe-deposit box.

**Rights of a Bank in case of Payment Failure
Article 1167**

- (1) Should a beneficiary fail to pay to the bank a single installment of the charge due, the bank may rescind the contract within a month after warning the beneficiary, by registered mail, about the payment due.
- (2) After rescinding the contract, the bank may invite the beneficiary to empty the safe-deposit box and hand the key over, and should the beneficiary fail to act accordingly, the bank may demand that the safe-deposit box be opened by the court, that its contents be established officially, and that objects found be placed at the court or be trusted to the bank for keeping.
- (3) The bank shall be entitled to the priority payment of the fee due, which is stipulated in the contract of the safe-deposit box – from the money found in the safe-deposit box, or from the proceeds obtained through the sale of other valuables found in the safe-deposit box.

**Title XLII
THE CONTRACT OF CREDIT**

**Notion
Article 1168**

By a contract of credit the bank shall assume the obligation to place at the disposal of a beneficiary of the credit a specific amount of money, for a definite or indefinite period of time, and for specific purpose or without such purpose, while the beneficiary shall assume an obligation to pay to the bank the stipulated interest and repay the received amount of money, at the time and in the way determined by contract.

The Form and the Substance
Article 1169

- (1) A contract of credit must be concluded in written form.
- (2) The contract which is not concluded in written form shall be null and void.
- (3) The following shall be specified by a contract of credit: the amount, terms and conditions of granting, using and repayment of credit.

Cancellation by the Creditor
Article 1170

- (1) A bank may cancel the contract of credit prior to the expiration of the stipulated time limit, if the credit is used contrary to its purpose.
- (2) The bank may also cancel the contract of credit prior to the expiration of the stipulated time limit in the event of insolvency of the beneficiary, even if it has not been established by court decision, or in the event of termination of a legal person, or death of the beneficiary, if in such events the bank granting the credit would be placed into a substantially more difficult position.

Withdrawing from Contract and Repayment of Credit Ahead of Schedule
Article 1171

- (1) A beneficiary of a credit may withdraw from the contract before beginning to use the credit.
- (2) The beneficiary of the credit may repay the credit also ahead of schedule determined by contract, but shall be obliged to notify the bank thereof, in advance.
- (3) In cases from paragraphs 1 and 2 of present Article the beneficiary of the credit shall be obliged to compensate loss eventually sustained by the creditor.
- (4) In the case of repayment of the credit ahead of schedule, the bank shall not charge the interest for the period from the day of repaying the credit until the day specified by contract as the day of repayment.

Title XLIII
THE CONTRACT OF CREDIT ON THE GROUND OF
PLEDGE OF THE SECURITIES

Notion
Article 1172

By a contract of credit on the ground of pledging of securities, a bank shall grant credit in a specified amount, secured by pledge on securities held by the beneficiary of the credit or by a third person giving his consent to the matter.

The Form and the Substance Article 1173

(1) The contract of credit on the basis of pledge of securities must be concluded in written form, and shall contain the specification of securities pledged, an indication of the title or the firm and seat or of permanent residence of the holder of the securities, of the amount and terms of the credit granted, as well as of the amount and value of the securities considered when granting the credit.

(2) A contract which not concluded in written form, or not containing elements from the paragraph 1 of present Article shall be null and void.

When a Bank May Sell the Pledged Securities Article 1174

Should a beneficiary fail to repay the credit due for payment, the bank may sell the pledged securities.

Title XLIV LETTERS OF CREDIT

Duties of a Bank Opening a Letter of Credit and Form of the Letter of Credit Article 1175

(1) By accepting the request of the orderer for opening a letter of credit, the bank opening it shall assume the obligation to pay to the beneficiary of the letter of credit the specified amount of money upon compliance, within the time specified, with the terms and conditions specified in the order for opening the letter of credit.

(2) A letter of credit must be made in written form.

(3) A contract not prepared in a written form shall be null and void.

When is the Obligation Towards Beneficiary Created Article 1176

(1) Bank shall be bound towards the beneficiary from the day when opening of letter of credit was communicated to the beneficiary.

(2) Orderer shall be bound by order issued from the moment when order is received by the bank.

Independence of Letter of Credit from other Legal Transaction
Article 1177

A letter of credit shall be independent from the contract of sale or any other legal transaction in relation to which the letter of credit has been opened.

Documentary Credit
Article 1178

A documentary credit shall exist if a bank is under a duty to pay out to the beneficiary of the letter of credit the specific amount of money, on condition of being presented with documents specified by the terms of the letter of credit.

