

Pursuant to Article 75 paragraphs 1 & 2 of the Constitution of the Republic of Macedonia, the President of the Republic of Macedonia and the President of the Assembly of the Republic of Macedonia issue this

**DECREE
FOR PROMULGATION OF
THE LAW ON OBLIGATIONS**

The Law on Obligations, adopted by the Assembly of the Republic of Macedonia on its session held on 20 February 2001, is hereby promulgated.

No. 07-761/1
20 February 2001
Skopje

President of the
Republic of Macedonia
Boris Trajkovski

President of the
Assembly of the Republic
of
Macedonia,
Stojan Andov

LAW ON OBLIGATIONS

PART I

**BASES OF OBLIGATIONS
(General part)**

Chapter I

GENERAL PROVISIONS

Purpose and Contents of the Law

Article 1

This Law shall regulate the bases of obligations, contractual and other types of obligations in the exchange of goods and services.

Parties of the Obligations

Article 2

Parties of the obligations shall be legal and physical persons.

Freedom to Regulate the Obligations

Article 3

Participants in trade shall freely regulate the obligations in accordance with the Constitution, the laws and the good customs.

Equality of the Parties of the Obligations

Article 4

The parties in the obligations shall be equal.

The Principle of Consciousness and Honesty

Article 5

When establishing obligations and when exercising the rights and obligations arising from those obligations, the parties shall be bound to abide by the principles of consciousness and honesty.

Prohibition of Abuse of Rights

Article 6

The exercise of a right arising from the obligations which is contrary to the purpose for which it was established or acknowledged by law, shall be prohibited.

Prohibition to Create and Use a Monopoly

Article 7

When entering into obligations, parties may not establish rights and obligations through which a monopolistic market position for the benefit of them or for someone else's benefit shall be created and used.

Principle of Equal Value of Payment

Article 8

- (1) Parties shall base the creating of a two-part contract on the principle of equal value in the mutual payments.
- (2) The cases in which the violations of this principle result in legal consequences are provided by law.

Prohibition to Cause Damage

Article 9

Each party shall be bound to restrain from action which may cause damage to the other party.

Duty to Perform the Obligations

Article 10

- (1) The parties of the obligations shall be bound to perform their obligations and shall be liable for their performance.
- (2) The obligation may be terminated only when agreed so by the parties of the obligation or when provided so by law.

Behaviour when Performing the Obligations and Exercising the Rights

Article 11

- (1) When performing an obligation, the party of the obligations shall be bound to act carefully, as required in the legal transactions of the kind of obligations involved (carefully as a good businessman i.e. good host).
- (2) When performing an obligation relating to their professional activity, a party of the obligations shall be bound to act with increased attentiveness, according to the professional rules and customs (attentiveness of a good expert).
- (3) When implementing their rights, a party of the obligations shall be bound to restrain from acts,

which could hinder the performance of the other party's obligation.

Obligations against the Citizens as Consumers and Users of Services

Article 12

In the process of establishing obligations and exercising the rights and obligations resulting from such obligations, the entities shall be bound (when by performing their business activity, they are directly providing services to citizens) to regulate and perform their rights and obligations in such a manner that ensures compliance with the basic rights of consumers and users of services laid down with this Law, other law and international agreements ratified by the Republic of Macedonia.

Peaceful Resolution of Disputes

Article 13

The parties of the obligations shall endeavor to resolve disputes by conciliation, mediation or in other peaceful manner.

Self-Regulating Character of the Provisions of this Law

Article 14

Parties may regulate their obligations in a manner different from the one provided for by this Law, unless otherwise indicated by a certain provision of this Law or from its general meaning.

Application of Fair Trade Customs

Article 15

- (1) Parties of the obligations shall be bound to act in the legal trade in accordance with the fair trade customs.
- (2) The customs in trade shall be applicable to obligations when the parties of the obligations have agreed for such an application, or when the relevant circumstances indicate such intention.

Application of Other Laws

Article 16

Provisions of this Law shall apply to issues of the obligations regulated by other laws, which have not been regulated by this Law.

Application of Certain Provisions

Article 17

- (1) Provisions of this Law applicable to contracts shall be applicable to all types of contracts, unless it is otherwise explicitly stipulated for commercial contracts.
- (2) Commercial contracts within the meaning of this Law shall be contracts signed by trade companies and other legal persons performing commercial activity, shop owners and other individuals performing a registered commercial activity, for carrying out the activities which represent the subject of their work or are related to those activities.
- (3) Provisions of this Law applicable to contracts shall also apply to other legal matters.

Chapter II

CREATION OF OBLIGATIONS

Section 1

CONTRACT

Component 1

1. ENTERING INTO CONTRACT AND MUTUAL ASSENT

When a Contract is Entered Into

Article 18

A contract shall be entered into when the contracting parties have agreed on the essential elements of the contract.

Compulsory Entering into Contract and Compulsory Content of the Contract

Article 19

- (1) When in accordance with the law a party shall be bound to enter into a contract, the other interested party may request the contract be entered into without delay.
- (2) The legal provisions, which, partly or completely, determine the content of the contract, shall be the constituent parts of those contracts, and they supersede any contrary contract provisions.

Statement of Assent

Article 20

- (1) The assent to enter into a contract may be expressed by words, with the usual signs or other conduct, on the grounds of which one may conclude its existence.
- (2) The statement of assent must be made freely and in a serious manner.

Permission and Approval

Article 21

- (1) When entering into a contract requires the consent of a third party, such consent may be granted as permission prior to the entering into a contract, or granted as approval after the entering into a contract, unless otherwise prescribed by law.
- (2) The permission i.e. approval must be given in a form prescribed for the contract it is issued for.

Negotiations

Article 22

- (1) Negotiations preceding the entering into a contract shall not be binding and each one of the parties can cancel them at any time.
- (2) The party that negotiated without intending to enter into a contract shall be liable for the damage incurred in the course of the negotiations.
- (3) The party that negotiated with the intention to enter into a contract, but has then cancelled that intention without a justified reason, shall be liable for the damage caused to the other party in the course of the negotiations.
- (4) Unless otherwise agreed, each party shall cover its expenses regarding the preparations to enter into a contract, and the parties in equal portions shall cover joint expenses.

Time and Place of Entering into Contract

Article 23

- (1) A contract shall be deemed as concluded at the moment the when bidder receives the offered party's statement of acceptance.
- (2) A contract shall be deemed to be entered into at the bidder's headquarters i.e. residence at the

moment when the offer was made.

Offer

Article 24

- (1) An offer shall be a proposal to enter into a contract made to a certain person, containing all the essential terms of the contract, and by accepting it a contract may be entered into.
- (2) If the contracting parties have agreed on all the essential terms of the contract but have left the less important issues open, the contract shall be deemed binding, and if no agreement can be reached regarding the less important issues, the court shall regulate them, taking into consideration the previous negotiations, the practice between the contractors and the customs.

General Offer

Article 25

A proposal to enter into a contract made to an unspecified number of persons, comprising all the essential terms of the contract it is intended for, shall be considered as an offer, unless otherwise indicated by the circumstances of the case or the custom.

Display of Goods

Article 26

The display of goods with price-quotation shall be considered as an offer, unless otherwise indicated by the circumstances of the case or the custom.

Dispatch of Catalogues and Advertisements

Article 27

- (1) The dispatch of catalogues, price lists, tariffs and other similar information, as well as advertisements given in newspapers, leaflets, radio, television and other, shall not represent an offer to enter into a contract but an invitation to make an offer under the announced terms.
- (2) However, the one making such invitations shall be liable for the damage caused to the bidder if there is no justified reason for not accepting the offer.

Effect of Offer

Article 28

- (1) The bidder shall be bound to the offer unless he/she reserves the right to revoke the offer or unless such revocation is indicated by the circumstances of the transaction.
- (2) An offer may be withdrawn only if the withdrawal reaches the offered party before or simultaneously with the offer.

Binding Term of the Offer

Article 29

- (1) Where the time limit for acceptance of an offer is indicated in the offer, the bidder shall be bound until the expiry of the indicated time limit.
- (2) Where the bidder has indicated a time limit in a letter or telegram, it shall be deemed that the indicated time limit has begun to expire on the date stated in the letter i.e. when the telegram was sent.
- (3) Where a date is not stated in a letter, the time limit for acceptance of the offer shall begin to run from the moment of the letter's dispatch.
- (4) Where the offer is made to an absent person without a time limit being indicated, the bidder

shall continue to be bound during the time which is regularly required for the offer to reach the offered party, the offered party to review the offer, and to decide and dispatch the answer accepting the offer to the bidder.

Form of the Offer

Article 30

Where the form for an offer to enter into a contract is prescribed by law, shall only binds the bidder if the offer is made in such a form.

Acceptance of Offer

Article 31

- (1) The offer shall be accepted when the offer receives a notice of acceptance from the offered party.
- (2) The offer shall also be accepted when the offered party sends the object or pays the price, as well as when he/she performs some other act which, on the basis of the offer, the practice established between the interested parties or the custom, may be deemed as a notice of acceptance.
- (3) An acceptance may be withdrawn only if the withdrawal reaches the bidder before or simultaneously with the acceptance.

Acceptance of a Direct Offer

Article 32

- (1) The offer made to a person who is present shall be deemed rejected if it is not accepted without postponement, unless the circumstances indicate that the offered party is entitled to a certain period of time to consider the offer.
- (2) An offer made to a person by a telephone, teleprinter or direct radio broadcast shall be deemed an offer to a present person.

Accepting the Offer by Proposing Amendments

Article 33

If the offered party states that he/she accept the offer and at the same time proposes that the offer is amended, it shall be deemed that he/she has refused the offer and that the offered party has made an offer to the original bidder.

Silence of the Offered Party

Article 34

- (1) The silence of the offered party shall not mean acceptance of the offer.
- (2) Any provision in the offer stating that the offered party's silence or any other omission (such as not refusing the offer or not returning the offered object within the indicated time limit) is deemed as acceptance shall not be effective.
- (3) When the offered party cooperates with the bidder on a regular basis regarding certain goods, the offer referring to such goods shall be deemed accepted, unless refused immediately or within the indicated time period.
- (4) The person offering to carry out other person's orders concerning the performance of specific tasks, as well as the person whose professional activity includes carrying out such orders, shall be bound to carry out the received order, unless he/she has immediately refused to do so.
- (5) If in the case referred to in paragraph (4) of this Article, the offer i.e. the order is not refused, the contract shall be deemed entered into at the moment the offer i.e. the order reaches the offered

party.

Late Acceptance and Late Dispatch of Acceptance Notice

Article 35

- (1) A late acceptance of an offer shall be deemed a new offer by of the offered party.
- (2) However, where the acceptance notice, though dispatched in due time, reaches the bidder only after the indicated time limit has expired and the bidder knew or could have known that the acceptance was timely dispatched, the contract shall be deemed binding.
- (3) The contract referred to in paragraph 2 shall not be deemed as concluded if the bidder immediately, or on the first working day after receiving the acceptance at the latest, or even before the receipt of the acceptance, but after the time limit for accepting the offer has expired, informs the offered party that he/she is not bound by the offer due to the late acceptance notice.

Death or Incapability of One of the Contracting Party

Article 36

Offer shall still be valid in case of death or incapability of one contracting party prior to its acceptance, unless the contrary is indicated by the intention of the contracting parties, by custom or by the nature of the work.

Precontract

Article 45

- (1) A pre-contract shall be a contract for undertaking the obligation to conclude another contract later, the main contract.
- (2) The provisions of this Law regarding the form of the main contract shall apply to the precontract as well, if the prescribed form is a condition for the validity of the contract.
- (3) A precontract shall be binding if it contains the essential components of the main contract.
- (4) If one party to a precontract refuses to enter into the main contract, the court shall order the refusing party to enter into the main contract within a time limit determined by the court.
- (5) Entering into the main contract may be requested within six months from the date of expiry of the time limit provided for entering the contract, or in case such a time limit is not provided, following the day when according to the nature of the work and the circumstances, the contract should have been entered into.
- (6) The precontract shall not be binding if the circumstances after it has been concluded change to the extent that the precontract would have not been entered into had the circumstances been the same at the moment of entrance.

II. SUBJECT

What Must Be Subject of Obligation

Article 38

- (1) The contracting obligation may comprise of giving, doing, not doing and enduring.
- (2) The contracting obligation must be possible, permitted and specific or determinable.

Void Contract on Grounds of Subject

Article 39

Where the subject of the obligation is impossible, unlawful, undetermined or undeterminable, the contract shall be void.

Subsequent Possibility

Article 40

A contract entered into under delayed condition or time limit shall be valid if the subject of the obligation, which was initially impossible, has become possible prior to the fulfillment of the conditions or expiration of the time period.

When the Subject of the Obligation is Unlawful

Article 41

The subject of the obligation shall be unlawful when it is contrary to the constitution, laws and good customs.

When the Subject is Determinable

Article 42

- (1) The subject of the obligation shall be determinable when the contract provides sufficient information to determine the subject or when the parties entrust a third person to determine it.
- (2) Where a third person is unwilling or unable to determine the subject of the obligation, the contract shall be void.

III. BASIS Permitted Basis

Article 43

- (1) Each contractual obligation must have a permitted basis.
- (2) The basis is legal if it is in accordance with the Constitution, laws and good customs.
- (3) Although the basis of the obligation is not expressed, it shall be assumed to exist.

Void Contract Due to its Basis

Article 44

Where the cause does not exist or is not permitted, the contract shall be void.

Motives for Entering into Contract

Article 45

- (1) Motives for entering into a contract shall not affect its validity.
- (2) If the illegal motive had essential impact on the decision of one of the contracting parties to enter into a contract and the other contracting party knew or must have known this fact, the contract shall be invalid.
- (3) A contract without compensation shall also have no legal effect when one of the parties did not know that the illegal motive substantially influenced the decision of its negotiating partner.

IV. CAPACITY

Contracts of Legal Persons

Article 46

- (1) A legal person may enter into contracts in legal trade within the range of its legal capacity.
- (2) A contract entered into contrary to the provision of paragraph (1) of this Article, shall have no legal effect.
- (3) The conscientious party, who enters into a contract without legal effect, shall be entitled to request compensation for the damages caused with the entering into the contract.

Consent to Enter into Contract

Article 47

- (1) Where a statute, or any other general act of the legal person lays down and if the competent register maintained in the court specifies that an agent may enter into a particular contract only with the consent of an authorised body, and the consent may be given prior to the entrance, at the same time or later, unless otherwise specified in the register.
- (2) The other contracting party shall be entitled to request the legal person i.e. the authorised body to declare in a reasonable time frame if it gives its consent, and if it fails to do so it shall be deemed that the consent has not been given.
- (3) The subsequent consent shall have retroactive effect, unless agreed otherwise.
- (4) If consent is not given, the contract shall be deemed not to have been entered into.
- (5) Where according to the provisions of this Article, the contract is deemed not to have been entered into, the conscientious party may request from the legal person an equitable compensation.
- (6) The provisions of paragraphs (1), (2), (3), (4) and (5) of this Article shall also apply where the statute or any other act of the legal person specifies that the agent may enter into a contract only accompanied by a certain body of that person.

Contract of Person Incapable of Business Activities

Article 48

- (1) In order to enter into a valid contract a contracting party shall be required to have business capability which is necessary for entering into such a contract.
- (2) A person with limited business capabilities may, without an approval from his legal representative, enter only into contracts permitted by law to him.
- (3) Other contracts of the persons referred to in paragraph (2) of this Article, if entered into without an approval from the legal representative, may be cancelled, but they may also remain valid with additional approval.

Right of the Negotiating Partner of a Person Incapable of Business Activities

Article 49

- (1) A contracting party negotiating with a person incapable of business activities, who was not aware of his business inability, may rescind the contract entered into with that person without an approval from the legal representative.
- (2) The contracting party negotiating with a person incapable of business activities, who was aware of his business inability, but was tricked by this person that he had an approval from his legal representative, may rescind the contract he had entered into.
- (3) The right referred to in paragraph (1) and (2) of this Article shall no longer be valid after the expiry of thirty days from the date of finding out about the business incapability of the other party, i.e. about the absence of approval from the legal representative, and even earlier if the legal representative approves the contract before the thirty-day term has expired.

Obtaining the Approval from the Legal Representative

Article 50

- (1) A contracting party entering into a contract with a person incapable for business activities without an approval from that person's legal representative, may call the legal representative to inform them if he approves the contract.
- (2) Where the legal representative fails to declare regarding the approval within thirty days, it shall be deemed that he/she has refused to give approval.

In Cases when the Negotiating Partner Acquires Business Capability after Entering into the Contract

Article 51

A person capable for business activities may ask for annulment of the contract entered into without the necessary approval during the period of his limited business capability, provided he/she lodges the complaint to the competent court within three months from the date of acquiring full business capability.

V. SHORTCOMINGS OF THE WILL

Threat

Article 52

- (1) Where a contracting party or a third party threatens the other contracting party, thus, causing justified fear that induces that party to enter into a contract, the threatened party shall be entitled to ask that the contract is nullified.
- (2) Fear shall be considered as justified where the circumstances indicate that the life, body or any other significant value of the contracting party or the third party has been endangered.

Material Mistake

Article 53

- (1) A mistake shall be material when it refers to the essential features of the subject, of the person with whom the contract is entered into, as well as of the circumstances which, in light of the trade customs or the intention of the parties, are considered to be determining, and the misled party would have not entered into a contract with such contents otherwise.
- (2) The misled party may request nullification of a contract on grounds of material mistake, unless the party did not act with the necessary attention requested in the sphere of trade.
- (3) Where a contract is nullified on grounds of mistake, the other good faith party shall be entitled to ask for compensation for the damage, regardless of the fact that the mistaken party is not responsible for its mistake.
- (4) The misled party may not invoke to it if the other party is ready to realise the contract as if there was no misconception.

Misconception Relating to Motives for Contract without Compensation

Article 54

In case of contracts without compensation, a material mistake shall also be considered the misconception relating to the motive which was determining for undertaking the obligation.

Misunderstanding

Article 55

Where the parties believe they have agreed, but in fact there is a misunderstanding regarding the nature of the contract, or the basis or the subject of the obligation, the contract shall not be concluded.

Indirect Statement

Article 56

A mistake made through a representative by which a contracting party has stated its intention shall be considered mistake of the contracting party.

Fraud

Article 57

- (1) Where a party to a contract has been misled or induced to enter into a contract with a fraud by the other party, the deceived party shall be entitled to ask for cancellation of the contract, even though the fraud was not material.
- (2) A deceived party shall be entitled to request compensation for the damage.
- (3) Where a third person deceived a party to a contract, the fraud shall affect the contract if the other contracting party knew or must have known about the fraud when entering into the contract.
- (4) A contract without compensation may also be cancelled when the fraud is done by a third party, regardless of whether the other contracting party knew or must have known about the fraud in the course of entering into the contract.

False Contract

Article 58

- (1) A false contract shall not be binding for the contracting parties.
- (2) However, where the false contract covers for another contract, the latter shall be valid provided the conditions for its legality are fulfilled.
- (3) A false contract may not be pleaded against a good faith third party.

VI. FORM OF CONTRACT

Informal Contract

Article 59

- (1) The contract may be concluded in any form, unless otherwise provided by law.
- (2) Where the law requires that a contract is entered in a certain form, every subsequent amendment thereof must also be in that form.
- (3) Subsequent oral amendments regarding accessory terms not discussed in the formal contract shall be valid, provided that this is not contrary to the purpose of the prescribed form.
- (4) Subsequent oral agreements that reduce or facilitate the obligations of either party shall be valid as well, if the particular form is prescribed only in the best interest of the contracting parties.

Cancellation of Formal Contracts

Article 60

Formal contracts may be cancelled by an informal agreement, except where the law prescribes something else for a particular case or where the purpose for which the form is prescribed indicates the cancellation of the contract to be done in the same form.

Agreed Form

Article 61

- (1) The contracting parties may agree that a special form is a condition for the validity of their contract.
- (2) Where the parties have agreed on a special form, the contract may be cancelled, amended or in

any other way altered by an informal agreement.

(3) Where the contracting parties have agreed to use a special form only as a proof of the existence of their contract, or to achieve some other goal, the contract shall be deemed binding when the contract's contents is agreed, and at the same time the contracting parties shall be bound to provide the contract with the prescribed form.

Sanction for the Absence of the Prescribed Form

Article 62

(1) A contract not entered in the prescribed form shall not be binding, unless the purpose of the regulations determining the form indicates otherwise.

(2) A contract not entered in the prescribed form shall have no legal effect if the parties have conditioned the validity of the contract with the use of that particular form.

Presumption of Completeness of Document

Article 63

(1) Where a contract is entered in a special form, according to the law or the will of the parties, only what is expressed in that form shall be valid.

(2) Simultaneous oral agreements regarding accessory terms not discussed in the formal contract shall be valid, provided that they are not contrary to the content of the contract or the purpose for which the form is prescribed.

(3) If the special form is prescribed only in the best interest of the contracting parties, simultaneous oral agreements that reduce or facilitate the obligations of the either or both parties shall be valid as well.

Composing a Document

Article 64

(1) If the entering into contract requires composing a document, the contract shall be entered after such a document is signed by all the persons who are bound to it.

(2) An illiterate contracting party shall put the signature on the contract, certified by two witnesses or by the court, or by some other organ.

(3) For entering into a two-sided contract, it shall be sufficient that the two parties sign one document or that each party signs the copy of the contract intended for the other party.

(4) The written form request shall be fulfilled if the parties exchange letters and if they agree by teleprinter, fax, computer or similar transmissions, that allow determining with certainty the content and the one making the statement.

When a Contract Lacking a Form is Executed

Article 65

Where a contract that is required to be in writing is not entered in written form, it is considered as valid, if the contracting parties have executed, fully or in large part, the obligations that arise from the contract, unless the purpose for which the form is prescribed requires otherwise.

VII. CONDITIONS

Conditions and their Effect

Article 66

(1) A contract shall be conditionally binding if its creation or cancellation depends on an uncertain fact.

(2) Where a contract is made subject to a condition, and if the condition is fulfilled, the contract shall be in effect from the moment of its entrance, unless it is otherwise indicated by law, by the nature of the activities or the will of the parties.

(3) If a contract is entered into under a rescinding condition, that contract shall cease to be valid after that condition has been fulfilled.

(4) A condition shall be considered fulfilled if contrary to the good faith and honesty principle, it is prevented by the party whose responsibility it is determined to be, while a condition is considered unfulfilled if contrary to the good faith and honesty principle, its fulfillment is caused by the party in whose favour it is determined to be.

Unlawful or Impossible Condition

Article 67

(1) A contract in which a condition subsequent or a rescinding condition is determined to be contrary to the constitution, the mandatory laws or good business customs, shall be invalid.

(2) A contract entered into under impossible deferred condition shall be void, while the impossible rescinding condition shall be considered as non-existent.

Insuring a Conditioned Right

Article 68

Where a contract is entered under deferred condition, the creditor whose right is conditioned may request appropriate insurance of the right if the fulfillment is imperilled.

VIII. TIME FRAME

Calculation of Time

Article 69

(1) The term expressed in days shall commence on the first day after the relevant event and shall expire on the last day of the specified time frame.

(2) The term expressed in weeks, months or years shall expire on the day and date that matches the day of creation of the relevant event after which the time frame starts to run, and if such a day does not exist in the last month, the term shall expire on the last day of that month.

(3) Where the last day of a term happens to be an official non-working day, as a last day of the term shall be considered the next working day.

(4) The beginning of the month shall be the first day, the middle of a month - the fifteenth day, and the end of the month - the last day of that month, provided that it is not otherwise indicated by the intention of the parties or the nature of the contracting relation.

Application of Rules Relating to Condition

Article 70

When the validity of the contract starts at a specified time, the rules relating to the deferred condition shall idenically applicable, and when the contract ceases to be valid after the expiry of the specified time period, the rules relating to a rescinding condition shall apply.

IX. DEPOSIT AND CHANGE OF MIND

1. DEPOSIT

Reimbursement and Calculation of Deposit

Article 71

- (1) If at the moment of entering the contract one of the parties gives the other a certain amount of money or a certain quantity of some other exchangeable goods as a sign that the contract is entered into (a deposit), the contract shall be deemed binding from the moment the deposit is given, unless otherwise agreed.
- (2) In case of execution of the contract, the deposit must be reimbursed or calculated in the obligation.
- (3) Unless otherwise agreed, a depositing party may not renounce a contract leaving the deposit to the other party, neither may the other party renounce the contract by reimbursing double the amount of the deposit.

Non-execution of the Contract

Article 72

- (1) Where a depositing party is liable for the non-execution of the contract, the other party may, according to its own choice, request execution of the contract if it is still possible, and may request compensation of damages, and the deposit may be calculated in the compensation or may return it, or it may accept the deposit as satisfactory.
- (2) Where a party receiving a deposit is liable for the non-execution of the contract, the depositing party shall be entitled, according to its own choice, to request execution of the contract if it is still possible or to request compensation of damages and reimbursement of the deposit, or to request reimbursement in the amount double the sum of the deposit.
- (3) In both cases, the party requesting execution of a contract shall be entitled to compensation of damages caused by the delay.
- (4) Upon the request of an interested party, an excessive deposit may be reduced by the court.

When Obligation is Partially Performed

Article 73

- (1) When an obligation is partially performed, the creditor may not keep the deposit, but he is entitled to request execution of the rest of the obligation and compensation of damages caused by the delay, or to request compensation of damages caused by the partial execution; however, in both cases the deposit shall be calculated in the compensation.
- (2) Should a creditor party cancel the contract and reimburse what he has received as partial performance, he may choose between the remaining claims that belong to one party when the contract is not executed due to a fault of the other party.

2. CHANGE OF MIND

Role of Change of Mind

Article 74

- (1) Contracting parties may agree that one or both parties may rescind the contract for change of mind by paying an agreed rescission fee.
- (2) When a party in favour of which a right to rescind for change of mind is agreed notifies the other

party of its change of mind and pays to the other party the rescission fee, it may no longer request performance of the contract.

(3) The party entitled to rescind for change of mind shall be bound to pay the rescission fee together with the rescission notice.

(4) Where the parties have not agreed to a time limit within which an entitled party may rescind the contract, that party may rescind it within the time limit set for performance of its obligation.

(5) The right to rescind a contract shall cease also when the entitled party begins to perform its obligations under the contract or to receive the performance by the other party.

Deposit as Rescission Fee for Change of Mind

Article 75

(1) When both a deposit and right to rescind the contract for change of mind is agreed, the deposit shall be considered the rescission fee and either party shall be entitled to rescind the contract.

(2) In such a case, if a depositing party rescinds a contract, the party shall lose the deposit, while if a contract is rescinded by the deposit receiving party it shall return the deposit in a double amount.

COMPONENT 2

REPRESENTATION

I. GENERAL PROVISIONS

Representation Possibilities

Article 76

(1) A contract or any other legal matter may be undertaken through the representative.

(2) The authorisation for representation shall be based on the law, the statute or some other general act, the act of the competent body or the statement of assent of the represented party (power of attorney).

Effect of the Representation

Article 77

(1) A contract entered into by a representative within the frames of his/her competence on behalf of a principal shall be directly binding on both the principal and the other contracting party.

(2) On the same conditions, all other legal actions by the representative shall have legal effect on the principal as well.

(3) The representative shall be bound to inform the other party that he/she is acting on behalf of the principal; however, if he/she does not do so, but the other party knew of the representation or if the circumstances indicated so, the contract shall be valid for both the principal and the other contracting party.

Transfer of Authorisations

Article 78

(1) The representative may not transfer his authorisations to another person, except when that is permitted by the law or a contract.

(2) By way of derogation of paragraph (1), the representative may transfer his authorisations if the circumstances prevent him/her from pursuing the matter personally, and it is in the interest of the principal to have the legal matter undertaken without delay.

Exceeding the Limits of the Authorisation

Article 79

- (1) Where an agent exceeds his authorisations, the principal shall be bound only if he/she approves the exceeding of the authorisations.
- (2) If a principal does not approve the contract within the time period which is regularly needed for reviewing and assessing the contract, it shall be deemed that the approval is not given.
- (3) The approval referred to in paragraph (2) of this Article shall be retroactive, unless otherwise determined by the parties.
- (4) Where the other contracting party was not or did not have to be aware of the exceeding of the authorisation by the agent, it shall be entitled to state immediately after it finds out, not waiting for the principal's statement, that it does not consider itself bound by the contract.
- (5) Where a principal refused to give approval, and the other contracting party was not aware or did not have to be aware of the exceeded authorisation, both the agent and the principal shall be liable for the damage to the other party.

Entering into Contract by an Unauthorised Person

Article 80

- (1) A contract entered into by an unauthorised person acting as a representative of another person, shall not bind the alleged principal unless he/she subsequently approves it.
- (2) The other party shall be entitled to ask the alleged principal to state within a reasonable time period if he approves the contract.
- (3) If the alleged principal does not approve the contract even within the indicated time period, it shall be deemed that the contract has not been concluded.
- (4) In the case referred to in paragraph (3) of this Article, where the other party to a contract was not, and did not have to be aware of the absence of authority, it shall be entitled to request from the unauthorised representative compensation for the damage.

II. POWER OF ATTORNEY

Granting Power of Attorney

Article 81

- (1) A power of attorney shall be a representation authorisation conferred by a principal to the representative by means of a legal procedure.
- (2) The existence and scope of a power of attorney shall be independent of the legal relation that serves as basis on which the power of attorney is granted.
- (3) A legal person may also be a representative.

Special Form of Power of Attorney

Article 82

The form of a contract or any other legal matter, prescribed by law, shall also apply to a power of attorney for entering into the contract i.e. for undertaking that matter.

Scope of Power of Attorney

Article 83

- (1) A representative with a power of attorney shall be entitled to undertake only the legal matter for which he/she is authorised.
- (2) A representative with a general power of attorney shall be entitled to undertake only the legal matter within the range of the regular activities.

(3) A matter outside the range of the regular activities may be undertaken by a representative provided he/she is specially authorised to undertake it, i.e., specially authorised to undertake transactions of that kind.

(4) A representative may not undertake the obligation of a Bill of Exchange, or enter into a guarantee contract, a settlement contract, or a court of arbitration, or renounce any right without compensation, without being specially authorised for each and every case.

Cancelling and Limiting the Power of Attorney

Article 84

(1) A principal may, by his own choosing, cancel or limit a power of attorney, even if he/she has renounced that right in the contract. Cancelling or limiting a power of attorney may be done by means of a statement without any special form.

(2) Where an order contract, a contract for work or any other contract is breached by cancellation or limitation of a power of attorney, the representative with power of attorney shall be entitled to compensation for the damages caused to him/her.

Effect of Termination and Limitation of Power of Attorney on Third Part

Article 85

(1) Cancelling or limiting a power of attorney shall have no legal effect on a third party that has entered into a contract with the representative or has performed any other legal transaction without being aware or having to be aware that the power of attorney has been cancelled or limited.

(2) In the case referred to in paragraph (1), the principal shall be entitled to compensation from the representative for the damage, except where the representative was not, and did not have to be aware of the cancellation or limitation of the power of attorney.

(3) The same applies to all other cases of termination of the power of attorney.

Other Cases of Termination of Power of Attorney

Article 86

(1) A power of attorney shall expire upon the termination of the legal person as a representative, unless otherwise provided by law.

(2) A power of attorney shall expire on the death of the representative.

(3) A power of attorney shall expire upon termination of legal person, i.e. death of the principal, except where the transaction cannot be terminated without causing damage to the legal successors of the principal, or if the power of attorney is valid in case of death of the principal, according to the principal's will or the nature of the transaction.

III. BUSINESS POWER OF ATTORNEY

Who May Grant Power of Attorney and Contents of Power of Attorney

Article 87

(1) A business power of attorney may be granted by a trade company or other legal person and to authorise the representative to enter into contracts and perform all other transactions that are usual in the performance of their business activities.

(2) A business representative may not sell or mortgage real estate, take on bill of exchange obligations or guarantee obligations, take a loan or engage in litigation in court, unless he/she has received a special power of attorney for each of these transactions.

(3) A business power of attorney may be limited to a certain type of transactions, or to certain transactions, but these limitations shall have effect on a third party only if he/she was or had to be aware of their existence.

Business Power of Attorney of a Store Owner

Article 88

(1) The legal provisions relating to business power of attorney shall be appropriately applied on the power of attorney of a store owner.

(2) The business power of attorney shall not expire upon the death of the store owner, nor when he/she is deprived of his business capacity.

IV. AUTHORITY OF A TRAVELLING SALESMAN

Limits of Authorisation

Article 89

(1) The travelling salesman of a trade company shall be authorised to undertake only those transactions relating to the sale of goods and those specified in the power of attorney granted by the trade company.

(2) In case of uncertainty it shall be deemed that the travelling agent is not authorised to enter into contracts, but to receive orders only. However, a contract entered into shall remain in effect with the principal's subsequent approval.

(3) A travelling salesman who is authorised to sell goods shall not be authorised to collect payments nor to make sales on credit, unless he/she possesses a special authorisation from the principal for sales on credit.

(4) A travelling salesman shall be authorised to accept complaints on grounds of shortage of goods and other statements relating to the performance of the contract entered into with his mediation, as well as to undertake measures on behalf of the principal in order to preserve the principal's rights arising from that contract.

V. AUTHORISATIONS OF PERSONS PERFORMING CERTAIN TRANSACTIONS

Article 90

(1) Employees of the trade companies and the other legal persons that perform activities the performance of which requires entering into and performing of certain contracts, like the salesmen in stores, tellers in banks and post offices, etc., engaged in work shall be authorised to enter and perform the respective contracts.

Component 3

INTERPRETATION OF CONTRACT

Application of Provisions and Interpretation of Controversial Clauses

Article 91

- (1) The provisions of the contract shall be applied as they read.
- (2) When interpreting a controversial provision of a contract, the mutually agreed real intention of the parties must be considered and not the literal meaning of the used terms and expressions, and the controversial provision must be understood in accordance with the principles of the obligations law established by this Law.

Certain Cases of Unclear Provisions

Article 92

Where a contract is entered with a previously specified content, or where a contract was prepared and proposed by one contracting party, the unclear provisions shall be interpreted in favour of the other contracting party.

Supplementary Rule

Article 93

Unclear provisions of a contract without compensation shall be interpreted in a way less strict for the debtor, while in a mortgage contract they are to be interpreted in the way that establishes a fair mutual exchange relation.

Out-of-court Interpretation of Contract

Article 94

- (1) The contracting parties may set out that, in case of a misunderstanding regarding the meaning and scope of the agreed provisions, a third person shall interpret the contract.
- (2) In the case referred to in paragraph (1) of this Article, unless the contract provides otherwise, the contracting parties may not initiate a dispute before the court or any other competent authority until they have previously obtained the contract interpretation, except where the third party refuses to provide the contract interpretation.

Component 4

INVALID CONTRACTS

I. VOID CONTRACTS

Nullity

Article 95

- (1) A contract, which is contrary to the constitution, the laws or good business customs shall be void if the objective of the violated rule does not indicate to some other sanction or if the law does not provide otherwise for the particular case.
- (2) If entering into a contract is prohibited for only one of the contracting parties, the contract shall remain valid, unless the law provides otherwise for the particular case, while the party that has violated the legal prohibition shall bear the appropriate consequences.

Consequences of Nullity

Article 96

- (1) Where a contract is void each contracting party shall be bound to restate to the other party everything that it has received on the basis of the particular contract, and if this is not possible, or if the nature of the performance prevents the restitution, an appropriate monetary compensation shall be paid according to the prices at the moment when the court decision is reached, unless

otherwise provided by law.

(2) If a contract is void in that its content or purpose is contrary to the constitution, the laws or good business customs, the court may decide on full or partial denial of the claim of the unprincipled party for restitution of that which has been given to the other party, or it may decide that the received by the other party on grounds of the proscribed contract is to be handed over to the municipality in which the relevant party's head office, permanent or temporary residence, is located.

(3) When reaching a decision the court shall take into consideration the good faith conduct of one i.e. both parties, the importance of the social interests being threatened and the moral values of the society.

Partial Voidness

Article 97

(1) A void provision of a contract shall not cause the contract itself to be void, provided that the contract can exist without the void provision, and that the provision was neither a condition of the contract nor an essential reason for entering into the contract.

(2) Where voidness has been established for the purpose of freeing a contract from a void provision and to preserve the contract's validity, the contract shall remain valid even if the void provision was a condition or essential motive for the contract.

Conversion

Article 98

Where a void contract conforms with the conditions for validity of another kind of contract, the contracting parties shall be bound by that other contract provided it serves the purpose of the contracting parties at the moment they entered the contract and if it could be presumed that they would have entered that other contract had they known of the voidness of their first contract.

Subsequent Disappearance of the Cause for Voidness

Article 99

(1) A void contract shall not become valid when a prohibition or any other cause for voidness subsequently disappears.

(2) However, in case of a minor prohibition and after a contract has been performed, voidness may not be pleaded.

Liability of the Party which is Guilty for Contract Voidness

Article 100

A contracting party which is guilty for entering into a void contract shall be liable to the other contracting party for the damage resulting from the contract's nullity, provided the other party was not or, according to the circumstances, did not have to be aware of the existence of a cause for nullity.

Pleading Nullity

Article 101

(1) The court shall pay careful attention to the matter of nullity ex officio and any person that has legal interest may invoke the matter of nullity.

(2) The Public Prosecutor shall be entitled to request that the matter of nullity is raised.

Unlimited Right to Plead Nullity

Article 102

The right to plead nullity shall not expire.

II. VOIDABLE CONTRACTS

When is a Contract Null and Void

Article 103

A contract shall be null and void, when it is entered by a person with limited business capacity, when there are shortcomings with regard to the will of the parties, or as when this is determined by this Law or another regulation.

Voiding a Contract

Article 104

- (1) A party in whose favour nullity of the contract has been confirmed, may request that the contract is voided.
- (2) The other contracting party may request that the first party reconsider whether it is going to honour the contract or not within a time period not shorter than 30 (thirty) days, failing which the contract shall be considered voided.
- (3) If the party does not state its intention within the indicated period of time, or if it declares that it does not intend to honour the contract, the contract shall be considered voided.

Consequences of Voiding

Article 105

- (1) If on basis of a voidable contract which is null and void something has been performed, restitution shall take place, and if this is not possible or if it is contrary to the nature of the performance, a suitable monetary compensation shall be paid.
- (2) A monetary compensation shall be paid according to the prices at the time of restitution i.e. at the moment the court reaches its decision.

Restitution and Compensation in Case of Voiding a Contract Entered into by a Party with Limited Business Capacity

Article 106

Where a contract is voided due to the limited business capacity of one contracting party, the other contracting party shall be entitled to restitution only of the portion of the performance which is in the possession of the party with limited business capacity or is being used in its favour, as well as for everything that is destroyed or sold deliberately.

Liability for Voiding a Contract

Article 107

A contracting party at fault for causing a contract to be voidable shall be liable to the other contracting party for the damage caused due to voiding the contract, provided the other contracting party was not aware, nor had to be aware of the cause for nullity of the contract.

Liability of a Party with Limited Business Capacity

Article 108

A party with limited business capacity shall be liable for the damage caused by voiding the contract, if it deceived the other contracting party that it was authorised to do business.

Termination of Right

Article 109

- (1) Limitation period of one year shall be applicable to the right to request voiding of a voidable contract following the discovery of the cause for voidableness or the termination of the duress.
- (2) Anyway, the right to request voiding of a voidable contract shall expire within three years from the date of entering into the contract.

Component 5

BILATERAL CONTRACTS

I. LIABILITY FOR SUBSTANTIAL AND LEGAL SHORTCOMINGS OF THE PERFORMANCE

Article 110

- (1) In case of a contract with compensation each contracting party shall be liable for the substantial shortcomings of its performance.
- (2) Each contracting party shall also be liable for the legal failures of the performance and shall be bound to protect the other contracting party whose rights could be eliminated or reduced by rights and claims of a third party.
- (3) The provisions of this law relating to the liability of the salesman for the substantial and legal failure of performance shall accordingly be applied to the obligations of the transferor, unless otherwise provided for certain cases.

II. OBJECTION FOR NON-PERFORMANCE OF A CONTRACT

Rule of Simultaneous Performance

Article 111

- (1) When a contract is bilateral, neither party shall be bound to perform the obligation if the other party does not perform or is not ready to perform the obligation simultaneously, except where otherwise agreed, provided by law or indicated by the nature of the transaction.
- (2) However, if at court one of the contracting parties pleads that it is not bound to perform its obligation until the other party has performed its own, the court shall order this party to perform the obligation at the same time the other party performs its obligation.

When Performance of One Party Becomes Uncertain

Article 112

- (1) Where it is agreed that first one of the parties should perform its obligation, and where after the contract is entered the financial state of the other party deteriorates to the extent that it is uncertain whether it will be able to perform its obligation or if this uncertainty is due to other serious reasons, the party that obliged itself to perform the obligation first, may postpone its performance until the other contracting party performs its obligation or until it provides sufficient insurance for the performance.
- (2) This is applicable as well when the financial state of the other contracting party was equally difficult before the contract was entered, provided the other contracting party was not and did not have to be aware of this fact.

(3) In the cases referred to paragraphs (1) and (2), the party that obliged itself to perform the obligation first shall be entitled to request insurance within a reasonable time period, and if the time period expires without results, it may cancel the contract.

III. CANCELLATION OF CONTRACT ON GROUNDS OF NON-PERFORMANCE

Rights of One Party when Other Party Fails to Perform its Obligation

Article 113

With bilateral contracts, when one contracting party fails to perform its obligation, the other party, unless otherwise determined, shall be entitled to request performance of the obligations under the conditions provided in the following articles or, if the cancellation does not result from the law itself, to cancel the contract with a simple statement; in any case it shall have the right to be compensated.

Where Performance within the Time Frame is an Essential Term of the Contract

Article 114

(1) Where performance of an obligation within an indicated time period is an essential term of a contract, but a debtor party does not perform the obligation within that period, the contract shall be canceled in accordance with the law.

(2) The creditor may maintain a contract valid if it notifies the debtor, after the time period has expired and without delay, that it requests performance of the contract.

(3) Where a creditor has requested performance, but did not receive the performance within a reasonable term, it may cancel the contract.

(4) These rules shall apply both when the contracting parties have agreed that a contract will be considered canceled if it is not performed within the indicated time period and when the performance of a contract within the indicated time period is an essential term of the contract in keeping with the transaction's nature.

Where Performance within the Time Frame is not an Essential Condition of the Contract

Article 115

(1) Where performance of an obligation within an indicated term is not an essential condition of a contract, the debtor shall preserve the right to perform his/her obligation even after the indicated time limit has expired, while the creditor reserves the right to request the obligation to be performed.

(2) If a creditor wants to cancel the contract, it shall allow the debtor a subsequent reasonable time period for performance.