Duty of a Bank Opening the Letter of Credit
Article 1179

A bank opening documentary credit shall be obliged to execute the clauses of payment under the conditions specified in the letter of credit.

Kinds of Documentary Credit
Article 1180

- (1) Documentary credit may be revocable or irrevocable.
- (2) Unless otherwise expressly stipulated, the letter of credit shall always be revocable, even if opened for a specified period of time.

Revocable Letter of Credit
Article 1181

A revocable letter of credit shall not obligate the bank to the beneficiary, so that it may alter or revoke it at the request of the orderer, or at its own initiative, should this be in the interest of the orderer.

Irrevocable Documentary Credit
Article 1182

- (1) Irrevocable documentary credit shall contain an independent and direct obligation of the bank to the beneficiary.
- (2) Such obligation may be cancelled or altered only by agreement between all interested parties.
- (3) Irrevocable documentary credit may be confirmed by another bank which, through that, shall assume an independent and direct obligation to the beneficiary, in addition to the bank which opened the documentary credit.
- (4) A notification of the documentary credit of a beneficiary by another bank shall not, in itself, confirm such documentary credit.

Duty of the Bank Regarding the Documents

Article 1183

- (1) The bank shall be obliged to inquire whether the documents entirely conform to the requirements of the orderer.
- (2) After accepting the documents, the bank shall immediately notify the orderer thereof, while pointing out to him established irregularities and deficiencies.

Limits of Bank's Liability

Article 1184

- (1) The bank shall assume no liability should submitted documents appear to be in conformity with instructions of the orderer.
- (2) It shall assume no obligation regarding merchandise being the subject of the opened letter of credit.

Transferability and Divisibility of a Documentary Credit

Article 1185

- (1) Documentary credit shall be transferrable and divisible only if the bank opening the credit for the beneficiary designated by the orderer, is authorized in the instructions of the first beneficiary to pay entirely or partially one or several third persons.
- (2) Documentary credit may be transferred, on the ground of express instructions, only by the bank opening it and, unless the contrary has been stipulated, it may do this only once.

Title XLV

BANK GUARANTEE

Notion

Article 1186

- (1) By a bank guarantee a bank shall assume the obligation to a recipient of the guarantee (beneficiary) that, should a third person fail to fulfill on maturity the liability due to him, bank shall settle the liability, if the terms specified in the guarantee are met accordingly.
- (2) A guarantee must be issued in writing.
- (3) A guarantee which is not issued in written form shall be null and void.

Settling an Obligation from a Guarantee in Money
Article 1187

A bank shall settle an obligation from a guarantee in money, even in the event of a guarantee covering a non-pecuniary obligation.

Confirmation of a Guarantee (Super- guarantee)
Article 1188

Should another bank confirm an obligation from a guarantee, the beneficiary may submit his requests on the ground of guarantee either to the bank issuing the guarantee or the one confirming it.

Assignment of Rights from the Guarantee
Article 1189

A beneficiary may assign his rights from the bank guarantee to a third person only together with the assignment of the claim covered by the guarantee and the transfer of his obligation relating to the secured claim.

Guarantee "Without Objection"
Article 1190

(1) Should a bank guarantee be with the clauses "without objection" and "at the first call", or contain words of the same meaning, the bank shall not raise against the beneficiary objections which the orderer as a debtor may raise against the beneficiary in relation to the secured obligation.

(2) The orderer shall be obliged to pay to the bank every amount paid by the bank on the ground of guarantee issued with the clauses specified in the paragraph 1 of present Article.

(3) The beneficiary of the guarantee shall owe to the orderer the amount received on the ground of guarantee to which he otherwise would not be entitled to due to justified objections by the orderer.

Title XLVI
APPLICATION OF PROVISIONS OF BANKING BUSINESS

Article 1191

The provisions of Articles 1138 to 1190 of the present Law shall also apply accordingly to other legal persons, authorized to engage in certain banking transactions, in accordance with the law.

Title XLVII SETTLEMENT OF CLAIMS

Notion Article 1192

- (1) By a contract of settlement, persons having mutual dispute or uncertainty as to a certain legal relationship, by applying mutual compromise, discontinue the dispute or eliminate the uncertainty, and determine their mutual rights and obligations.
- (2) An uncertainty shall also exist should exercise of a specific right be unsure.

The Contents of Mutual Compromise (Settlement) Article 1193

- (1) A compromise (settlement) may consist, among other things, of partial or total honoring other party's claim; assuming by oneself of some new obligation; reduction of interest rate; extension of time limit; granting the right of partial repayment; granting the right to a rescission fee.
- (2) The compromise may be conditional.
- (3) If only one party gives in to the other, recognizing, for instance, a right of the other party – this shall not be a settlement and shall not be subject to rules on settlement.