(3) If a debtor party fails to perform an obligation within the subsequent term, the same consequences as in the case of time limit as an essential contract condition shall apply.

Cancellation of Contract without Allowing a Subsequent Time Limit

Article 116

A creditor party may cancel a contract without allowing the debtor party to perform the obligation within a subsequent time period, provided the debtor party's conduct indicates that it is not going to perform his obligation within the subsequent time limit.

Cancellation of Contract before Expiration of the Time Limit

Article 117

Where it is obvious before the time limit for performance has expired that one of the contracting parties will not perform its contractual obligation, the other party may cancel the contract and request compensation for the damage.

Cancellation of Contract with Consecutive Obligations

Article 118

(1) Where one of the parties to a contract with consecutive obligations fails to perform one of its obligations, the other party may cancel the contract with respect to all future obligations within a reasonable time period, provided the circumstances indicate that the future obligations will not be performed as well.

(2) The other contracting party may cancel the contract not only in respect of the future obligations, but in respect of the already performed obligations as well, if their performance without the performance of the future obligations is of no interest to it.

(3) A debtor may maintain the contract if it provides the adequate insurance.

Duty to Notify

Article 119

A creditor cancelling a contract because of debtor's non-performance of a contractual obligation shall be bound to notify the debtor without delay.

When the Contract Cannot Be Cancelled

Article 120

A contract may not be cancelled on grounds of non-performance of a insignificant part of the obligation.

Effect of Cancellation

Article 121

(1) Upon cancellation of contract both contracting parties shall be free from their obligations, except from the obligation to pay compensation for eventual damage.

(2) Where one of the parties has performed the contract fully or partially, it shall be entitled to restitution of that which it has given.

(3) Where both parties have the right to request restitution of that which has been given, the mutual reinstitution shall be performed in compliance with the performance rules for bilateral contracts.

(4) Each party shall owes the other party compensation for the benefit it had in the meantime from what it is bound to return or compensate for.

(5) The party reimbursing money shall be bound to pay penalty interest from the date when it received the payment.

IV. CANCELLATION OR MODIFICATION OF CONTRACT DUE TO CHANGED CIRCUMSTANCES

Grounds for Cancellation of Contract

Article 122

(1) After entering into a contract, should circumstances arise making more difficult the performance of an obligation of one party, or preventing the effectuation of the purpose of the contract, and if it is evident in both cases that the contract no longer corresponds to the expectations of both parties and is inequitable thereof according to the general opinion, the party having

difficulties in performing its obligation i.e. the party having difficulties in achieving the purpose of the contract due to change of circumstances, shall be entitled to request that the contract is cancelled.

(2) Cancellation of a contract may not be requested by a contracting party pleading changed circumstances if that party was bound to take into consideration, to avoid or overcome these circumstances at the time the contract was entered.

(3) The party pleading changed circumstances may not invoke to the changed circumstances that occurred after the time limit for performance of the obligation has expired.

(4) A contract shall not be cancelled if the other contracting party offers or agrees to an equitable change in the relevant conditions of the contract.

(5) Where a court pronounces cancellation of a contract, the court, upon a request of the other party, shall oblige the cancelling party to pay adequate compensation for the damage that the other party suffered due to the cancellation.

Responsibility to Notify

Article 123

A contracting party that is entitled to cancel the contract due to the changed circumstances shall be bound to notify immediately the other party about its intention to cancel the contract. If it fails to do so, it shall be liable for the damage suffered by the other party due to not being notified on time.

Circumstances Relevant for the Court's Decision

Article 124

When deciding on cancellation or modification of a contract, the court shall be guided by the principle of fair trade, taking into consideration the purpose of the contract, the standard risk involved in contracts of the relevant type, the general public interest and the interests of both parties.

Waiving of Plea for Changed Circumstances

Article 125

Parties to a contract may waive their right to plea changed circumstances in the contract, unless this is contrary to the principles of good faith and honesty.

V. IMPOSSIBLE PERFORMANCE

Where Neither of the Parties is Responsible for Impossible Performance

Article 126

(1) Where performance of an obligation of one party to a bilateral contract becomes impossible due to an event for which neither of the parties is responsible, the obligation of the other party shall be cancelled as well, and if it has performed part of the obligation, it shall be entitled to request restitution according to the rules relating to restitution of the groundlessly acquired.

(2) In case of partial inability to perform due to an event for which neither of the parties is responsible, the other party may cancel the contract if the partial performance does not comply its needs; otherwise the contract shall remain valid and the other party shall be entitled to request proportional reduction of its obligation.

Where One Party is Responsible for other Party's Inability to Perform

Article 127

- (1) Where performance of an obligation by one party to a bilateral contract is made impossible due to an event for which the other party is responsible, the first party's obligation is cancelled and it retains the right to claim damages against the other party; however, such a claim is reduced by the benefit realised from the cancellation of its own obligation.
- (2) Such a party shall be bound to transfer to the other party all rights it might have in respect to third persons in relation to the subject of its obligation, the performance of which has become impossible.

VI. EXCESSIVE DAMAGE

Evident Disproportion of Mutual Commitments

Article 128

- (1) If at the time of entering the contract there has been an evident disproportion between the obligations of the contracting parties, the damaged party may request cancellation of the contract, provided that at that time it was not aware and did not have to be aware of the true value.
- (2) The right to request cancellation of the contract shall terminate after one year of its conclusion.
- (3) The advanced revocation of this right shall not have legal effect.
- (4) The contract shall still be valid if the other contracting party offers additional price to the true value.
- (5) Due to such disproportion, it may not be required cancellation of the contract on luck, on public sale, and also in cases when the subject of sale has been given higher price than the usual one.

VII. USURY CONTRACT

Article 129

- (1) A contract where somebody, using the state of need or the difficult financial state of another person, lack of experience, carelessness or dependence, agrees for himself/herself or for the benefit of a third party, something that is evidently disproportional in respect to what he has given to, or done for the other person, or has bound himself/ herself to do or give, shall be void.
- (2) The provisions of this Law relating to consequences of voidness and partial voidness of contract shall be appropriately applied to a usury contract.
- (3) Where the damaged party requests that its obligation is reduced to an equitable amount, the court shall, if possible, allow such a request and the contract being appropriately changed will remain valid.
- (4) The damaged party shall be entitled to submit a request for reduction of its obligation to an equitable amount within five years from the date the contract was entered.

VIII. GENERAL CONDITIONS OF CONTRACT

Binding

Article 130

- (1) General conditions specified by one contracting party, either in the formal contract or being incorporated by reference to another instrument, that supplement the particular agreements of the parties in the same contract shall be, as a rule, as binding as the particular conditions.

- (2) General conditions of a contract must be declared in the usual manner.
- (3) General conditions of a contract shall be binding for a contracting party provided the party was or had to be familiar with them at the moment of entering the contract.
- (4) In case of inconsistency between the general conditions and the particular agreements, the latter shall prevail.

Nullity of Certain Provisions of the General Conditions

Article 131

- (1) Provisions of the general conditions that are contrary to the purpose of the contract or to fair business customs shall be void, even if the general conditions that contain them have been approved by a competent body.
- (2) A court may reject the application of certain provisions of the general conditions that deny a party the right to object, of those provisions that deprive a party of its contractual rights or time limits, or those that are unfair or excessively strict towards this party.

IX. ASSIGNMENT OF CONTRACT

Terms of Assignment

Article 132

- (1) Each party of a bilateral contract may, provided the other side agrees, assign the contract to a third person, thus making this person a holder of all rights and obligations arising from the relevant contract.
- (2) Upon assigning a contract to a third person, the contract between the assignor and the other party shall be assigned to the assignee and the other party starting from the moment when the other party has consented to the transfer, and if the other party conferred its consent in advance, at the moment the other party was notified about the assignment.
- (3) The consent for assignment of the contract shall be valid provided it is conferred in a form prescribed by law regarding assigned contract.
- (4) Provisions relating to accessory rights relating to a contract for taking over a debt shall be appropriately applied to a transferred contract.

Assignor's Liability

Article 133

- (1) The assignor shall be liable to the assignee for the validity of the assigned contract.
- (2) The assignor shall not guarantee to the assignee that the other party will perform its obligations from the assigned contract, unless he/she has specifically obliged himself/herself to do so.
- (3) The assignor shall not guarantee to the other party that the assignee shall perform the contractual obligations, unless he/she has specifically obliged himself/herself to do so.

Objections

Article 134

The other party may raise against the assignee all the objections to the assigned contract and the objections relating to the other relations with the assignee, excluding the objections towards the assignor.

Component 6

GENERAL EFFECTS OF CONTRACT

I. CREATION OF OBLIGATIONS FOR THE CONTRACTING PARTIES

Effects of the Contract between the Contracting Parties and their Legal Successors

Article 135

- (1) A contract shall create rights and obligations for the contracting parties.
- (2) A contract shall also be binding on the legal successors of the contracting parties as well, unless otherwise agreed or indicated by the nature of the contract.
- (3) A contract may create a right in favour of a third person.

II. CONTRACT IN FAVOUR OF A THIRD PARTY

Direct Right of a Third Party

Article 136

- (1) Where a party on its own behalf agrees a claim in favour of a third party, the third party shall acquire its own direct right towards the debtor, unless otherwise agreed or indicated by the circumstances of the transaction.
- (2) The contracting party shall be entitled to request the debtor to perform the obligation that was agreed in favour of the third party.

Revoking the Benefit of a Third Party

Article 137

- (1) A contracting party agreeing a benefit for a third party may revoke or modify the benefit only until the third party accepts that which has been stipulated in its favour.
- (2) Where it is agreed that a debtor will perform the obligation in favour of a third party only after the contracting party's death, that party may until then, even by its will, revoke the benefit stipulated for the third party, unless otherwise indicated by the contract or the circumstances.

Debtor's Objection against a Third Party

Article 138

A debtor may raise against a third party all objections that it has against its negotiating partner on grounds of a contract in which benefit for a third party has been agreed.

Third Party's Refusal

Article 139

Where a third party refuses to accept the benefit agreed in its favour, or if it is revoked by the contracting party, the benefit shall belong to the contracting party, unless otherwise indicated by the nature of the transaction.

Promising a Transaction of Third Party

Article 140

- (1) A promise made to another party that a third party will perform or will not perform a certain transaction, shall not be binding on the third party, while the party that has made the promise shall be liable for any damage that the other party has suffered because the third party is not willing to oblige himself/herself to perform or not to perform a certain transaction.
- (2) The party that has promised another party to try and persuade a third party to oblige himself/herself to perform or not to perform a transaction, but has not succeeded despite all the

efforts made, shall not be held liable.

SECTION 2

CAUSING DAMAGE

Component 1

1. GENERAL PRINCIPALS

Bases of Liability

Article 141

- (1) A party causing damage to another party shall be bound to indemnify it, unless it proves that the damage was caused without its fault.
- (2) For damage due to objects or activities that increase the risk of damaging the environment, the liability shall be established regardless of fault.
- (3) For damage regardless of fault one shall be liable in other cases prescribed by law.

Damage

Article 142

Damage shall be the reduction of one's property (ordinary damage) and the preventing accrual thereof (loss of earnings), and inflicting of physical or mental distress or apprehension (non-physical damage).

Request to Eliminate the Risk of Damage

Article 143

- (1) Anyone may request another person to eliminate the source of risk endangering him/her or an indefinite number of persons for damage, and to refrain from activities causing anxiety or damage, unless the anxiety and the damage can be prevented with appropriate measures.
- (2) Upon the request of an interested person, the court shall order appropriate measures to be undertaken for preventing anxiety and damage to be caused, or to remove the source of risk at the expense of the possessor of the source of risk provided he/she fails to do so by himself/herself
- (3) Where the damage was caused during the performance of an activity of general benefit for which permission was given by a competent body compensation for damages beyond the standard limits may be requested.
- (4) The case referred to in paragraph (3) of this Article, the undertaking of socially justified measures for preventing or reducing damage may be requested as well.

Request to Cease Violation of Personal Integrity

Article 144

- (1) Anyone shall be entitled to request from a court or any other competent organ to order cessation of activity that injures the personal integrity, the personal and family life, and other personality rights.
- (2) A court or any other competent organ may order cessation of the injuring activity under the threat that a certain amount of money is paid, in total amount or per time unit, to the injured party.

Component 2

LIABILITY ON GROUNDS OF FAULT

Existence of Guilt

Article 145

Guilt shall exist when a person caused damage negligently or on purpose.

Non-liable Persons

Article 146

- (1) A person with a mental illness or a mentally disabled person or a person incapable of making judgments for any other reason, shall not be liable to another person for the damage that he/she has caused.
- (2) A person causing damage to another person in a state of temporary inability to make judgments shall be liable for the damage, unless he/she proves that it was not his fault that he/she was in that state.
- (3) Where the person found himself/herself in such a state due to the fault of another person, the person whose fault it was shall be liable for the damage.

Liability of a Minor

Article 147

- (1) Until a minor is seven years old, he/she shall not be liable for the damage that he/she has caused.
- (2) In the years between the seventh and the fourteenth, a minor shall not be liable for the damage, unless it is proved that in the process of causing the damage he/she was capable of making judgments.
- (3) Fourteen years old minor shall be liable for the damage according to the general rules relating to liability for damage.

Necessary Defence, State of Necessity, Eliminating Damage from another Person

Article 148

- (1) The person causing damage to an attacker as a necessary defence shall not be bound to compensate it, except in cases where the normal limits of a necessary defence are exceeded.
- (2) Where one has caused damage in a state of necessity, the damaged party may request compensation from the party at fault for creating the risk of damage, or from the persons who were protected from damage, but from the latter the compensation shall not exceed the benefit they have had from eliminating the damage.
- (3) The person suffering damage while eliminating the risk of damage from another person shall be entitled to request compensation from this person for the damage to which he/she reasonably exposed him/herself

Permitted Self-protection

Article 149

- (1) The person, who in the process of permitted self-protection cause damage to the person that caused the need for self-protection, shall not obliged to pay compensation.
- (2) Permitted self-protection shall denote the right of any person to eliminate the violation to the right when a risk is directly threatening, provided such protection is necessary and the manner of eliminating the violation of the right corresponds to the circumstances in which the risk is generated.

Damaged Party' Consent

Article 150

- (1) A person allowing another person to undertake an action at his/her own detriment can not request compensation for the damage caused by that action.
- (2) A statement of consent by a damaged party for damages to be caused to him/her by illegal action shall be void.

COMPONENT 3

LIABILITY FOR A THIRD PERSON

Mentally Ill and Intellectually Challenged Persons

Article 151

- (1) For any damage caused by a mentally ill person or intellectually challenged person, or person incapable of reasonable judgments due to any other reason, the person under duty to take care of him/her as appointed by law, a decision of a competent organ or a contract, shall be held liable.
- (2) The person referred to in paragraph 1 may be exempted from liability, if he/she provides evidence that he/she has been performing the supervision that he/she was obliged to conduct or that the damage would have been caused even with careful supervision.

Liability of Parents

Article 152

- (1) Parents shall be held liable for damage caused by their child to another person until the child is seven years old, even if there is no fault of their own.
- (2) Parents shall be exempted from liability provided that reasons exist for exempting their liability according to the regulations relating to liability regardless of fault.
- (3) Parents shall not be held liable if the damage was caused while their child was entrusted to another person and if that person is liable for the damage.
- (4) Parents shall be held liable for damage caused by their underage child of over seven years of age, unless they prove that the damage was not caused due to their fault.

Joint Liability

Article 153

In cases where, besides the parents, the child shall be liable for the damages as well, their liability shall be joint.

Liability of a Third Person for a Minor

Article 154

- (1) Where damage has been caused by a minor while under supervision of a guardian, school or other institution, the guardian or the school or the institution shall be held liable, unless they provide evidence for the correct supervision they were obliged to conduct or that the damage would have been caused even with careful supervision.
- (2) Where the minor is liable for the damage as well, the liability shall be joint.

Special Parental Liability

Article 155

- (1) Where the duty to supervise a minor is not with the parents but with some other person, the damaged party shall be entitled to request compensation from the parents if the damage was caused due to poor parental guidance, bad examples or vicious habits given by the parents, or if the parents can otherwise be liable for damage.
- (2) In such a case, where the third person responsible for supervising the minor pays compensation to the damaged party, the guardian shall be entitled to request reimbursement for the compensation from the parents.

Liability on Grounds of Fairness

Article 156

- (1) Where damage is caused by a person not liable for it, and compensation cannot be obtained from the person responsible to supervise the damaging person, the court, taking into consideration the financial state of the damaged and the damaging party, may, when the principle of fairness indicates so, decide on partial or full compensation by the damaging party.
- (2) Where damage is caused by a minor capable of making judgements but unable to pay compensation, the court, especially taking into consideration the financial state of the parents and the damaged party, may, when the principle of fairness indicates so, decide on full or partial compensation by the parents regardless of the fact that they are not being at fault.

COMPONENT 4

4. LIABILITY OF EMPLOYER TO THIRD PARTIES

Liability of Employer

Article 157

- (1) For damage caused to a third party by an employee in the course of employment or related to the work, the employer who is employing the person at the time the damage was caused shall be held liable, unless it is proven that under the circumstances the employee acted properly.
- (2) Where the damage has been caused on purpose, the damaged party shall also be entitled to request compensation from the employee directly.
- (3) The provision referred to in paragraph (1) of this Article shall not affect the rules relating to liability for damage due to dangerous object or dangerous activity.
- (4) The employer that will compensate the damage caused by the employee on purpose or with high negligence shall be entitled to ask for compensation to the employee of the paid amount.
- (5) This right shall expire within a period of six months from the date of payment for the damage.

Liability of Legal Person for Damage Caused by one of its Bodies

Article 158

- (1) A legal person shall be held liable for damage caused by its body to a third person in the course of or in relation to, the performance of its duties.
- (2) If not otherwise provided by law, in specific cases the legal person shall be entitled to compensation from the person that has caused damage on purpose or with high negligence.
- (3) This right shall expire within a period of six months from the date of payment for the damage.

COMPONENT 5

LIABILITY FOR DAMAGE DUE TO A DANGEROUS OBJECT OR ACTIVITY

I. GENERAL PROVISIONS

Presumption of Cause

Article 159

Damage caused in relation to a dangerous object or activity shall be presumed to be caused by that object or activity, unless proven that they were not the impairing causes.

Who is Liable for Damage

Article 160

For a damage caused by a dangerous object, the person that possesses the object shall be held liable, while for damage caused by a dangerous activity, the person that performs the activity shall be liable for the damage caused.

Illegal Deprivation of Dangerous Object from Possessor

Article 161

Where a possessor has been deprived of a dangerous object in an illegal manner, he/she shall not be liable for the damage caused by that dangerous object, but the person depriving him/her of it shall be held liable, provided the possessor him/herself is not liable for the deprivation.

Entrusting an Object to a third Party

Article 162

- (1) Instead of the object's possessor, the party to whom the possessor has entrusted the object for use or the party whose duty is to supervise, while not being employed by him/her, shall be held liable, same as the possessor.
- (2) The possessor of the object shall be held liable as well, if the damage is due to some hidden defect or feature of the object he/she did not pay enough attention to.
- (3) In such a case, the liable person that has paid compensation to the damaged party shall be entitled to request reimbursement of the full amount from the possessor.
- (4) The possessor of a dangerous object that has entrusted the object to a person incapable or not authorised to handle the same shall be held liable for any damage caused by that object.

Exempting from Liability

Article 163

- (1) A possessor shall be exempted from liability, if it is proven that the damage is caused due to a reason not related to the object, the effect of which could not have been foreseen, avoided or eliminated.
- (2) A possessor shall also be exempted from liability, if it is proven that the damage was caused exclusively by action of the damaged party or a third person that could not have been foreseen, and the consequences of which could not have been avoided or eliminated.

- (3) Where the damaged party has partly contributed to causing the damage, the possessor shall be partly exempted from liability.
- (4) Where the infliction of damage was partly caused by a third party, the third party and the possessor shall be jointly liable to the damaged party, and the third party shall be bound to pay compensation in proportion to its fault.
- (5) A person that a possessor has abused while using the dangerous object shall not be deemed to be a third party.

II. LIABILITY IN CASES OF ACCIDENT CAUSED BY MOTOR VEHICLES IN MOTION

Article 164

- (1) In case an accident is caused by a motor vehicle in motion due to the exclusive fault of one owner, the rules regarding liability on grounds of fault shall be applicable.
- (2) Where both possessors are at fault, each shall be liable for the entire damage suffered by both in proportion to the level of fault by each of them.
- (3) Where there is no fault of either of the possessors, they shall be equally liable, unless the principles of fairness indicate otherwise.
- (4) For damage suffered by a third party, the possessors of motor vehicles shall be jointly liable, regardless of their fault.

III. LIABILITY OF MANUFACTURER OF A DEFECTIVE OBJECT

Article 165

- (1) A party trading with a defective object of its own manufacturing that involves the risk of damage to persons or things, without him/her being aware of the risk, shall be held liable for any eventual damage caused by that defect.
- (2) A manufacturer shall also be liable for any dangerous features of the object after failing to take all measures necessary to prevent the damage, which he/she was able to prevent by means of warning, safety packing or other appropriate measure.

COMPONENT 6

SPECIAL CASES OF LIABILITY

Liability for Terrorist Actions, Public Demonstrations or Manifestations

Article 166

- (1) The state shall be taken liable for damage of death or bodily injury, or damage or destruction of the property of a natural person as a result of violence or terror, public demonstrations or manifestations.
- (2) Persons that organise, participate in, instigate or support acts of violence or terror, public demonstrations or manifestations the purpose of which is to destabilise the constitutional law and order shall not be entitled to compensation for damages on these grounds.
- (3) The state shall have the right and obligation to request compensation for the paid amount from

the person causing damage.

(4) This right shall expire within the time limits prescribed for expiration of claims regarding compensation for damage.

Liability for Corruption

Article 167

(1) The state i.e. the local self-government bodies shall be held liable for the damage caused by act of corruption resulting by the civil servants while performing their tasks within the same.

(2) The state i.e. the local self-government bodies shall have the right and obligation to request compensation for the paid amount from the person causing damage.

(3) This right referred to in paragraph (2) of this article shall expire within the time limits prescribed for expiration of claims on compensation for damage.

Liability for Damage Caused by Violent Criminal Acts

Article 168

(1) The state shall be held liable for damage caused by violent criminal act, if the person committing the crime is unknown (has not been identified).

(2) The state shall be held liable to compensate the damage caused by violent criminal acts also in cases when the person committing the crime has been identified, but has no livelihood.

(3) Organisers, supporters, participants and those assisting in violent criminal acts do not have a right to damage compensation on such basis.

(4) This right shall expire within the time limits prescribed for expiration of claims on compensation for damage.

Liability for Damage Caused by International Military or Other Organisations

Article 169

(1) The state shall be held liable for the damage to legal or natural persons on the territory of the Republic of Macedonia caused by persons engaged by international military and other organisations that have entered into agreement with the Republic of Macedonia.

(2) The state shall have the right and obligation to request compensation for the paid amount from the international military or other organisation or by third person which has directly caused the damage.

Liability of Organiser of Performances

Article 170

A party organising a great number of people to gather in a closed or open space shall be held liable for damage of death or bodily injury resulting from the extraordinary circumstances that can emerge on such occasions, such as roughing of people, general disorder and the like.

Liability for Not Providing the Necessary Help

Article 171

(1) A person that does not provide help to another person whose life or health are evidently endangered when he/she could have done so without any risk to him/herself, shall be liable for the damage caused by such a state if, according to the circumstances of the case, he/she had to anticipate the damage.

(2) In accordance with the principles of fairness, a court may free such a person from the obligation to compensate for the damage.

Liability Relating to the Obligation to Enter into a Contract

Article 172

A person that according to the law is obliged to enter into a contract, shall be bound to pay compensation for the damage if it fails to enter the contract immediately upon a request from the interested party.

Liability for Performing Activities of Public Interest

Article 173

Legal persons rendering utility or other similar services of public interest shall be held liable for damage caused by undue suspension or irregularities in the services provided.

COMPONENT 7

I. COMPENSATION FOR MATERIAL DAMAGE

Restoring the Previous Condition and Monetary Compensation

Article 174

- (1) The person responsible shall be bound to restore the condition that existed prior to the causing of the damage.
- (2) Where the restoring of the previous condition does not eliminate the damage entirely, the person responsible shall be bound to pay monetary compensation for the rest of the damage.
- (3) Where restoring the previous condition is not possible or a court determines that it is not necessary for the person responsible to undertake it, the court shall determine an appropriate monetary compensation for the damage to be paid to the damaged party by the person responsible.
- (4) Upon a request from the damaged party, a court shall decide on monetary compensation for the damaged party, unless the circumstances of the particular case justify restoring to condition that existed prior to the damage.

When is the Obligation to Pay Compensation Mature

Article 175

The obligation to pay compensation shall be considered mature from the moment the damage is caused.

Compensation in Cases of Destruction of Object Taken Illegally

Article 176

Where an object taken away from the possessor in an illegal manner has been destroyed due to force major, the person responsible shall be bound to pay monetary compensation.

Compensation in Form of Monetary Instalment Payments

Article 177

- (1) In cases of death, bodily or health injury, the compensation shall be determined, as a rule, in form of a monetary instalment payable for a determined period of time or for life.
- (2) A monetary instalment compensation for damage shall be payable monthly and in advance, unless otherwise determined by the court.
- (3) A creditor shall be entitled to seek the necessary security for payment of monetary instalments, unless, according to the circumstances of the case, this is not justified.
- (4) Where a debtor fails to provide the security determined by a court, the creditor shall be entitled to request payment of a total amount rather than monthly instalments, the amount of which is determined on the basis of the monthly instalments and the probable duration of the creditor party's life, by deducting the appropriate interest.
- (5) Due to serious reasons, the creditor may, in other cases as well, request immediate or subsequent payment of a total amount rather than monthly instalments.

II. SCOPE OF COMPENSATION FOR MATERIAL DAMAGE

Ordinary Damage and Loss of Benefit

Article 178

- (1) A damaged party shall be entitled both to compensation for ordinary damage and loss of benefit.
- (2) The amount of the compensation for damage shall be determined in accordance with the prices applicable at the time the court decision is adopted, unless otherwise provided by law.
- (3) An estimate on the loss of benefit due to the damaging party's action or omission shall be made by taking into consideration the profit that could have been justly expected according to the regular flow of the working activities or the special circumstances.
- (4) Where an object has been destroyed or damaged due to a premeditated criminal act, a court may decide on the compensation amount based on the value the object had for the damaged party.

Full Compensation

Article 179

The court, taking into consideration the circumstances that aroused after the damage has been caused, shall decide on the amount of compensation necessary to restore the financial state of the damaged party to the state it would have been, had it not been the damaging action or omission.

Reduction of Compensation

Article 180

- (1) Considering the financial state of the damaged party, a court may decide that the person liable shall pay a reduced compensation in regard to the damage, provided the damage was not caused on purpose or with high negligence and the person liable is in such a poor financial state that the payment of full compensation would force him/her into poverty.

(2) Where a damaging party causes damage while performing something in favour of the damaged party, a court may decide on a lower compensation, taking into consideration the care that the damaging party exercises in the course of its activities.

Divided Liability

Article 181

(1) A damaged party that has contributed to causing the damage or to making the damage be higher than it would have been otherwise, shall be entitled only to a proportionally reduced compensation.

(2) Where it is impossible to determine the part of the damage caused due to an action of the damaged party, a court shall decide on compensation taking into consideration the circumstances of the case.

III. SEPARATE PROVISIONS ON COMPENSATION OF MATERIAL DAMAGE IN CASE OF DEATH, BODILY OR HEALTH INJURY

Lost Earnings, Medical Treatment and Funeral Expenses

Article 182

(1) A person causing the death of some other person shall be bound to pay compensation for the regular expenses of that person's funeral.

(2) He/she shall also be obliged to pay compensation for the expenses for medical treatment of the caused injuries as well as other necessary expenses related to the treatment, and the earnings lost due to any resulting work disability.

The Right of a Person Supported by a Deceased Person

Article 183

(1) A person supported or regularly provided aid by the deceased person and a person that according to the law is entitled to request support from the deceased person, shall be entitled to compensation for the damage caused by the loss of the support or aid.

(2) This damage shall be compensated through instalment payments, the amount of which is determined by taking into consideration all circumstances of the case, and cannot be higher than the amount that the damaged party would have received from the deceased person had he/she stayed alive.

Compensation for Damage in Case of Bodily or Health Injury

Article 184

(1) A person inflicting a bodily or health injury to another person shall be bound to pay compensation for the expenses for medical treatment and all other expenses related to the treatment, as well as the earnings lost due to the resulting inability to work during treatment.

(2) Where the injured person loses the earnings due to a partial or full work disability, or his/her needs are permanently increased, or the prospects for his further advancement and promotion are

destroyed or reduced, the person responsible shall be bound to pay to the injured person a certain instalment as compensation for the damage.

Modification of Compensation Decided by Court

Article 185

Upon a request of a damaged party or upon a request of a damaging party, a court may respectively decide to increase the instalment payment in future or to reduce or cancel the instalment payment, provided the circumstances that the court took into consideration when reaching the previous decision have changed significantly.

Non-transferability of the Right to Compensation

Article 186

- (1) The right to compensation in terms of monetary instalments due to death of a related person or due to a bodily or health injury cannot be transferred to another person.
- (2) Compensation amounts that have matured may be transferred to another person provided the compensation amount has been determined by written agreement between the parties or an effective court decision.

IV. SEPARATE PROVISIONS ON COMPENSATION OF MATERIAL DAMAGE IN CASES OF ATTACK ON PERSON'S HONOUR AND SPREADING FALSE STATEMENTS

Article 187

- (1) A person who attacks other person's honour or makes or spreads false statements on the past, knowledge and capability or of something else related to another person, while he/she was or had to be aware that the statements were not true, and has caused material damage to that person, shall be bound to pay compensation for the damage.
- (2) However, a person making a false statement about another person without knowing that the statement is not true shall not be held liable for the damage caused, if the statement made was of serious importance to him/her or to the person told.

V. COMPENSATION FOR NON-MATERIAL DAMAGE

Announcing Verdict or Correction

Article 188

In case of violation of the rights of a person, a court may order that the verdict or the correction is announced at the expense of the damaging party, or the court may order the damaging party to withdraw the impairing statement, or some other means by which the purpose otherwise intended by the compensation may be achieved.

Monetary Compensation

Article 189

- (1) For physical injuries and mental distress suffered due to impairment of normal life, deformity,

attack to the reputation, the honour, the freedom or the rights of a person, or suffered due to death of a related person as well as fear, a court shall, if it finds that the circumstances of the case and particularly the extent of distress and fear justify the same, decide on fair monetary compensation, regardless of the compensation for material damage or absence of the same.

(2) When deciding upon a request for compensation of non-material damage and on the amount of such compensation, a court shall take into consideration the significance of the injured value and the intended purpose of the compensation, and the court shall see that the compensation does not satisfy any objectives that are unjust or irrelevant to its nature.

Persons Entitled to Monetary Compensation in Case of Death or Serious Disability

Article 190

(1) In case of death of a person, a court may decide on an equitable compensation for the psychological pain of the members of the close family (spouse, children and parents).

(2) Such compensation may also be decided for the deceased person's siblings if they lived in a close family relationship with the deceased.

(3) In cases of a particularly serious disability of a person, a court may decide on an equitable compensation for the psychological pain of that person's spouse, children and parents.

(4) The compensation referred to in paragraphs (1) and (3) of this Article may be decided for a cohabitant, if the cohabitant and the deceased person cohabited continuously together.

Satisfaction in Special Cases

Article 191

A person induced through deception, coercion or misuse of a relationship of subordination or dependence, to have a sexual intercourse or to commit debauched act that is criminal, or a person to whom any other criminal act against his/her dignity and morals is committed, shall be entitled to an equitable compensation for the psychological pain suffered.

Compensation of Future Damage

Article 192

Upon the request of the damaged party, a court shall also decide on compensation for non-material damage to be suffered in future, if according to the normal course of events it is indicated that the damage will continue into the future.

Inheriting and Abandonment of Compensation Claim for Non-Material Damage

Article 193

(1) A compensation claim for non-material damage shall be transferable to a successor provided it is recognised by an effective court decision or a written agreement.

(2) Under the same conditions, a compensation claim may be subject of an abandonment, settlement or coercive enforcement.

Divided Liability and Reduction of Compensation

Article 194

Provisions relating to divided liability and reduction of compensation that are applicable to material damages shall be appropriately applicable to non-material damage as well.

COMPONENT 8

LIABILITY OF SEVERAL PERSONS FOR SAME DAMAGE

Joint Liability

Article 195

- (1) Where damage has been caused jointly by several persons, all of the persons shall be jointly liable.
- (2) Instigators, accomplices and persons who helped to hide the liable persons shall be liable together with the liable persons.
- (3) Where persons have caused damage while working independently, they shall be jointly liable for the damage, unless their individual contributions to the damage may be identified.
- (4) When clear that a damage was caused by one of two or more persons interrelated in a certain manner, but the person causing the damage cannot be determined, all of the persons shall be jointly liable.

Joint Liability of Orderer and Contractor

Article 196

The orderer and the contractor performing construction activities shall be jointly liable to a third party for damage resulting in the course of performing the activities.

Payer's Reimbursement

Article 197

- (1) A joint debtor party that has paid more than the amount of its share in the damage may request each of the other debtor parties to reimburse it for the amount he/she has paid for them.
- (2) The amount of the share of each individual debtor party shall be determined by the court depending on the extent of its fault and the extent of the consequences resulting from its actions.
- (3) Where it is impossible to determine the shares of the debtor parties, the debtor parties shall pay equal amounts, except in cases where the principle of fairness indicates otherwise.

COMPONENT 9

RIGHT OF A DAMAGED PARTY

AFTER ITS RIGHT TO REQUEST COMPENSATION HAS LAPSED

Right to Compensation

Article 198

- (1) After the right of a damaged party to request compensation for damage has lapsed, the damaged party may request that the responsible person concede to him/her what was acquired by the act of

inflicting the damage, in accordance with the rules applicable to acquiring without legal basis.

(2) The right of a damaged party to request by the liable person to concede to him/her what was acquired by the act of inflicting the damage, shall lapse with the expiry of the last day from the general term of lapsing.

CHAPTER 3

ACQUIRING WITHOUT LEGAL BASIS

COMPONENT 1

GENERAL RULE

Article 199

(1) Where a part of a property of an individual person has been transferred to the property of another individual, and where the transfer bears no grounds in any legal matter or in the law, the person gaining the property shall be bound to return that part of the property, if possible, or to compensate the value of gained benefit.

(2) Transfer of property shall also denote the acquisition of profit with action performed.

(3) An obligation for restitution or reimbursement shall also arise in cases where something is received on a ground that was later not realised or ceased to exist.

COMPONENT 2

REIMBURSEMENT RULES

Cases when Reimbursement cannot be Requested

Article 200

A person that has executed a payment while being aware that he/she was not obliged to do so, shall have no right to request reimbursement, unless he/she reserved the right to request reimbursement or made the payment in order to avoid a coercion.

Double Payment of Debt

Article 201

A person that has paid the same debt twice, even if one payment was done on the basis of an enforcing document, shall be entitled to request reimbursement according to the general rules for acquisition without consideration.

Performance of Natural Obligation or Other Moral or Social Duty

Article 202

Anything given or performed as a natural obligation or a moral or social duty cannot be requested to be reimbursed.

Range of Reimbursement

Article 203

When making reimbursement for something acquired without basis, if the person acquiring has no consciousness, the benefit involved must be reimbursed and default interest must be paid from the day of acquisition, or otherwise from the date the reimbursement request is submitted.

Compensation for Expenses

Article 204

Person acquiring shall be entitled to compensation for the necessary and useful expenses incurred; however, if the person acquiring has no consciousness, he/she shall only be entitled to compensation for the useful expenses up to the amount representing the increase in value at the moment of reimbursement.

When can an Acquisition be Kept

Article 205

Reimbursement for groundless payments as compensation for damage due to bodily or health injuries or death cannot be requested, if the payment was made to a good faith receiver.

Use of Objects for the Benefit of a Third Party

Article 206

If a person has used his/her own or another person's object for the benefit of a third party, and conditions for application of the rules for performance of actions without authorisation do not exist, the third party shall be bound to return the object or, if that is not possible, to pay compensation for its value.

Expense Incurred for another Person

Article 207

A person that has incurred an expense for another person or anything else that he/she was obliged to do according to this law, shall be entitled to request compensation from that person.

Use of another Person's Object for Personal Benefit

Article 208

Where a person uses another person's object for personal benefit regardless of the right to the paid compensation for the damage, or in its absence, the owner of the object may request compensation for the benefit that the other person realised from using the object.

CHAPTER 4

UNAUTHORISED ACTION

COMPONENT 1

GENERAL RULE

Article 209

Performance of another person's actions may be undertaken only if the nature of the action is such that any delay would mean causing damage or loss of benefit.

COMPONENT 2

RIGHTS AND OBLIGATIONS OF THE WORK PERFORMER WITHOUT AUTHORISATION

Obligations of the Work Performer without Authorisation

Article 210

- (1) The work performer without authorisation shall be bound to notify the person whose actions he/she is undertaking as soon as possible, and to continue with the work, if possible, until the other person becomes capable of further performing the work.
- (2) After the work has been completed, the work performer without authorisation shall be bound to give a report to the person whose work he/she was performing and to concede to the person everything that he/she has gained while performing that person's action.
- (3) Unless otherwise provided by law, the obligations of the work performer without authorisation shall be obligations of an authorised party.

Due Care and Liability

Article 211

- (1) When performing another person's works, the work performer without authorisation shall be bound to follow the real and probable intentions and needs of the person whose works he/she is undertaking.
- (2) The work performer without authorisation shall be bound to act with the care of a good businessman i.e. good host.
- (3) A court may, taking into consideration the circumstances under which a person is performing another person's works without authorisation, reduce his/her responsibility or free him/her completely from liability for negligence.
- (4) The liability of the work performer without authorisation and with limited business capacity shall be subject to the rules relating to his/her agreed liability.

Right of the Work Performer without Authorisation

Article 212

- (1) The work performer without authorisation who has acted properly and has performed what was indicated by the circumstances, shall also be entitled to request the person whose works he/she has performed to release him/her from all obligations that he/she undertook in the course of the work, to take over all obligations undertaken on his/her behalf, to pay compensation for all necessary and useful expenses and for suffered damage, even if expected results were not achieved.
- (2) The work performer shall also be entitled to equitable compensation for the effort, if he/she prevented the damage to be caused to the person whose work he/she is performing, or if he/she has gained benefit entirely corresponding to the other person's intentions and needs.

Where a Person is performing another Person's Actions with Intention to

Help a third Party

Article 213

Where a person is performing another person's actions with intention to help a third party and where the conditions for performing the actions without authorisation are not satisfied, that person shall be entitled to be paid compensation for the expenses incurred but only amounting at the most to the amount of benefit that the other person has made.

Taking Away Supplements

Article 214

Any work-performer without authorisation shall be entitled to take away any supplements with which he/she has enriched the other person's property and for which he/she has not been reimbursed the incurred expenses, if the supplements can be removed from the object to which they are added without damaging the object; however, the person in whose work the work-performer is involved can, if he/she wants to, retain the supplements, provided he/she pays compensation to the work-performer for the current value of the supplements, but not exceeding the amount equivalent to the incurred expenses.

COMPONENT 3

PERFORMANCE OF ANOTHER PERSON'S ACTIONS WHEN PROHIBITED

Article 215

- (1) A person performing another person's actions despite the prohibition by that person of which he/she was or had to be aware, shall not have the rights belonging to a work-performer without authorisation.
- (2) Such a person shall be liable for any damage caused by his/her interference in the other person's work, even if the fault was not his/hers.
- (3) However, where the prohibition for performance of the actions is contrary to law or morality, and especially where a person prohibits that another person perform any of his/her legal obligations that cannot be postponed, the general rules relating to performance of actions without authorisation shall apply.

COMPONENT 4

FALSE PERFORMANCE OF ANOTHER PERSON'S ACTIONS WITHOUT AUTHORISATION

Article 216

- (1) A person who performs another person's actions intending to keep for himself/herself the benefit realised, in spite of being aware that it is another person's action, shall be bound to submit a report to the person whose actions he/she is performing as a work performer without authorisation, and to hand over all the benefit made.
- (2) The person whose actions are being performed may request reinstatement of the objects to the previous state and compensation for damage.

COMPONENT 5

CONSENT

Article 217

Where the person whose actions are being performed approves subsequently the performed actions, the work performer without authorisation shall be considered to be an authorised party working under instructions of the person whose actions are being performed since the beginning.

SECTION 5

UNILATERAL STATEMENT OF ASSENT

COMPONENT 1

PUBLIC PROMISE OF AWARD

When is a Public Promise Binding

Article 218

- (1) In cases when a public advertisement of a promise of award to a person that has performed a certain activity, has a certain success, founds himself/herself in a certain situation or if the promise is made under a different condition, the advertisement shall oblige the maker of the promise to fulfil the promise.
- (2) Any maker of a promise of award or award competition shall be bound to set a time limit for the contest, but if he/she fails to do so, a court may determine the limit upon a request of any of the competition participants.

Reneging Promise

Article 219

- (1) A promise may be reneged in the same manner it was made or by a personal announcement, but the person performing the action without knowing or having to know that the promise was

reneged, shall be entitled to seek the promised award, while the person that has made all the necessary expenditures in order to perform the action specified in the public advertisement shall be entitled to compensation as well, unless the promise maker provides evidence that the expenditures were improperly made.

- (2) Award promising may not be reneged if the public announcement defines a time limit for performing the action, i.e. for reporting on the result made or the realisation of a certain situation.

Entitlement of Award

Article 220

(1) The first person, which has performed the action for which an award is promised, shall be entitled to receive the award.

(2) Where more than one person has simultaneously performed the action, each of them shall be entitled to an equal part of the award, unless the principle of fairness indicates otherwise.

Open Competition

Article 221

(1) A decision for presenting an award in an open competition shall be made by the organiser of the competition or by one of the several persons appointed by the organiser.

(2) Where the conditions of an open competition or any general provisions relating to a particular open competition specify the rules for presenting the award, each competitor in the open competition shall be entitled to request annulment of the decision for presentation of the award, if the award was not presented in accordance with the specified rules.

(3) Ownership or any other right over work awarded in an open competition shall be obtained by the organiser of the open competition provided it is specified in the competition advertisement.

Termination of Obligation

Article 222

The obligation of a promisor of an award shall be terminated in the event nobody has notified him, within the time limit set in the advertisement, that the action has been performed or has achieved success, or that the conditions specified in the public advertisement have been fulfilled, and where the time limit is not set, the obligation shall be terminated after a year following the publishing of the advertisement.