Capacity Article 1194

For concluding a contract of settlement capacity shall be necessary to dispose of rights being the subject of settlement valid.

Subject Article 1195

- (1) The subject of settlement may be any right that could be disposed of.
- (2) Settlement over the property related consequences of a criminal offence shall be
- (3) Disputes relating to status relationships shall not be the subject of settlement.

Applying the Provisions on Bilateral Contracts Article 1196

- (1) A contract of settlement shall be governed by general provisions on bilateral contracts, unless something else is prescribed in relation to it.
- (2) Should contracting parties effect some other transaction under name of settlement, their relations shall not be governed by provisions of the law applicable to settlement, but by those relating to the transaction actually effected.

**Excessive Loss
Article 1197**

It shall not be possible to claim avoidance of the settlement on the ground of excessive loss.

**Effect of Settlement on Warrantors and Pledgors
Article 1198**

(1) Should novation of an obligation be effected by the settlement, the warrantor shall be released from liability for its fulfillment, while the pledge given by a third person shall be terminated, too.

(2) Otherwise, the warrantor and the third party who has given his goods as pledge shall remain obligated, while their liability may be reduced by the settlement, but not raised, unless they have consented to the settlement.

(3) Should a debtor admit the contested claim by settlement, the warrantor and the pledgor shall retain the right to raise against the creditor defenses renounced by the debtor.

**Settlement about a Transaction which May Be Avoided
Article 1199**

(1) A settlement about a legal transaction which could have been voided by one of the parties shall be full and valid if such party was aware of such possibility at the moment of settlement.

(2) But the settlement shall be void if it relates to a null and void legal transaction even if the contracting parties were aware of the nullity and wanted to eliminate it by settlement.

**Nullity of the Settlement
Article 1200**

(1) A settlement shall be null and void if based on erroneous belief by both contracting parties that a legal relationship exists which, in fact, does not exist, and if without such erroneous belief there would be no dispute or uncertainty between them.

(2) The settlement shall be null and void also should the erroneous belief of the contracting parties relate to common facts.

(3) Waiving such nullity shall have no legal effect, and what is given with the purpose of fulfilling the obligations on the ground of such settlement may be claimed back.

**Nullity of One Clause of the Settlement
Article 1201**

The clauses of settlement shall form an entirety, so that if one clause is void, the entire settlement shall be void, unless the settlement itself indicates that it consists of independent parts.

PART THREE TRANSITIONAL AND FINAL PROVISIONS

Application of the Present Law Article 1202

- (1) The provisions of the present Law shall not apply to obligation relations created prior to coming into force of the present Law.
- (2) Provisions of present Law relating to liability for defective products shall not be applicable to products put in the circulation prior to entry into force of present Law.
- (3) Duties of notaries according to the present Law shall be exercised by notaries, after their being appointed on the basis of the Law on Notaries (OG of MNE 68/05).

Application of Usage Article 1203

- (1) Provisions of the general or special usages by which the presumption is determined that the contracting parties have agreed to apply the usages, unless excluding them by contract, shall not apply after coming into force of the present Law.
- (2) The General Usages of Trade (OG of FPRY 15/1954) shall not apply after coming into force of the present Law concerning the matters regulated by it.
- (3) If general or special usage or other trade practices and customs are contrary to the non- imperative norms of the present Law, the provisions of the present Law shall apply, unless the parties have expressly stipulated the application of usage, or other trade practices and customs.

Termination of Validity of other Laws and Regulations Article 1204

On the day of entry into force of the present Law, the application of the Law on Obligations (OG of SFRY 29/78, 39/85 and 57/89 and OG of FRY 31/93) shall terminate; provisions of Articles 52 to 59 of the Law on Strata Ownership (OG of RMNE 71/04) and provisions of Articles 106 to 122 of the Law on Succession shall cease to be effective, except for the provisions of Article 107 paragraph 2, 3 and 4 and Article 117, paragraph 2 and 3 (OG SRMNE 4/76 and 22/78) which shall cease to be applied upon appointment of the notaries on the basis of the Law on Notaries (OG of RMNE 68/05).

Entry into Force Article 1205

The present Law shall enter into force on the eighth day after its publishing in the Official Gazette of Montenegro.

SU-SK Number 01-420/5
Podgorica, 29 July 2008
Parliament of Montenegro
Speaker of the Parliament
Ranko Krivokapić, sign-manual