COMPONENT 2

SECURITIES

I. GENERAL PROVISIONS

Definition

Article 223

Securities shall be written instruments that bind the issuer to fulfil the obligation to the legal owner as written on the instrument.

Essential Components

Article 224

- (1) Securities must include the following essential components:
 1. indication of the type of securities;
 2. company i.e. title and residence or name and address of the issuer of the securities;
 3. company i.e. title or name of the person to whose name or upon whose order the securities are payable, or indication that the securities are payable to a bearer;
 4. precisely defined obligation of the issuer arising from the securities;
 5. place and date of issuing the securities, and serial number for securities issued in series.
 6. signature of the issuer of the securities or facsimile of the signature of the issuer of securities issued in series.
- (2) Other essential components relating to specific kinds of securities may be provided for by a separate law.
- (3) An instrument that does not include any of the essential components shall not be valid as security.
- (4) Securities issued in series and not containing any of the essential components shall not have a legal effect.

To whom can Securities be Payable

Article 225

Securities can be payable to bearer, to a name or upon order, unless otherwise stipulated by law.

Creation of Obligation

Article 226

The obligation of a security shall arise at the moment the issuer hands over the security to the beneficiary.

Special Conditions for Issuing Securities in Series

Article 227

A separate law shall provide for all other conditions relating to issuing securities in series.

II. EXERCISING OF RIGHTS

Holding the Right Arising from a Security

Article 228

- (1) The claim from a security shall be directly connected to the security itself and shall belong to

the legal holder of the security.

(2) The legal holder of a bearer security shall be the bearer of that security.

(3) The legal holder of a security to name or upon order shall be the person to whom the instrument is payable or the person to whom the instrument is properly negotiated.

(4) A good faith holder of a bearer security shall become the legal holder of the instrument and shall acquire the right to the claim written on the security even when the security goes out of the possession of its issuer or the previous holder against their will.

Entitled to Ask for Realisation

Article 229

Realisation of a claim written on a security may be requested, by presenting the instrument, only by the legal holder of the instrument or a person authorised by the same.

III. TRANSFER OF SECURITIES

Transfer of Rights Arising from a Bearer's Security

Article 230

The right arising from a bearer security shall be transferred to the bearer by handing over the instrument.

Transfer of the Rights Arising from a Security to a Name

Article 231

(1) The right arising from a security to name shall be transferred by means of assignment.

(2) Separate law may stipulate that the right arising from a security to name may also be transferred by means of endorsement.

(3) A transfer of a right to a security to name shall be effected by writing down on the security the company or the title, i.e. name, of the new holder of the instrument, by having the transferor sign and by admittance of the transfer to the records of the securities register, if such a register is maintained by the issuer.

Transfer of Rights Arising from a Security upon Order

Article 232

The right arising from a security payable upon order shall be transferred by means of endorsement.

Types of Endorsement

Article 233

(1) An endorsement may be completed, blank or to a bearer.

(2) A full endorsement shall include a transfer statement and a company i.e. title or name of the person to whom the right arising from the security is being transferred (endorsee) and a signature of the transferor (endorser), but it may also contain some other additional information (place, date, etc.).

(3) A blank endorsement shall only include a signature of the endorser.

- (4) In case of a transfer to bearer, the name of the endorsee shall be substituted by the words "to bearer".
- (5) An endorsement to bearer shall be valid as a blank endorsement.
- (6) A partial endorsement shall be declared void.

Transfer by Power of Attorney and by Pledge

Article 234

- (1) A security can also be transferred by means of a power of attorney or a by a pledge.
- (2) Where the transfer is by a power of attorney the clause "value in power of attorney" shall be added, and where the transfer is by a pledge the clause "value in pledge" or somewhat similar clause shall be added.

Effect of Transfer of Rights

Article 235

- (1) By being transferred the rights arising from a security, the new holder acquires all the rights that were previously belonging to the earlier holder.
- (2) A transfer of rights arising from a security to name, either done by means of assignment or endorsement, shall have no effect on the issuer until he/she is notified in writing or until the transfer is recorded in the register of securities, if such a register is maintained by the issuer.
- (3) An assignor or an endorser shall not be held liable for non-performance of an obligation on the part of the issuer, unless a different legal regulation exists or a contrary provision written on the security itself.

Effect of Transfer by Power of Attorney and Effect of Transfer by Pledge

Article 236

A holder of a security being transferred a security by "transfer by power of attorney" or by "transfer by pledge" may effect all rights arising from that security, but he/she may transfer the security to another person only with a transfer by a power of attorney.

Proving the Legality of a Transfer

Article 237

- (1) The last endorsee shall prove his/her right to the security by a continuous sequence of endorsements.
- (2) This rule shall also be applicable to the last assignor.

Prohibition of Transfer

Article 238

- (1) A prohibition of transfer by means of endorsement of a security upon order shall be effected by adding to the instrument the expression "not upon order" or any other similar clause.
- (2) The right arising from a security, the transfer of which by means of endorsement is prohibited, may be transferred only by means of cession.

- (3) A transfer by means of endorsement may be prohibited by the issuer or the endorser.
- (4) Any transfer of a security to name may be prohibited by a separate law or a statement by the issuer written on the security.

IV. MODIFICATION OF SECURITIES

Changes Made by Issuer

Article 239

- (1) Upon a request and at the expense of the holder of a security, a bearer security or a security upon order may be changed to a security to name by the issuer.
- (2) Unless the issuer of a security to name has explicitly prohibited the change, he/she may change the security into a bearer security or a security to order upon a request and at the expense of the holder of the security.

Changes Made by the Holder in the Course of the Transfer

Article 240

- (1) An endorser may transfer a security to order to a bearer by means of endorsement, unless otherwise provided by a separate law.
- (2) A security to name may be transferred by the assignor or the endorser only to a specified person.
- (3) A bearer security may be also transferred to a specified person by means of endorsement.

Converting and Dividing Securities

Article 241

- (1) Securities issued in series may be converted to one or more securities, upon a request and at the expense of the holder of the securities.
- (2) Upon a request and at the expense of the holder, a security may be divided into several securities with smaller value, but the securities cannot have smaller value than the lowest denomination of the security issued in that series.

V. REALISATION OF OBLIGATION ARISING FROM A SECURITY

Termination of Obligation

Article 242

- (1) An obligation arising from a security shall be terminated when the issuer performs his/her obligation towards the legal holder.
- (2) A claim arising from a security shall also be terminated when the claim comes into the possession of the issuer, unless otherwise provided by a separate law.
- (3) A good faith issuer of a bearer security shall be discharged of the obligation by performance of the obligation for the benefit of the bearer, even in cases where the bearer is not the legal holder of the security.

Prohibition to Realise

Article 243

(1) Where the issuer of a bearer security knew or had to know that the bearer was not a legal holder of the instrument, nor was authorised by the legal holder, he/she shall be bound to refuse the realisation, or otherwise he/she shall be liable for the damage.

(2) An issuer of a security cannot effectively perform his/her obligation if a competent organ has prohibited the realisation or if he/she knew or had to know that the procedure for redeeming or nullifying the security was violated.

Payment of Interest or Other Profit after Payment of Principal

Article 244

A debtor party that has paid the principal to the holder of a security shall be bound to pay the coupons for interest or other profit from that security, submitted for payment on the principal, provided the claims are not time-barred.

Objections to the Request for Realisation of an Obligation

Article 245

(1) Against the request of the holder of a security, the issuer may only plead objections relating to issuing the security such as forgery, objections arising from the content of the security such as time limits or conditions, and finally, objections against the holder of the security, such as compensation, lack of legally prescribed procedure on acquiring the security and lack of authorisation.

(2) Against the request of the holder to whom the issuer has transferred the security, he/she may plead defects in the legal transaction on the basis of which the transfer was effected, but he/she cannot plead defects against the request of a subsequent holder.

(3) However, where a holder of a security knew or had to know upon receiving the security from his predecessor that his predecessor is transferring the security in order to avoid the objection of the issuer to be raised, the issuer may plead the same objection against the owner of the security.

(4) Separate law may also prescribe other types of objections for certain types of securities.

VI. IDENTIFICATION PAPERS AND MARKS

Identification Papers

Article 246

On railway, theatre and other tickets, coupons, vouchers or other similar documents that involve a certain obligation for their issuer, whereby the creditor is not specified, and neither the papers nor the circumstances indicate that they may be transferred to another person, the appropriate provisions relating to securities shall apply.

Identification Marks

Article 247

(1) Clothing or similar marks involving a piece of paper, metal or other material that usually have a

number imprinted or where the number of given objects is specified, and usually do not contain anything concrete that relates to the issuer's obligation, shall serve to indicate who is the bound debtor party in an obligation in the creation of which they have been issued.

(2) The issuer of an identification mark shall be freed from the obligation when he/she performs it in good faith for the benefit of the bearer, but to the bearer the presumption that he/she is the actual/genuine creditor party or that he/she is authorised to request performance is not valid, and in case of a dispute, the bearer shall be bound to prove his/her authority.

(3) The creditor party may request realisation of the obligation even in cases where he/she has lost the identification mark.

(4) Regarding the rest, in each separate case the intention of both the issuer and the receiver of the mark and the usual custom should be respected.

VII. OTHER PROVISIONS

Substitute of a Damaged Security

Article 248

A holder of a damaged security which is not fit for trade, but the genuineness and content of which can be precisely determined, shall be entitled to request issuance of a new security for the same amount, but shall be bound to return the damaged security and to pay for the costs incurred.

Redemption of Securities over a Period of Time

Article 249

A lost security may be redeemed only if it is payable to name or upon order, unless otherwise provided by a separate law.

Expired Claim Arising from a Security

Article 250

Where a claim arising from a security has expired, the provisions relating to expiration of securities shall apply, unless otherwise provided by a separate law.

CHAPTER III

EFFECTS OF OBLIGATIONS

SECTION 1

CREDITOR PARTY'S RIGHTS AND DEBTOR PARTY'S OBLIGATIONS

COMPONENT 1

RIGHT TO BE COMPENSATED FOR DAMAGE

I. GENERAL RULES

Realisation of Obligation and Consequences of Non-Realisation

Article 251

- (1) A creditor party in a binding relationship shall be authorised to request the debtor party to perform the obligation, and the debtor party shall be bound to perform the obligation completely and in good faith in accordance with the agreed terms.
- (2) Where a debtor party does not perform the obligation or is late with the realisation, the creditor party shall be entitled to request compensation for the damage suffered thereby.
- (3) A debtor party having been given by the creditor party a reasonable subsequent time limit for performance shall be liable for damage due to delay of the realisation.
- (4) A debtor party shall also be liable for partial or full inability to perform although the inability was not due to his fault, if the inability happened after the debtor's delay for which the debtor party is responsible.
- (5) However, a debtor party shall not be held liable for damage if it proves that the subject of the obligation would have been lost, even if the debtor party performed its obligation in time.

Release of Debtor from Liability

Article 252

A debtor party shall not be held liable for damage where the debtor party can prove that it could not perform its obligation or that it is late with the realisation, due to circumstances arising after entering into the contract that he/she could not prevent, eliminate or avoid.

Agreed Extension of Liability

Article 253

- (1) The liability of a debtor party may be extended by contract to a case for which he/she is not liable otherwise.
- (2) However, the fulfilment of such a clause cannot be requested if it is contrary to the principle of good faith and honesty.

Limiting and Excluding Liability

Article 254

- (1) The liability of the debtor party for intentional or high negligence cannot be excluded by contract in advance.
- (2) However, upon a request of the interested contracting party, a court may annul the clause for exemption from liability for ordinary negligence, if such clause arises from the monopolistic position of the debtor party or from the unequal relationship between the parties in general.
- (3) A contract provision which specifies the highest amount for compensatory damages shall be valid if the amount specified in such a manner is not in evident disproportion with the damage and if there is not something else provided for the particular case by a separate law.
- (4) In case of limitation of the largest amount for compensatory damages where the inability to perform the obligation is caused on purpose or with high negligence on the side of the debtor party, the creditor party shall be entitled to full compensation.

Range of Compensation

Article 255

- (1) A creditor party shall be entitled to compensation for ordinary damage or loss of benefits that had to be foreseen by the debtor party at the time of entering the contract, as possible consequences due to breach of the contract, considering the facts that he/she was or had to be familiar with.
- (2) In case of fraud, deliberate non-performance or non-performance due to high negligence, the creditor party shall be entitled to request from the debtor party compensation for all the damage that was caused due to breach of the contract, regardless of the fact that the debtor party did not know of the particular circumstances due to which the damage was caused.
- (3) Where in case of violated obligation, there was a certain benefit for the creditor party as well as damage, the amount of the compensation shall be determined in reasonable proportions.
- (4) The party pleading breach of contract shall be bound to undertake all reasonable measures to reduce the damage caused by that breach, otherwise the other party may request a reduction in the compensation.
- (5) The provisions of this article shall also be applicable to non-performance of obligations, which do not arise from a contract, unless otherwise stipulated by this law for some of them.

Fault of Creditor Party

Article 256

In cases when for the caused damage, the extent of the damage or for hampering the debtor party's position, there is fault on the side of the creditor party, or a person for whom the creditor party is responsible, the compensation shall be proportionally reduced.

Liability Due to Failure to Notify

Article 257

A contracting party obliged to notify the other party about facts that have an impact on their mutual relationship, shall be liable for the damage suffered by the other party because of not being timely notified.

Application of Provisions Relating to Causing Damage

Article 258

Unless otherwise provided by the provisions of this component, the provisions of this law relating to compensation for damages shall apply to damage not arising from this contract.

II. CONTRACTUAL PENALTY

General Rules

Article 259

- (1) A creditor and a debtor party may stipulate that the debtor party shall pay a certain amount of money or shall provide some other property benefit to the creditor party if he/she fails to perform

its obligation or is late with the realisation (contractual penalty).

(2) Unless otherwise indicated by the contract, it shall be considered that the penalty is contracted for cases where the debtor party is late with the realisation of the obligation.

(3) A contractual penalty cannot be made for monetary obligations.

Manner of Determining

Article 260

(1) The contracting parties may determine the amount for the penalty according to their own finding, in a total amount, as a percentage or for each day of the delay, or in any other manner.

(2) The penalty relating to an obligation must be contracted in a form prescribed for the contract from which the obligation is arising.

Supplementary clause

Article 261

(1) The clause for contractual penalty shall have the same legal destiny of the obligation it secures.

(2) The clause shall not be legally binding if the non-realisation or the delay of the obligation was due to reasons for which the debtor party is not responsible.

Creditor Party's Rights

Article 262

(1) When penalty is contracted for cases of non-realisation of obligation, the creditor party may request either performance of the obligation or the contractual penalty.

(2) The creditor party shall lose the right to request realisation of the obligation if he/she already requested payment of the contractual penalty.

(3) Where penalty is contracted for non-realisation, the debtor party shall not be entitled to pay the contractual penalty and to cancel the contract, except in cases where this was the intention of the contracting parties when they contracted the penalty.

(4) Where penalty is contracted for cases of the debtor party's delayed realisation, the creditor party shall be entitled to request both realisation of the obligation and payment of the contractual penalty.

(5) The creditor party cannot request payment of the contractual penalty for delayed realisation, if he/she accepted the realisation of the obligation, but did not immediately notify the debtor party that it reserved its right to a contractual penalty.

Reducing the Amount of the Contractual Penalty

Article 263

Upon a request by the debtor party, a court shall reduce the amount of the contractual penalty if he/she finds that the amount is disproportional high considering the value and the significance of the subject of the obligation.

Contractual Penalty and Compensation for Damage

Article 264

- (1) A creditor party shall be entitled to request a contractual penalty even when the amount of the penalty exceeds the value of the damage that it suffered, as well as when it did not suffer any damage.
- (2) Where the value of the damage suffered by the creditor party is higher than the amount of the contractual penalty, the creditor party shall be entitled to request the difference in the amounts.

Compensation Specified by Law and Contractual Penalty

Article 265

In case of non-realisation or delayed realisation of an obligation where the compensation amount is called a penalty, contractual penalty, compensation or is otherwise determined by law, but nevertheless the contracting parties have contracted a penalty, the creditor party shall not be entitled to request both the contractual penalty and the compensation determined by law, unless it allowed by law.

III. DEFAULT INTEREST

When in Debt

Article 266 (1)

A debtor party that is overdue in the payment of a monetary obligation shall owe, in addition to the principal, default interest at a rate determined by law.

Right to Full Compensation

Article 267

- (1) A creditor party shall be entitled to default interest regardless of whether it suffered any actual damage due to the debtor party's delay.
- (2) Where the damage that the creditor party has suffered due to the debtor party's delay is higher in value than the amount the creditor party would receive as default interest, the creditor party shall be entitled to request the difference up to the full compensation for the damage.

Compound Interest

Article 268

- (1) Where contractual or default interest has matured but not been paid, as in similar cases of matured periodic monetary payments, default interest shall not run, except in instances determined by law.
- (2) Default interest on the amount of unpaid interest may be requested only from the day when the request for its payment was submitted to the court.
- (3) Default interest shall run on matured periodic monetary payments from the moment when a request for their payment was submitted to the court.

COMPONENT 2

REFUTING DEBTOR PARTY'S LEGAL ACTIVITIES

General Rule

Article 269

- (1) Any creditor party whose monetary claim is mature for payment, regardless of the time of creation, may object to any action of the debtor undertaken to the detriment of creditors.
- (2) Any action that results in the debtor party not having enough assets to pay a creditor party's claim shall be deemed to be an action undertaken to the detriment of creditors.
- (3) Such legal action shall also denote omissions due to which the debtor party has lost a certain legal right or due to which a certain legal obligation was created for the debtor party.

Conditions for Refuting

Article 270

- (1) A disposal on the debtor side may be refuted, if at the time of effecting the disposal, the debtor party was or could have been aware that such an action would do harm to its creditors, and if a third party benefiting from the undertaken legal act was aware of the fact, or could have been aware of it.
- (2) If the third party is the debtor party's spouse or is in lineal consanguinity or collateral consanguinity up to the fourth degree, or an in-law relative of the same degree, there shall be a presumption that such third party was aware of the fact that the debtor party's disposal was to the detriment of the creditors.
- (3) In case of a gratuitous disposal and a legal act equal to it, the debtor party shall be considered to have been aware that the disposal undertaken would do harm to the creditors, so that in refuting such acts there shall be no requirement that the third party was aware, or was supposed to be aware of the fact.
- (4) Renouncing an inheritance shall be considered to be a gratuitous disposal.

Excluding Refuting

Article 271

Usual casual presents, award gifts, and presents made as a sign of gratitude, in proportion with the financial state of the debtor, cannot be refuted on grounds of damage to creditors.

Refuting Procedure

Article 272

- (1) Refuting shall be effected by means of a lawsuit or by objection.
- (2) A law suit may be started against a third party to the legal act, or in favour of which the legal activity being opposed was undertaken, or against the debtor party's full legal successors.

(3) Should a third party transfer, by a transaction on the debit side, the benefit acquired through the disposal to be refuted, the lawsuit may be filed against the acquirer only if the latter was aware that the acquisition of his predecessor was prone to be refuted, but if such benefit was transferred by a gratuitous transaction, the lawsuit may be filed against the acquirer even if he/she was not aware of the fact.

(4) The accused party may avoid the objection if it performs the debtor party's obligation.

Effect of Refuting

Article 273

If a court adopts the lawsuit, the action objected to shall lose its effect only towards the plaintiff and only to the extent necessary for performance of the plaintiff claims.

Time Limit for Filing the Lawsuit

Article 274

(1) A lawsuit-for refuting may be filed within a period of three years.

(2) The time limit referred to in the previous paragraph shall run from the date the legal action that is being refuted is taken or from the date when a not performed opposed legal action was to be undertaken.

COMPONENT 3

RIGHT TO RETAIN

Exercising the Right to Retain

Article 275

(1) A creditor party with a mature monetary claim who is in possession of a debtor party's asset shall be entitled to retain the object until its claim is paid.

(2) In case the debtor party has become incapable to make payment, the creditor party may use the right to retain although its claim is not mature.

Exceptions

Article 276

(1) The creditor party shall have no right to retain, if the debtor party requests that the asset that has been taken from its possession against its will be returned to the debtor party, or if the debtor party requests that the asset that has been given to the creditor party for keeping or loaned the same.

(2) A creditor party shall have no right to retain a power of attorney obtained from the debtor party or other debtor party's documents, identification papers, correspondence and other similar assets, as well as assets that cannot be put on sale.

Obligation to Return the Asset before Obligation is Realised

Article 277

If a debtor party provides appropriate insurance for the creditor party's claim, the creditor party shall be bound to return the asset to the debtor party.

Exercising the Right to Retain

Article 278

A creditor party in possession of a debtor party's asset on grounds of the right to retain, shall be entitled to recover from the value of the asset in the same manner as a pledgee does, but shall be bound to inform the debtor party of its intention in due time, before effecting the payment.

SECTION 2

CREDITOR PARTY'S RIGHTS IN SOME PARTICULAR CASES

When Obligation Involves Giving Objects of Certain Type

Article 279

Where the obligation involves giving objects of a certain type and the debtor party is late, the creditor party may, after having notified the debtor party, acquire according to his own choosing, an object of the same type and request that the debtor party pay compensation for the price and compensation for the damage, or to request payment of the value of the owed objects and compensation for the damage.

When an Obligation Involves Doing

Article 280

Where an obligation involves doing and the debtor party is late with the performance, the creditor party, after having notified the debtor party, may undertake by itself and at the expense of the debtor party that which the debtor party was obliged to undertake, as well as request that the debtor party pay compensation for damage due to the delay, and compensation for other damages that it could suffer as a result of the manner of performance.

When an Obligation Involves Not Performing

Article 281

- (1) Where an obligation involves not performing, the creditor party shall be entitled to compensation for the damage if the debtor party acts contrary to its obligation.
- (2) Where something is built contrary to an obligation, the creditor party shall be entitled to request that the same be undone at the expense of the debtor party and to request the debtor party to pay compensation for the damage that the creditor party suffered in relation to the building and the removal.
- (3) Taking into consideration the social interest and the justified interest of the creditor party, a court may, when it finds that it is evidently more practical, decide that the construction not be

demolished but that the creditor party pay compensation in money for any damage.

Right to Request Compensation instead of Court Ordered Performance

Article 282

(1) Where a debtor party has not performed its obligation within the time limit determined by a effective court decision, the creditor party may ask the debtor party to perform the obligation within a subsequent reasonable time period and may state that after the expiration of the set time limit it will not accept the performance but demand compensation for the damage resulting from non- performance.

(2) After the subsequent time period has expired, the creditor party may only request compensation for the damage resulting from non-performance.

Court Ordered Penalties

Article 283

(1) Where the debtor party fails to perform a non-monetary obligation determined by an effective court decision within a set time period, the court may, upon a request by the creditor party, determine a reasonable subsequent time period for the debtor party and may pronounce, in order to influence the debtor party, and independent of any damages, that unless the debtor party performs its obligation within the set time period, it shall be obliged to pay the creditor party a certain amount of money for each day of the delay or for any other measure of time, starting from the expiration of the time period.

(2) Where the debtor party performs the obligation subsequently, a court may reduce the amount determined in such a manner, taking into consideration the purpose for which it ordered the payment of the obligation.

CHAPTER IV

TERMINATION OF OBLIGATIONS

SECTION 1

GENERAL RULE

Article 284

(1) An obligation shall be terminated after it has been performed, as well as in other cases determined by law.

(2) Upon termination of the main obligation, the guarantee, the pledge and all other accessory rights shall be terminated as well.

SECTION 2

PERFORMANCE

COMPONENT 1
GENERAL RULES RELATING TO PERFORMANCE

I. WHO CAN PERFORM AND PERFORMANCE EXPENSES

Performance by the Debtor or a Third Party

Article 285

- (1) An obligation may be performed not only by the debtor party but by a third party as well.
- (2) A creditor party shall be bound to accept the performance by any party that has a legal interest in having the obligation performed even if the debtor party is opposing the performance.
- (3) A creditor party shall be bound to accept performance by a third party if the debtor party agrees, except in cases where, according to the contract and the nature of the obligation the obligation must be performed by the debtor party personally.
- (4) A creditor party may accept performance by a third party without the debtor party knowing, even in cases where the debtor party has notified the creditor party that it does not agree that the obligation be performed by a third party.
- (5) However, where a debtor party has offered to perform the obligation immediately by himself/herself, the creditor party cannot accept performance by a third party.

Performance by a Debtor Incapable of Business Activities

Article 286

- (1) A debtor party incapable of business activities may validly perform an obligation if the existence of the obligation is confirmed and if the time for performance has matured.
- (2) However, the performance referred to in paragraph 1 of this article may be opposed if a party has paid an expired debt or a debt arising from a game or a bet.

Performance Expenses

Article 287

The performance expenses shall be covered by the debtor party, unless caused by the creditor party.

II. PERFORMANCE BY SUBROGATION

Performance by Transfer of Right to a Performer (Subrogation)

Article 288

- (1) Where an obligation of another party is being performed, the performer and the creditor party may agree prior to or in course of the performance that the performer be subrogated to all or only some accessory rights of the performed obligation.
- (2) A performer may also be subrogated to the creditor party's rights on grounds of a contract between the debtor party and the performer entered before the performance.
- (3) In the cases referred to in paragraphs 1 and 2 of this article, the subrogation of the creditor party's rights to the performer shall be effected at the moment of performance.

Legal Subrogation

Article 289

Where an obligation is performed according to the law by a party without legal interest in the transaction, that party is, according to the law, subrogated to the obligation and all accessory creditor party's rights at the moment of performance.

Subrogation in Cases of Partial Performance

Article 290

(1) In case of a partial performance of the creditor party's claim, the performer shall be subrogated to the accessory rights which secure the performance of that claim provided the rights are not necessary for the performance of the rest of the creditor party's claim.

(2) However, the creditor party and the performer may agree on using the guaranties in proportion to their claims, or they may agree that the performer have the priority right to collect.

Evidence and Insurance Instruments

Article 291

(1) The creditor party shall be bound to hand over to the performer the instruments by which the claim is proven or secured.

(2) As an exception, the creditor party may hand over to the performer the asset received as a pledge from the debtor party, provided the pledgor has consented, or otherwise, the pledged asset will remain with the creditor party, to hold and keep the same on behalf of the performer.

How much can be requested from a Debtor Party

Article 292

A performer who has been subrogated to a claim cannot request from the debtor party more than he/she paid to the creditor party.

Exempting the Liability of a Creditor Party for Existence and Payability of a Claim

Article 293

(1) A creditor party that has accepted performance by a third party shall not be liable for the existence and payability of the claim at the time of the performance.

(2) This shall not exclude the application of the rule relating to absence of consideration.

III. BY WHOM A PERFORMANCE IS RECEIVED

Authorised Person

Article 294

(1) A performance must be received by the creditor party or a person appointed by law, a court decision, an agreement between the creditor and the debtor party, or by the creditor party itself.

(2) Where received by a third party, a performance shall also be valid if the creditor party uses it or subsequently approves the same.

Performance to a Creditor Party Incapable of Business Activities
Article 295

- (1) Performance to a creditor party incapable of business activities shall not bind the debtor party, provided it was useful for the creditor party or the object of the performance remained in possession of the creditor party.
- (2) A creditor party incapable of business activities may approve, after it becomes capable of business activities, the performance that it received before.

IV. SUBJECT OF PERFORMANCE

Content of Obligation
Article 296

- (1) A performance shall involve performing the content of an obligation, so that the debtor party cannot perform anything else, and the creditor party cannot request anything else.
- (2) There shall be no valid performance provided that what was delivered by the debtor party as an asset owed, and accepted by the creditor as such, turn out not to be an object what was considered for, so that the creditor party shall be entitled to restitute the same, and to request the asset owed.

Substitution of Performance
Article 297

- (1) An obligation shall be terminated should the creditor, by agreement with the debtor, accept something else instead of what was owed to him.
- (2) In the case referred to in paragraph 1 of this article, a debtor party shall be equally liable as the seller for the physical or legal defects of the object given as replacement for what was owed.
- (3) However, instead of a request based on a debtor party's liability for physical or legal defects of the object, the creditor party may request that the debtor party perform the original obligation and pay compensation for any damage, but not more than the guarantor.

Handing Over for Sale
Article 298

Where a debtor party hands over to a creditor party an object or any other right to sell the object and to collect its claim from the received amount, and to return the balance, the obligation shall be terminated only after the creditor party has collected its claim from the received amount.

Partial Performance
Article 299

- (1) A creditor party shall not be bound to accept partial performance, unless it is otherwise indicated by the nature of the obligation.
- (2) However, the creditor party shall be bound to accept a partial performance of a monetary obligation, unless the creditor party has a special interest in refusing the performance.

Obligation to Give Objects Distinguished by Class

Article 300

- (1) Where objects are distinguished only by the class to which they belong, the debtor party shall be bound to give objects of medium quality.
- (2) However, if the debtor party is familiar with the purpose of the objects, it shall be bound to give objects of corresponding quality.

V. PAYMENT OF PERFORMANCE

Sequence of Payment

Article 301

- (1) Where there are more obligations of the same kind among the same parties persons, and the debtor party's performance is not enough to cover them all, the payment shall be executed in the order determined no latter than the moment of performance by the debtor party, unless there is a different agreement between the creditor and the debtor party.
- (2) Where a statement for payment by the debtor party does not exist, the obligations shall be paid in order of maturity.
- (3) Where several obligations mature simultaneously, the least secure shall be paid first, while where all obligations are equally secure, the obligations which are the heaviest burden to the debtor party shall be paid first.
- (4) If the obligations are equal in consideration of all the abovementioned, they shall be paid in the order of their occurrence, while in case of simultaneous occurrence, what has been given as performance shall be allocated to all the obligations in proportion to their amounts.

Payment of Interest and Expenses

Article 302

Where a debtor party owes interest and expenses in addition to the principal, expenses shall be paid first, and then the interest, and the principal is paid last.

VI. TIME OF PERFORMANCE

When a Time Period Is Not Determined

Article 303

Where a time period is not determined and the purpose of the transaction, the nature of the obligation and other circumstances do not indicate that a certain performance time period should be determined, the creditor party may request that the obligation be performed immediately, while the debtor party may request that the performance be immediately accepted by the creditor party.

Performance before Expiration of Time Period

Article 304

- (1) Where a time period is agreed solely in the interest of the debtor party, the debtor party shall be entitled to perform the obligation before the contracted time period has expired, but it is also

obliged to notify the creditor party of its intention and be careful the timing is not unsuitable.

(2) In other cases, where a debtor party offers to perform the obligation before the term has expired, the creditor party may refuse the performance, and may retain the right to be paid compensation for damage, if it immediately notifies the debtor party.

Right of Creditor Party to request Performance before the Time Period Has Expired

Article 305

A creditor party shall be entitled to request performance before the time period has expired, if the creditor party fails to supply the promised guarantee or if the debtor party fails to strengthen the guarantee which has been reduced without any fault of the creditor party as requested by the creditor party, and if the time period is contracted exclusively in its favour.

When Determination of the Time Period is Left for One Party

Article 306

Where determination of a performance time period is left to the will of the creditor or the debtor party, the other party may request that a court decide on a reasonable performance time period provided the authorised party fails to determine the time period even after it has been given notice.

Monetary Obligations

Article 307

(1) If a payment is being executed through a bank or savings bank that maintains the account of the creditor party, the debt shall be deemed to be paid when the bank or the savings bank maintaining the account receives the money deposit in favour of the creditor party or an order (a transfer order) from the debtor party's bank i.e. savings bank to approve in the creditor party's account the amount specified in the order, provided the contracting parties did not agree otherwise.

(2) Where a payment by mail is provided for in a contract, it shall be assumed that the parties have agreed that a debtor party has performed its obligation by paying the owed amount in the post-office, while, if such manner of payment is not agreed, the debt shall be settled when the creditor party receives the money transfer.

(3) Where a payment by cheque to a certain account is provided for by a separate regulation or contract, it shall be assumed that the parties have agreed the payment to be executed when the debtor party pays the owed amount by cheque for the benefit of the specified account.

VII. PLACE OF PERFORMANCE

General Rules

Article 308

(1) A debtor party shall be bound to perform the obligation, and the creditor party shall be bound to accept the performance at the place specified by the legal matter or by law.

(2) Where the place of a performance is not determined, and it cannot be determined according to the purpose of the transaction, the nature of the obligation or other circumstances, the performance of the obligation shall be executed at the place where the debtor party lives or where its head office

is located, or where it resides at the time of creation of the obligation.

(3) If the debtor party is a legal person with several branches on different locations, the place where the branch that is to undertake the activities necessary for performance of the obligation is located is considered as a place of performance, provided the creditor party was or had to be familiar with these circumstances when negotiating the contract.

Place of Performance of Monetary Obligations

Article 309

(1) A monetary obligation shall be performed at the place where the creditor party's office is located or where the creditor party lives or resides.

(2) Where a payment is executed through a transfer order, the monetary obligation shall be performed where the registered office of the bank i.e. the savings bank that keeps account of the creditor party's assets is located.

(3) Where the creditor party has changed the location of its registered office or the place of living at the time when the obligation was created and the performance costs have increased as a result, the increase shall be at the expense of the creditor party.

VIII. RECEIPT

Terms Relating to Receipt

Article 310

(1) Any person/party that has fully or partially performed an obligation shall be entitled to request a receipt from the creditor party.

(2) A debtor party that has paid a monetary obligation through a bank or a post-office may request a receipt from the creditor party only for a justified reason.

(3) Where a receipt is issued for a fully paid principal, it shall be assumed that the interest, court and other expenses have also been paid, had there been any.

(4) Also, where a debtor party making periodic payments such as rents and other payables that are periodically calculated such as those for spent electricity or use of telephone, possesses a receipt confirming that it has paid a matured payable, it shall be assumed that it has also paid the payables that have matured previously.

Refusal to Issue a Receipt

Article 311

Where the creditor party refuses to issue a receipt, the debtor party may deposit with a court the object of its obligation.

IX. RETURNING BONDS

Article 312

(1) Where a debtor party has fully performed its obligation, it may request that the creditor party, in addition to issuing a receipt, return the relevant bond.

(2) Where a creditor party cannot return the bond, the debtor party shall be entitled to request from

the creditor party a certified document stating that the obligation has been terminated.

(3) If a debtor party has been returned the bond, it shall be assumed that the obligation has been fully performed.

(4) A debtor party that has partially performed an obligation shall be entitled to request that the performance be noted on the bond.

COMPONENT 2 DEFAULT

I. DEFAULT OF DEBTOR PARTY

When is a Debtor Party in Default

Article 313

(1) A debtor party shall be in default if it does not perform the obligation within the time period set for performance.

(2) Where a performance time period is not set, the debtor party shall be in default if the creditor party calls the debtor party to perform the obligation either orally or in written, or by means of an extrajudicial notice or initiating a procedure the purpose of which is to achieve performance of the obligation.

II. DEFAULT OF CREDITOR PARTY

When is a Creditor Party in Default

Article 314

(1) A creditor party shall be in default if it refuses to accept the performance without any justified reason or if it prevents the performance with its behaviour.

(2) A creditor party shall also be in default if it is ready to accept the debtor party's simultaneous obligation, but does not offer performance of its simultaneous mature obligation.

(3) A creditor party shall not be in default if it proves that the debtor party was not able to perform its obligation when the performance was offered or during the time period determined for performance.

Effect of Creditor Party's Default

Article 315

(1) Where a creditor party is in default, the default of the debtor party shall be terminated and the risk for incidental destruction or damaging of the object shall be transferred to the creditor party.

(2) Interest shall cease to run from the date of the creditor party's default.

(3) A creditor party in default shall be bound to pay compensation to the debtor party for the damage for which it is liable due to the default, and to pay for the expenses for further keeping of the object.

COMPONENT 3

DEPOSITING AND SALE OF OWED OBJECT

Depositing with a Court

Article 316

- (1) Where a creditor party is in default, or is unknown, or when it is uncertain who the creditor party is and where it is located, or where the creditor party is incapable of business activities but does not have a representative, the debtor party may deposit the object owed to the creditor at a court.
- (2) The same right shall pertain to third parties that have a legal interest in having the obligation performed.
- (3) The debtor party shall be bound to inform the creditor party of the deposit if it knows who the creditor party is and where the creditor party resides.

Court Competent for Depositing

Article 317

- (1) Depositing shall be made at the court having jurisdiction at the place of performance, unless economic reasons or the nature of the transaction indicate that the deposit is to be done in the location where the object is.
- (2) Any other court having jurisdiction must accept the object in deposit, while the debtor party shall be bound to pay compensation to the creditor party if the creditor party has suffered damage because the object was deposited with another court.

Depositing Objects for Keeping to another Person

Article 318

- (1) Where the subject matter of an obligation is an object that cannot be kept as a court deposit, the debtor party may request that the court appoint a person who will be entrusted the object for keeping at the expense of the creditor party.
- (2) In case of an obligation arising from a contract in the economy sector, the deposit of such an object for keeping in a public warehouse at the expense of the creditor party shall have the same effect as depositing in a court.
- (3) The debtor party shall be bound to notify the creditor party of the delivery of an object for deposit.

Taking the Deposited Object Back

Article 319

- (1) A debtor party may take back the deposited object.
- (2) When taking back the deposited object, the debtor party shall be bound to notify the creditor party.
- (3) The right of the debtor party to take back the deposited object shall be terminated when the

debtor party yields that right in court, when the creditor party states that it accepts the deposited object, and when it is confirmed by a effective court decision that the deposit complies with all the terms of a correct performance.

Effect of Deposit

Article 320

- (1) A debtor party shall be exempted from the obligation for the owed object, at the moment it deposits the object.
- (2) Where a debtor party is in default, its default shall be terminated.
- (3) The risk of incidental destruction or damage to the object shall be transferred to the creditor party at the moment the object is deposited.
- (4) Interest shall cease to run from the day of deposit.
- (5) Where the debtor party takes the deposited object back, it shall be deemed that no deposit was made, and the debtor party's co-debtors and guarantors shall still be bound.

Costs of Deposit

Article 321

The costs of a valid and irrevocable deposit shall be borne by the creditor party, should they exceed the performance costs that the debtor party is bound to cover.

Sales Instead of Depositing an Object

Article 322

- (1) Where an object is not fit for keeping, or where the keeping or maintaining of the object requires expenses disproportional to its value, the debtor party may sell the object at a public sale at the location determined for performance, or at any other place, if that is in the best interest of the creditor party, and the debtor party shall deposit the obtained amount less the costs of the sale to the court of that place.
- (2) Where the object has a current price, or where its value is less than the costs of the public sale, the debtor party may sell the object privately.
- (3) Where the object may easily be destroyed or spoiled, the debtor party shall be bound to sell it without default and in the most appropriate manner.
- (4) In any case, the debtor party shall be bound to notify the creditor party of the intended sale whenever it is possible, and after the sale, of the achieved price and of the deposit of the amount at court.

Handing Over the Object to the Creditor Party

Article 323

A court shall hand the deposited object over to the creditor party in accordance with conditions set forth by the debtor party.

Sale in Order to Cover the Keeping Costs

Article 324

(1) Where the keeping costs are not paid within a reasonable time period, upon the request of the keeper, a court shall order that the object be sold and it shall determine the manner in which it will be sold.

(2) The amount obtained through sale less the costs for keeping and sale shall be deposited at court for the creditor party.

SECTION 3

OTHER WAYS OF TERMINATING OBLIGATIONS

COMPONENT 1

SET OFF (BARTER)

General Terms

Article 325

A debtor party may set off a claim against the claim of the creditor party, if both claims are payable in money or other exchangeable objects of the same kind and quality, and if both have matured.

Notification of Set Off

Article 326

(1) A set off shall not take effect as soon as the conditions for it have been created, but it is necessary that a party notify the other party that it is undertaking a set off.

(2) After a notification of a set off has been made, it shall be deemed that the set off takes effect as soon as the conditions for it have materialised.

Absence of Reciprocity

Article 327

(1) A debtor party cannot set off what it owes to the creditor party against what the creditor party owes to a guarantor.

(2) However, a guarantor may undertake a set off of the debtor party's obligation towards the creditor party against the debtor party's receivable claim from the creditor party.

(3) A party that has pledged its own asset for an obligation of another party, may request that the creditor party return the pledged object as soon as the conditions for termination of that set off obligation are fulfilled, or when the creditor party by its own fault omits to undertake a set off.

Expired Claim

Article 328

(1) A debt may be set off against expired claim receivable, provided the claim was not expired at the moment when the conditions for a set off were created.

(2) Where conditions for a set off were created after one of the claims had expired, the set off shall not take effect if the debtor party pleads expiration due to the statute of limitations of the expired

claim.

Set Off against an Assigned Claim

Article 329

- (1) A debtor party of an assigned claim may claim set off against the assignee of those of its claims which, until the notification of the assignment, it could have set off against the assignor.
- (2) A debtor party may also set off against the assignee those of its claims against the assignor which it had acquired prior to notification of assignment whose performance was not due at the moment if received notice 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 party expressing its firm intention to the assignee to accept the assignment shall not be able to set off against the assignee any of its claims against the assignor.
- (4) Should the assigned claim be entered in public registries, the debtor party may effect the set off against the assignee only if the assignee's claim was entered together with the assigned claim, or if the assignee was notified about such claim at the time of the assignment.

Cases when the Set Off Is Excluded

Article 330

Claims that cannot be terminated with a set off shall be the following:

- 1) A claim that cannot be confiscated;
- 2) A claim for objects or value of objects that were given to the debtor party for keeping or as a loan, or that were taken or kept illegally by the debtor party;
- 3) A claim created by a wilful tort;
- 4) A claim for compensation for damage caused by injury to health or by causing death;
- 5) A claim which arises from the legal obligation for having a guardian.

Prohibition of a Claim of the Other Party

Article 331

A debtor party cannot effect a set off, if its claim matured after a third party has prohibited the creditor's claim towards the debtor party.

Set Off Payment

Article 332

Where several obligations between two parties exist which can be terminated by a set off, the set off shall be effected in accordance with the rules that apply for taking into account in the matter of performance.

COMPONENT 2

RELEASE OF A DEBT

Agreement

Article 333

- (1) An obligation shall be terminated when the creditor party states to the debtor party that it will not request performance of the obligation and when the debtor party agrees to it.
- (2) For this agreement to be valid, it shall not be necessary to be made in the same form in which the transaction from which the obligation resulted was entered.

Cancelling Insurance Instruments

Article 334

The return of a pledge or cancellation of other instruments that would ensure performance of an obligation shall not mean that the creditor party has waived the right to request that the obligation be performed.

Release of a Guarantor's Debt

Article 335

- (1) The release of the guarantor's debt shall not release the primary debtor party, while the release of the debt of the primary debtor party shall release the guarantor.
- (2) When there are several guarantors and the creditor party releases one of them, the others shall still be bound, but their obligations shall be reduced for the part of the released guarantor.

General Release of Debts

Article 336

A general release of debts shall terminate all claims of a creditor party towards a debtor party, except for those claims the existence of which the creditor party was not aware of at the moment of the release.

COMPONENT 3

CREATING A SUBSTITUTE OBLIGATION

Terms

Article 337

- (1) An obligation shall be terminated if the creditor and the debtor party agree to substitute the existing obligation with a substitute one and if the substitute obligation has a different subject matter or a different legal basis.
- (2) An agreement between creditor and a debtor party that changes or amends a provision relating to time, place or manner of performing an obligation, then a subsequent agreement relating to interest, contractual penalty, insurance of the performance or any other accessory provision, as well as an agreement for issuing a new document for a debt, shall not be considered a substitute obligation.
- (3) Issuance of a bill of exchange or a cheque as a result of a previous obligation shall not be considered to be a substitute obligation, unless so agreed.

Intention to Create a Substitute Obligation

Article 338

A substitute obligation shall not be assumed, so that if the parties do not express an intention to terminate the existing obligation when they create a substitute one, the previous obligation shall not be terminated but still exists along with the substitute one.

Effects from Creating a Substitute Obligation

Article 339

- (1) A contract for creating a substitute obligation shall terminate a previous obligation and shall create a new one.
- (2) When a previous obligation is terminated, any pledge or guarantee shall be terminated as well, unless otherwise agreed with the guarantor or the pledgor.
- (3) The same shall apply to other accessory rights that were related to the previous obligation.

Defect in a Previous Obligation

Article 340

- (1) A substitute obligation shall be without effect if the previous obligation was null and void or already terminated.
- (2) Where a previous obligation is only rescindable, a substitute obligation shall be valid should the debtor party be aware of the defect of the previous obligation.

Effect of Nullity

Article 341

Where a contract for creating a substitute obligation is nullified, it shall be deemed that the new obligation was not created and that the previous obligation did not cease to exist.

COMPONENT 4

MERGING (CONFUSION)

Article 342

- (1) Where by means of merging the one party becomes both debtor and creditor, the obligation shall be terminated.
- (2) Where a guarantor becomes a creditor party, the obligation of the primary debtor party shall not be terminated.
- (3) An obligation registered in a public registry shall be terminated by merging only after the termination has been entered in the registry.

COMPONENT 5

IMPOSSIBILITY TO PERFORM

Terminating an Obligation Due to Impossibility to Perform

Article 343

- (1) An obligation shall be terminated when its performance becomes impossible due to circumstances beyond the debtor party's responsibility.
- (2) A debtor party must prove the circumstances, which terminate its responsibility.

When Subject matter of an Obligation Are Objects of a Certain Type

Article 344

- (1) Where the subject matter of an obligation is objects of a certain type, the obligation shall not be terminated even when all such objects, possessed by the debtor party are destroyed due to circumstances for which the debtor party is not responsible.
- (2) However, where the subject matter of an obligation is objects of a certain kind that are to be taken from a certain mass of such objects, the obligation shall be terminated when all that mass is destroyed.

Assignment of Rights to a Third Party Responsible for Impossibility to Perform

Article 345

A debtor party that owes a certain object, exempted from its obligation due to the impossibility to perform, shall be bound to transfer to the creditor party the right that it would otherwise have towards a third party as a result of the created impossibility.

COMPONENT 6

EXPIRATION OF TIME LIMIT, CANCELING NOTICE

Duration of a Long Term Debt Relationship

Article 346

A long term debt relationship with a fixed duration shall be terminated when the set time period expires, except where contracted or provided by law that after the set time period has expired, the debt relationship continues to be in effect for an indefinite period of time, unless cancelled in due time.

Cancelling Notice for a Long Term Debt Relationship

Article 347

- (1) Where the duration of a long term debt relationship is not fixed, each party may cancel it with a notice.

- (2) The notice must be submitted to the other party.
- (3) A notice may be given at any time, unless the time is not appropriate.
- (4) A cancellable debt relationship shall be terminated upon the expiration of the cancellation term provided for in the contract, while where such a term is not provided in a contract the relationship shall be terminated upon the expiration of the term determined by law or custom or upon the expiration of an equitable time period.
- (5) Parties may agree that their debt relationship be terminated upon submitting of the termination notice, unless the law provides otherwise for certain cases.
- (6) A creditor party shall be entitled to request from the debtor party that which has matured before the obligation has been terminated with the expiration of the time period or with a notice.

COMPONENT 7 DEATH

Article 348

An obligation shall be terminated upon the death of the creditor or the debtor party, only if its creating was dependent on the personal features of the either contracting party or the personal capacity of the debtor party.

SECTION 4

STATUTE OF LIMITATIONS

COMPONENT 1

GENERAL PROVISIONS

General Rule

Article 349

- (1) When an obligation is time barred by statute of limitations, the right to request enforced performance shall be terminated.
- (2) An obligation becomes time barred when the time period prescribed by law in which the creditor party can request performance has lapsed.
- (3) If a debtor party does not invoke the statute of limitations, a court cannot take limitation into consideration.

When Limitation Starts Due to Statute of Limitations

Article 350

- (1) The limitation period due to statute of limitation shall begin to run on the first day following the day when the creditor party was entitled to request performance of the obligation, unless the law provides otherwise for certain cases.
- (2) Where the subject of an obligation is something not to be done, to be omitted or endured, the

limitation period due to statute of limitations shall begin to run on the first day following the day when the debtor party acted contrary to the obligation.

Coming to Effect of Limitation Due to Statute of Limitations

Article 351

Limitation due to statute of limitations shall come into effect when the last day of the time period provided by law has passed.

Including the Time of the Previous Debtors

Article 352

The limitation period due to statute of limitations shall include the time that has passed in favour of the debtor party's predecessors.

Prohibition to Change the Limitation Period

Article 353

(1) A longer or a shorter limitation period due to the statute of limitations than the one provided by law cannot be determined by a legal transaction.

(2) It cannot be determined by means of a legal transaction that the limitation shall not run for a certain period of time.

Renouncing Limitation Due to Statute of Limitations

Article 354

A debtor party cannot renounce limitation of an obligation due to statute of limitations before the time period fixed for expiration has passed.

Written Acknowledgment and Guarantee of an Obligation Time Barred Due to Statute of Limitations

Article 355

(1) A written acknowledgment of a time barred obligation shall be considered a renunciation of limitation.

(2) The same effect shall be produced from making a pledge or providing any other guarantee for a claim time barred due to statute of limitations.

Effect of Performing an Obligation Time Barred Due to Statute of Limitations

Article 356

Having performed a time barred obligation, a debtor party shall not be entitled to request the return of that which it has given, even if he/she was not aware that the obligation was time barred due to statute of limitations.

Creditor Party with a Secured Claim

Article 357

(1) When the limitation period has passed, the creditor party with a claim insured by a pledge or a mortgage may settle the claim only out of the encumbered object, provided it holds it or its right is recorded in a public registry.

(2) However, claims for interests or other periodic payments that are time barred due to a statute of limitations cannot be settled out of encumbered property.

Accessory Claims

Article 358

Where the main claim is time barred due to a statute of limitations, any accessory claims, such as claims of interest, benefits, expenses and contractual penalty, shall be time barred as well.

When Rules Relating to Statute of Limitations Are Not Applicable

Article 359

Rules relating to statute of limitations of an obligation shall not be applicable in cases where the law provides a time limit for filing a lawsuit or performing a specific act under the risk of losing the right.

COMPONENT 2

TIME PERIODS DUE TO STATUTE OF LIMITATIONS

General Limitation Period

Article 360

Claims shall become time barred in five years, unless another limitation period is provided by law.

Periodic Claims

Article 361

(1) Claims for periodic payments that mature annually or within specified shorter time periods (periodic claims), both in cases of secondary periodic claims, such as the claim of interest, and periodic claims in which the right itself is consumed, such as the claim of support, shall become time barred due to a statute of limitations in three years following the maturing of each separate payment.

(2) The same shall apply to periodic payments by which the principle and the interest are paid in predetermined periodic amounts, but does not apply to instalments and other partial performances.

Limitation of the Right Itself Due to a Statute of Limitations

Article 362

(1) The right itself from which periodic claims arise shall become time barred in five years, after the oldest unperformed claim for which the debtor party did not make any payment has matured.

(2) Where the right from which periodic payments arise has become time barred due to the statute of limitations, the creditor party shall lose the right to request not only future periodic payments, but also periodic payments that had matured before the right has become time barred.

(3) The right to a support that is provided by law cannot become time barred due to statute of limitations.

Mutual Contract Claims in the Area of Exchange of Goods and Services

Article 363

(1) Mutual claims of the contractual parties arising from contracts arising from the exchange of goods and services and claims of compensation for costs incurred in relation to these contracts shall become time barred due to the statute of limitations in three years.

(2) The limitation period shall run separately for each delivery of goods, performed work or service.

Rent Claim

Article 364

A claim of rent, whether it is decided to be paid periodically or in a total amount, shall become time barred due to the statute of limitations in three years.

Claim of Compensation for Damage

Article 365

(1) A claim of compensation for damage shall become time barred due to a statute of limitations in three years after the damaged party has found out about the damage or the party causing the damage.

(2) In any case, this claim shall become time barred due to the statute of limitations in five years after the damage has been caused.

(3) A claim of compensation for damage caused by breaching a contractual obligation shall become time barred due to the statute of limitations within the time period fixed by the statute of limitations for that particular obligation.

Claim of Compensation for Damage Caused by a Criminal Act

Article 366

(1) Where damage is caused due to a criminal act and a longer limitation period has been fixed for prosecution of the criminal act, the request for compensation for damage against the person liable for the damage shall become time barred after the limitation period due to the statute of limitations has passed.

(2) Cancellation of the running of the limitation period for the prosecution shall also cancel the running of the limitation period for the related claim for damages.

(3) The same shall also apply to suspension of a limitation period.

One Year Limitation Period due to Statute of Limitations

Article 367

(1) The following claims shall become time barred due to statute of limitations in a year:

1. a claim for payment of fees for delivered electrical and thermal energy; gas, water, chimney sweeping services and cleaning services, where the delivery or the service was performed for the needs of a household;
2. a claim of a radio or television station for usage of a radio receiver or a TV set;
3. post-office, telegraph and telephone claim for usage of telephone and post office boxes and other claims payable quarterly or in shorter periods.
4. claim of subscription to periodic publications, after the time period for which the publication was ordered has passed.

(2) The limitation period shall run even in cases where the deliveries and the services have been extended.

Claims Confirmed by Court or Other Competent Body

Article 368

(1) Claims that are confirmed by a valid court decision or decision of another competent body, or by a set off in a court or another competent body, as well as claims for which the law otherwise prescribes a shorter limitation period, shall become time barred due to the statute of limitations in ten years.

(2) However, periodic claims arising from such decisions or set off that mature in future shall become time barred within the limitation period prescribed for periodic claims.

Limitation Period in Insurance Contracts

Article 369

(1) Claims under a life insurance contract shall become time barred due to the statute of limitations in five years, while claims under other insurance contracts become time barred due to the statute of limitations in three years, starting from the first day of the next calendar year following the creation of the claim.

(2) Where an interested party proves that until the date specified in the previous paragraph, he/she was not aware of the insured event, the limitation period shall begin on the day when the party became aware about the insured event; thereby, in any case, a claim of life insurance shall become time barred due to statute of limitations in ten years, while for other insurance the claim shall become time barred due to the statute of limitations in five years following the day specified in the paragraph 1 of this article.

(3) Claims of an insurer arising from an insurance contract shall become time barred due to the statute of limitations in three years.

(4) In cases of a third party liability insurance, where a damaged party seeks compensation or receives compensation from the insured party, the limitation period of the claim of the insured party against the insurer shall begin to run on the day following the day when the damaged party filled the claim in court or the day when the insured compensated the damaged party.

(5) A direct claim by a damaged third party against an insurer shall become time barred due to the statute of limitations within the same time period that applies to the third party's claim against the insured that is liable for the damage.

(6) The limitation period of a claim of the insurer against a third party liable for the insured event shall begin to run at the same time as the limitation period of a claim of the insured towards the

third party, and shall become time barred within the same time period.

COMPONENT 3

SUSPENSION OF LIMITATION PERIOD

Claims among Certain Persons

Article 370

The running of a limitation period comes shall be suspended:

1. Between spouses;
2. Among parents and children for the duration of the parenthood right;
3. Among the ward, its guardian and the body dealing with custody, for the duration of the custody and until everything is accounted for;
4. Between two people who live in a cohabitant community for the time that community exists.

Claims of Certain Persons

Article 371

The running of a limitation period shall be suspended in the following cases:

1. during mobilisation, in case of direct war danger or case of war, regarding cases of claims of persons that have been drafted, and
2. regarding cases of claims that persons employed in another person's household have against the employer or the members of his family who live with him, for the time the employment lasts.

Insurmountable Obstacles

Article 372

Limitation period shall not run for the entire period during which a creditor party was not able to seek performance of the obligation in court due to insurmountable obstacles.

Effect of Reasons for Suspension on the Limitation Period

Article 373

- (1) If a limitation period cannot begin to run due to a legal reason, it shall begin to run as soon as that reason ceases to exist.
- (2) Where an expiration period begins to run before the reason that prevents its further development is created, it shall continue to run when that reason ceases to exist, and the time that has passed before the standstill shall be calculated following the expiration term provided by law.

Claims against Parties Incapable of Business Activities and Their Claims

Article 374

(1) Limitation period shall also run against a minor or other party incapable of business activities, regardless of whether they have a legal guardian or not.

(2) However, claims of a minor without a legal guardian or other party incapable of business activities and without a representative shall not be time barred until two years have passed after they became incapable of business activities, or after they had obtained a representative.

(3) Where for a claim to become time barred a period shorter than two years is needed, and where the creditor party is a minor without a legal guardian or other person incapable of business activities and without a representative, the expiration limitation period of that claim shall begin to run when the creditor party acquires authorisation to do business or when it obtains a representative.

Claim against a Person Serving in the Military Service

Article 375

A limitation period for a claim against a person serving in military service or a person on warfare manoeuvres cannot begin to run until three months have passed after the termination of the military service or the warfare manoeuvres.

COMPONENT 4

TERMINATION OF LIMITATION PERIOD

Acknowledging a Debt

Article 376

(1) A limitation period of a claim shall be terminated when the debtor party acknowledges the debt.

(2) A debt may be acknowledged through a statement submitted to the creditor party, or indirectly, by making an instalment payment, paying interest or providing guarantee.

Filing a Lawsuit

Article 377

The limitation period shall be terminated by the creditor party by filing a lawsuit or by any other action against the debtor party before a court or other competent body in order to confirm, secure or perform a claim.

Withdrawal, Overruling or Rejecting a Lawsuit

Article 378

(1) It shall be deemed that a termination of a limitation period that has been brought about by the creditor party by filing a lawsuit or any other action against the debtor party before a court or other competent body in order to confirm, secure or perform a claim, shall not have effect if the creditor party withdraws the lawsuit or the action it has taken against the debtor party.

(2) It shall also be deemed that a termination of the limitation period is without defect if the lawsuit or the claim by the creditor party is overruled or rejected, or if an obtained or undertaken measure of execution or security is annulled.

Rejecting a Lawsuit Due to Lack of Jurisdiction

Article 379

(1) Where a lawsuit against the debtor party is rejected due to lack of jurisdiction of a court or due to any other reason that does not relate to the essence of the activity, so that the creditor party again files a lawsuit within three months from the day when the decision to reject the first lawsuit has taken effect, the limitation period shall be deemed to be terminated by filing the first lawsuit.

(2) The same shall apply to invoking protection and claiming a set off of claims in a dispute, as well as in the event a court or other organ directs the debtor party to enforce its claim through legal proceedings.

Calling the Debtor Party

Article 380

In order to terminate a limitation period, it shall not be sufficient for the creditor party to call the debtor party in person or in writing to perform the obligation.

Limitation Period Due to Statute of Limitations in Case of Termination

Article 381

(1) After being terminated, a limitation period shall begin to run again and the time that passed before the termination shall not be calculated in the limitation period provided by law.

(2) A limitation period that has been terminated by an acknowledgment on behalf of the debtor party shall begin to run again following the acknowledgment.

(3) Where a limitation period has been terminated by filing a lawsuit or invoking protection, or by pleading a set off against a claim in a dispute or by filing a claim in other proceedings, the limitation period shall begin to run again following the date when the dispute has been resolved or concluded in any other way.

(4) Where a limitation period has been terminated by filing a claim in a bankruptcy proceeding, the limitation period shall begin to run again following the date when the bankruptcy proceeding has been concluded.

(5) The same shall apply when a limitation period is terminated by a request for a coercive enforcement or obtaining security.

(6) A limitation period that begins to run again after it has been terminated shall be concluded after the limitation period provided by law for the terminated limitation period that has passed.

Limitation Period in Cases Where a Substitute Obligation Is Created

Article 382

Where a limitation period has been terminated by a debt acknowledgment by the debtor party and both the creditor and the debtor party have agreed to change the basis or the subject matter of the

obligation, the substitute claim shall become time barred within the relevant statutory limitation period.

CHAPTER V
VARIOUS TYPES OF OBLIGATIONS
SECTION 1
MONETARY OBLIGATIONS

COMPONENT 1

GENERAL PROVISIONS

The Principle of Monetary Nominalism

Article 383

Where the subject of an obligation is an amount of money, the debtor party shall be bound to pay the number of monetary units for which the obligation is payable, unless otherwise provided by law.

Currency of Obligation

Article 384

- (1) A provision shall be allowed in the contract regulating the value of the contractual obligation in domestic currency to be expressed or calculated in foreign currency.
- (2) In the cases referred to in paragraph 1 of this article, the obligation shall be preformed by payment in domestic currency, according to the average exchange rate of the National Bank of the Republic of Macedonia at the day of performance.

Index Clause

Article 385

A provision shall be allowed in the contract making the amount of monetary obligation in domestic currency dependable to the price changes of goods and services quoted in price indexes defined by an authorised person (index clause).

Sliding Scale

Article 386

In contracts where one party shall be bound to produce and deliver specified objects, it shall be allowed to agree that the price will depend on the costs of materials and labour, as well as on other elements that influence the costs of production at a certain time and in a certain market.

Early Payment

Article 387

- (1) A debtor of a monetary obligation may pay the same before expiration of the time deadline.

(2) A contract clause in which a debtor party waives this right shall be declared null and void.
In cases where a monetary obligation has been paid ahead of time, the debtor party shall be entitled to reduce the amount of the debt for the amount equal to the interest payable between the date of payment and the date the obligation would have matured, provided this has been specified by a contract.

CONTRACTUAL INTEREST

Rate of Contractual Interest

Article 388

- (1) The contracting parties shall mutually agree upon the amount of interest.
- (2) Shall the interest be agreed, but the rate or the time of coming due not defined, than the discount rate of the National Bank of the Republic of Macedonia applicable at the time of concluding the contract shall apply and shall come due at the time the main claim is due.
- (3) Shall the monetary obligation is expressed or defined in foreign currency, unless agreed otherwise, or otherwise defined by law, the creditor party shall receive the interest in domestic currency following the lowest current account rate paid by the bank which rate applies to the foreign currency deposits in the place of performance.

Increasing Interest Rate

Article 389

A provision shall be allowed in the contract prescribing that the interest rate will increase if the debtor party does not pay the matured interest on time.

Interest on Non-monetary Obligations

Article 390

The provisions of this law relating to contractual interest shall be appropriately applicable to obligations the subject of which is objects of a specified kind.

SECTION 2

OBLIGATIONS WITH SEVERAL SUBJECT MATTERS

COMPONENT 1

ALTERNATIVE OBLIGATIONS

The Right of Choice

Article 391

Where an obligation has two or more objects as subject matters and the debtor party shall be bound to perform only one in order to be released from the obligation, the right to choose, unless otherwise agreed, shall belong to the debtor party and the obligation shall terminate when the debtor party hands over the object he/she has chosen.

Irrevocability and Effect of the Choice Made

Article 392

- (1) The choice shall be made when the party having the right to choose notifies the other party about the choice made, and as of that moment, the choice cannot be changed.
- (2) By making the choice, it shall then be considered that the obligation was simple from the very beginning and that the original subject of the obligation was the chosen one.

Duration of the Right of Choice

Article 393

- (1) A debtor party shall be entitled to choose until one of the owed objects is fully or partially handed over to the creditor party as chosen by the creditor party in the course of the procedure for coercive performance.
- (2) Where the right of choice belongs to a creditor party that fails to make a choice within the time period set for performance, the debtor party may call the creditor party to make the choice and determine a reasonable time period, after the expiration of which the right of choice is transferred to the debtor party.

Choice Entrusted to a Third Party

Article 394

Where a choice is to be made by a third party that fails to make the choice, each of the parties may request that the choice is made by a court.

Limitations to the Remaining Subject Matter

Article 395

Where the subject matter of an obligation has become impossible due to an event for which none of the parties is responsible, the obligation shall then be limited to the remaining subject matter.

Restriction in Cases of Liability of One Party

Article 396

- (1) Where one of the subject matters of an obligation becomes impossible to perform due to an event for which the debtor party is responsible, if the right of choice belongs to the debtor party, the obligation shall be restricted to the remaining subject, whereas if the right of choice belongs to the creditor party, the creditor party may request performance of the remaining subject or compensation for damage, according to its choice.
- (2) Where one of the subject matters of an obligation becomes impossible to perform due to an event for which the creditor party is responsible, the debtor party's obligation shall terminate; however, if the debtor party has the right of choice, it may request compensation for damage and may perform the obligation with the remaining subject, while if the right of choice belongs to the creditor party, it may pay compensation for damage and request performance of the remaining subject.

COMPONENT 2

OPTIONAL OBLIGATIONS AND OPTIONAL CLAIMS

I. OPTIONAL OBLIGATIONS

Authorisation of a Debtor Party in an Optional Obligation

Article 397

A debtor party whose obligation is made of a single subject matter but is allowed to perform its obligation by delivering some other specific subject matter, may exercise this right only until the creditor party obtains completely or partially subject matter of the obligation in a procedure for coercive performance.

Authorisation of a Creditor Party in an Optional Obligation

Article 398

(1) A creditor party in an optional obligation may request from a debtor party only the object which is the subject matter of the obligation, but not any other object that the debtor party may choose to perform the obligation.

(2) Where a subject matter of an obligation becomes impossible to perform due to an event for which the debtor party is responsible, a creditor party may only claim compensation for damage, whereas the debtor party may free itself from the obligation by delivering an object that it is authorised to deliver instead of the owed object for subject matter.

II. OPTIONAL CLAIMS

Article 399

(1) Where it is provided by a contract or law that a creditor party may request from the debtor party some other object instead of the object owed for a subject matter, the debtor party shall deliver such an object should the creditor party so require.

(2) In the remaining matters relating to optional claims the corresponding rules on optional and alternative obligations shall apply, in accordance with the intention of the contracting parties and the circumstances of the transaction.

SECTION 3

OBLIGATIONS WITH SEVERAL DEBTOR OR CREDITOR PARTIES

COMPONENT 1

DIVISIBLE OBLIGATIONS

Dividing Obligations and Claims

Article 400

(1) An obligation shall be divisible if what is owed can be divided and performed in parts that have same features as the subject matter, provided that by dividing no value is lost; otherwise, the obligation shall not be divisible.

(2) Where there are several debtor parties in a divisible obligation, such an obligation shall be divided between them in equal shares, unless a different kind of division is determined, and each debtor party shall be liable for its share of the obligation.

(3) Where there are several creditor parties in a divisible obligation, the claim shall be divided between them in equal shares, unless otherwise agreed, and each creditor party may request only its share of the claim.

Precondition for Joint Liability

Article 401

Where there are several debtor parties in a divisible obligation that has arisen from a commercial contract, they shall be jointly liable to the creditor party, unless the contracting parties have explicitly eliminated the joint liability.

COMPONENT 2

JOINT OBLIGATIONS

I. JOINT DEBTORS

Content of Debtors' Joint Liability

Article 402

(1) Each debtor of a joint obligation shall be liable to a creditor party for the entire obligation, while the creditor party may request performance from any of the debtors until it is completely performed; however, when one of the debtor parties performs the obligation, it shall cease to exist and all debtor parties shall be released.

(2) Each of the jointly liable debtor parties may owe performance under a different time limit or under different terms or, in general, under various exceptions.

Set off of a Debt

Article 403

(1) Each joint debtor may plead set off of a debt effected by a co-joint debtor party.

(2) A joint debtor may set off of a claim of a co-joint debtor party towards a creditor party against the creditor party's claim, but only for an amount equal to that co-debtor party's debt share in the joint obligation.

Discharge of a Debt

Article 404

(1) Discharge of a debt by one of the debtor parties shall exempt from liability the other debtor

parties as well.

(2) However, where the discharge is intended to exempt from liability only the debtor party in question, the joint obligation shall be reduced for the share which according to the mutual relations between debtor parties belongs to that debtor, while the remaining debtor parties shall be jointly liable for the remainder of the obligation.

Creating a Substitute Obligation

Article 405

(1) Creating a substitute obligation between one of the joint debtor parties and the creditor party shall also exempt the remaining debtor parties.

(2) However, where the creditor party and the debtor party in question have restricted the substitution to that debtor party's share of the obligation, the obligation of the other debtor parties shall not terminate and shall only be reduced by the value of that share.

Settlement

Article 406

Settlement agreed between one of the joint debtor parties and the creditor party shall have no effect for the remaining debtor parties, while they shall be entitled to accept such a settlement, provided that it is not limited to the debtor party it has been agreed with.

Merging

Article 407

Where one person shall become both creditor and debtor party in the same joint obligation, the obligation of the remaining debtor parties shall be reduced by the amount of that person's share.

Default of a Creditor Party

Article 408

Where a creditor party is in default in relation to one of the joint debtor parties, it shall also be in default in relation to the remaining joint debtor parties.

Default of One Debtor Party and Acknowledgment of a Debt

Article 409

(1) The default of one joint debtor party shall have no effect on the remaining debtor parties.

(2) The same shall apply to acknowledgment of a debt performed by one of the joint debtor parties.

Suspension, Termination and Waiver of Limitation Period due to Statute of Limitations

Article 410

(1) Where a limitation period ceases to run or is in a suspension for one debtor party, it shall continue to run for the remaining joint debtor parties, and it may be completed; however, the debtor party for which the obligation is not time barred and who had to perform it, shall be entitled to request that the rest of the debtor parties for which the obligation is time barred, reimburse the

value of their respective shares in the obligation.

(2) A waiver of a completed limitation period shall have no effect on the rest of the debtor parties.

Right of Compensation of a Person Performing an Obligation

Article 411

(1) A debtor party that has performed an obligation shall be entitled to request from each joint debtor party to compensate the part of the obligation for which he/she is liable.

(2) The fact that the creditor party has released one of the debtor parties or that it has reduced that debtor party's share, shall have no effect on the matter.

(3) Where one debtor party cannot reimburse its share, the share shall be proportionally distributed to all debtor parties.

Equal Shares and Exception

Article 412

(1) Unless otherwise agreed or indicated by the legal relations between participants in a transaction, shares of all debtor parties shall be equal.

(2) However, if a joint obligation is stipulated solely in the interest of one debtor party, that debtor party shall be bound to compensate the entire amount of the obligation to the joint debtor party that has settled the debt with the creditor party.

II. JOINT CREDITOR PARTIES

No Presumption of Joint Liability

Article 413

Where there are several persons on the creditor side, they shall be jointly liable provided joint liability has been contracted or provided by law.

Content of Joint Liability

Article 414

(1) Each joint creditor party shall be entitled to request from a debtor party performance of the entire obligation, but if one of them has been settled the obligation towards the rest of the creditor parties shall terminate as well.

(2) A debtor party may perform an obligation towards a creditor party of its own choice, but only until one of the creditor parties requests performance.

Set Off

Article 415

(1) A debtor party may set off its obligation against its claim against the creditor party that requests performance of the obligation.

(2) A debtor party may set off against a claim owed to it by another creditor party only up to the amount of the share in the joint claim that belongs to that creditor party.

Discharging a Debt and Creating a Substitute Obligation

Article 416

By discharging a debt and by creating a substitute obligation between a debtor party and one of the creditors, the joint obligation shall be reduced for the amount of that share in the claim of the creditor party.

Settlement

Article 417

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

Merging

Article 418

Where one party is both a creditor and a debtor, each of the remaining joint creditors shall be entitled to request from that party its share of the claim only.

Default

Article 419

- (1) Where a debtor party is in default in relation to one joint creditor party, it shall be in default in relation to the rest of the creditor parties as well.
- (2) Default by one joint creditor party shall affect the rest of the creditor parties as well.

Acknowledgment of Debt

Article 420

Acknowledgment of a debt effected by one creditor party shall be of use to all creditor parties.

Limitation Period Due to Statute of Limitations

Article 421

- (1) Where the limitation period of one creditor party is in a suspension or it does not run against that creditor party, it shall not be of use to the rest of the creditor parties and the limitation period for them shall continue to run.
- (2) Waiver of limitation period due to statute of limitation of one creditor party shall be of use to the rest of the creditor parties as well.

Relations between Creditor Parties after Performance

Article 422

- (1) Each joint creditor party shall be entitled to request that the creditor party who has received performance by a debtor party deliver the share to which that joint creditor party is entitled.
- (2) Unless otherwise indicated by the relations between the creditor's parties, each joint creditor party shall be entitled to an equal share.

COMPONENT 3

INDIVISIBLE OBLIGATIONS

Article 423

- (1) Where there are several debtor parties in an indivisible obligation, regulations relating to joint obligations shall accordingly apply.
- (2) Where there are several creditor parties in an indivisible obligation and no agreed or statutory joint liability exists between them, one of the creditors may request that the debtor party perform the obligation, provided it is authorised by the rest of the creditors to receive the performance; otherwise, each creditor party may request that the debtor party perform the obligation towards all creditor parties together, or to make a deposit to a court.

CHAPTER VI

SUBSTITUTION OF CREDITOR'S OR DEBTOR'S PARTY

SECTION 1

CONTRACTUAL ASSIGNMENT OF CLAIMS

COMPONENT 1

GENERAL PROVISIONS

Which Claims may be Assigned by Contract

Article 424

- (1) A creditor party may assign its claim to a third party by contract entered into with that third party, except a claim the transfer of which is not permitted by statute, or which is related to the creditor party's person or the nature of which is contrary to the assignment to another party.
- (2) A contract of assignment shall have no effect for a debtor party if the debtor party and the creditor party have agreed that the latter shall not be able to assign the claim to another, or that it shall not be able to assign it without consent from the debtor party.

Accessory Rights

Article 425

- (1) Along with the claim, a recipient shall be transferred the accessory rights, such as the right to a

priority collection, mortgage, pledge, rights arising from a contract with a guarantor, rights to interest, contractual penalty, etc.

(2) However, an assignor may deliver the object to the recipient only if the pledgor agrees; otherwise, it shall remain with the assignor to keep the same on behalf of the recipient.

(3) It shall be presumed that due and outstanding interest has been assigned together with the principal claim.

Notifying a Debtor Party

Article 426

(1) It shall not be necessary for a debtor party to consent to an assignment of a claim, but the assignor shall be obliged to notify the debtor party of the effected assignment.

(2) Where a debtor party has performed an obligation to the assignor prior to being informed about the assignment, the performance shall be valid and shall release the debtor party from the obligation, but only if the debtor party was not aware of the assignment; otherwise, the obligation shall remain and the debtor party shall be obliged to perform it towards the recipient.

Multiple Assignments

Article 427

Where a creditor party has assigned the same claim to various persons, the claim shall belong to the recipient of whom the assignor has first informed the debtor party or to the recipient who was the first to contact the debtor party.

COMPONENT 2

RELATIONS BETWEEN A RECIPIENT AND A DEBTOR PARTY

Article 428

(1) A recipient shall have the same rights against a debtor party that the assignor had against the debtor party prior to the assignment.

(2) A debtor party may, in addition to objections that it has against the recipient, plead objections that it could raise against the assignor until the moment of being notified of the assignment.

COMPONENT 3

RELATIONS BETWEEN AN ASSIGNOR AND A RECIPIENT

Presenting Documents on Debt

Article 429

(1) An assignor shall be obliged to present to the recipient a debenture bond or some other document on debt should be in his/her possession, as well as other evidence of the assigned claim and of accessory rights.

(2) Where an assignor transfers to the recipient only a part of a claim, he/she shall be obliged to present to the assignee a certified copy of a debenture bond or some other document that proves the existence of the assigned claim.

(3) The assignor shall, upon request from the recipient, be obliged to issue a certified acknowledgment of the assignment.

Liability for the Existence of a Claim

Article 430

Where an assignment is effected by a contract with compensation, the assignor shall be liable for the existence of the claim at the moment of effecting the assignment.

Liability for Collectibility

Article 431

(1) The parties may agree that the assignor shall be liable for the collectibility of an assigned claim, but only up to the amount of the assigned claim, as well as for the collectibility of interest, expenses relating to the assignment and expenses of proceedings against the debtor party.

(2) It shall not be possible to stipulate higher liability of an assignor in good faith.

COMPONENT 4

PARTICULAR CASES OF ASSIGNMENT OF CLAIMS

Assignment instead of Performance or for the Purpose of Collection

Article 432

(1) Where a debtor party assigns to a creditor party a claim or a part of the claim instead of performing an obligation, the obligation shall terminate up to the amount of the assigned claim upon entering into the contract of assignment.

(2) However, where a debtor party assigns a claim to its creditor party only for the purpose of collection, its obligation shall terminate or be reduced, only after the creditor has collected the assigned claim.

(3) In both cases, the recipient shall be obliged to hand over to the assignor what he/she has collected in excess of the amount of his/her claim towards the latter.

(4) In cases of assignment for the purpose of collection, a debtor party of an assigned claim may perform its obligation to the assignor even if he/she has been notified of the assignment.

Assignment for the Purpose of Security

Article 433

Where assignment is effected for the purpose of securing the recipient's claim against an assignor, the recipient shall be obliged to proceed as a good businessman or good host in seeing to the collection of the assigned claim; after the collection and after deducting the amount necessary for

settling his/her own claim against the assignor, the recipient shall hand over the difference to the assignor.

SECTION 2

SUBSTITUTION OF DEBTOR PARTY

COMPONENT1 ASSUMPTION OF DEBT

II. GENERAL PROVISIONS

Contract for Assuming a Debt

Article 434

- (1) Assumption of a debt shall be effected if a creditor party consents to a contract between a debtor party and a person assuming the debt.
- (2) Any of these two may inform the creditor party on the entered contract and the creditor party may communicate its consent on the assumption of debt to either of them.
- (3) It shall be anticipated that the creditor party has given its consent if it has openly received performance by the person assuming the debt in his/her own behalf.
- (4) Contracting parties, as well as each one of them separately, may request that the creditor party decide whether or not to consent to the assumption of the debt within a certain time period, and if the creditor party fails to do so in that period, it shall be considered that consent has not been given.
- (5) A contract for assumption of a debt shall have the effect of a contract for taking over a performance until the creditor party gives consent for the contract of assumption of a debt, as well as where the creditor party refuses to give consent.

Cases of Debt Secured by Mortgage

Article 435

- (1) In cases where real property is under mortgage when being transferred, if a transferee and a transferor have agreed that the transferee shall assume a debt owed to the mortgage creditor, the mortgage creditor shall be considered to have consented to the contract for assumption of the debt unless he/she has refused it upon the written request from the transferor, within three months following the date when he/she accepted such a request.
- (2) The written request specified in the preceding paragraph shall contain notification relating to this consequence or otherwise the request shall not be considered as being sent.

II. EFFECTS OF CONTRACT FOR ASSUMPTION OF DEBT

Substitution of a Debtor Party

Article 436

- (1) A person assuming a debt shall substitute for the previous debtor party, while the debtor party shall be released from the obligation.
- (2) However, if at the time of the creditor party's consent to the contract for assumption of debt the person assuming the debt was over indebted, and the creditor party was not nor had to be aware of that, the previous debtor party shall not be released from obligation, while the contract for assumption of debt shall have the effect of a contract for joining a debt.
- (3) The same obligation which existed between the previous debtor party and the creditor party shall now exist between the person assuming the debt and the creditor party.

Accessory Rights

Article 437

- (1) Accessory rights which existed together with the claim shall continue to exist, but guaranties and pledges given by third parties shall terminate if the guarantors and pledgors do not consent to be liable for the new debtor party as well.
- (2) Unless otherwise agreed, a person assuming a debt shall not be liable for uncollected interest that became due prior to the assumption of the debt.

Objections

Article 438

- (1) A person assuming a debt may raise against a creditor party all objections that arise from the legal relation between the previous debtor party and the creditor party from whom the debt is assumed, as well as objections that the person assuming the debt raises against the creditor party.
- (2) A person assuming a debt cannot raise against a creditor party objections originating from his/her legal relation with the previous debtor party which was the basis for assuming the debt.

COMPONENT 2

JOINING A DEBT

Contract for Joining a Debt

Article 439

A contract between a creditor party and a third party by which the latter assumes an obligation towards the creditor party to perform the creditor party's claim against a debtor party, shall mean that the third party has joined the obligation together with the debtor party.

Joining a Debt in Cases of Accepting Entire Property

Article 440

- (1) A person to whom the entire or a part of some property (craftsman's workshop or alike) of an individual person or a legal person is transferred on the basis of a contract, shall be liable for debts pertaining to that property or its part, together and jointly with the former owner, but only up to the value of the assets of that property.

(2) A contractual clause by which the liability referred to in paragraph 2 of this article would be limited or excluded shall have no legal effect on the creditor parties.

COMPONENT 3

TAKING OVER A PERFORMANCE

Article 441

(1) Take over of a performance shall be effected by a contract between a debtor party and a third party, by which the latter shall undertake an obligation to perform the debtor party's obligation to its creditor party.

(2) The third party shall be liable to the debtor party for failing to perform the obligation to the creditor party in due time, so that the latter shall request performance from the debtor party.

(3) However, the third party shall not assume or join a debt and the creditor party shall have no rights whatsoever against the third party.

PART TWO CONTRACTS

Chapter VII

SALE

SECTION 1

GENERAL PROVISIONS

Definition

Article 442

(1) With the sale contract a seller shall be obliged to deliver the sold goods to the buyer and transfer to him/her the right of disposal or the right of ownership, while the buyer shall be obliged to pay the price to the seller.

(2) A seller of a right shall be obliged to provide the buyer with the right sold, and should effecting of the right require possession of the goods, deliver the goods as well.

Form of a Sale of Immovable Property

Article 443

(1) A contract for sale of immovable property must be in writing.

(2) The signatures of contractual parties in the contract for sale of immovable property shall be notary verified.

Risk

Article 444

- (1) The risk of accidental deterioration or damage to goods until they are delivered to the buyer shall be born by the seller, while upon delivery of the goods the risk shall be transferred to the buyer.
- (2) The risk shall not be transferred to the buyer if the buyer has cancelled the contract due to a defect in the delivered goods or has requested replacement of the goods.

Transfer of Risk Where a Buyer is in Default

Article 445

- (1) Where a delivery of goods is not effected due to a buyer's default, the risk shall be transferred to the buyer at the moment the buyer is in default.
- (2) Where goods specified in kind are the subject of a contract, when the seller has singled out goods obviously intended for delivery and has notified the buyer thereof, the risk shall be transferred to the buyer in default.
- (3) However, where goods specified in kind are of such a nature that the seller cannot single out one part of them, it shall be sufficient that the seller do everything necessary to enable the buyer to take over the goods and notify the buyer thereof.

SECTION 2

TERMS OF THE SALE CONTRACT

COMPONENT 1

SUBJECT

General Rule

Article 446

- (1) The subject of a contract must be into circulation; thus a contract for sale of an object that is not into circulation shall be null and void.
- (2) Specific regulations shall apply for sale of goods the circulation of which is restricted.
- (3) A sale may also relate to a future object.

Where Goods Have Deteriorated Prior to Entering into the Contract

Article 447

- (1) A sale contract shall have no legal effect if at the moment of entering the contract the goods have deteriorated.
- (2) Where at the moment of entering into a contract the goods have only partially deteriorated, the buyer may cancel the contract or keep the goods after proportionately reducing the price.

(3) However, the contract shall remain valid and the buyer shall only be entitled to a reduced price, if the partial deterioration of the goods does not impede the performance of the purpose of the contract, or if the custom in the legal affairs is such regarding the goods in question.

Sale of another Party's Goods

Article 448

A sale of another party's goods shall be binding on the contracting parties. However, where the buyer was not and did not have to be aware of the fact that the goods belonged to another, he/she may cancel the contract and request compensation for damage if, due to the foregoing, it is impossible to realise the purpose of the contract.

Sale of a Disputable Right

Article 449

- (1) A disputable right may be the subject of a sale contract.
- (2) However, a contract where an attorney or any other instructed party buys a disputable right the performance of which is entrusted to him/her, or where he/she negotiates for him/herself a share of the amount awarded to the principal party, shall be declared null and void.

COMPONENT 2

PRICE

Where Price is not Determined

Article 450

- (1) Where the price is not indicated in a sale contract, and the contract has no sufficient elements to determine the price, the contract shall have no legal effect.
- (2) Where the price is not indicated in a commercial sale contract and the contract has no sufficient elements to determine the price, a buyer shall be obliged to pay the price otherwise regularly charged by the seller at the time of entering the contract, having no other reasonable price.
- (3) A reasonable price shall be the current price at the time of entering into the contract, and where the price is impossible to be determined a court shall determine the price as indicated by the circumstances of the case.

Prescribed Price

Article 451

Should a higher price is agreed than the one prescribed by a competent organ for specific kind of goods, the buyer shall owe only the amount of the prescribed price, and where the buyer has already paid the agreed price, he/she shall be entitled to request reimbursement of the difference in prices.

Where the Agreed Price is the Current Price

Article 452

- (1) Where the current price is agreed upon, the buyer shall owe the price as indicated in official records of the market at the seller's place of business at the time of performance.
- (2) Where there are no such records, the current price shall be determined on grounds of elements used in the trade custom and practice to determine a price.

Where a Third Party Is Entrusted to Determine the Price

Article 453

Where a third party entrusted to determine the price refuses or is unable to determine it, and subsequently the contracting parties fail to agree on a price or to cancel the contract, it shall be considered that a reasonable price has been agreed.

Where One Contracting Party Is to Determine the Price

Article 454

A contract clause regulating that the price is determined by one contracting party only shall be considered as not agreed upon, so that the buyer shall owe a price applicable in cases where no price has been agreed.

SECTION 3

OBLIGATIONS OF THE SELLER

I. DELIVERY OF OBJECTS

1. DELIVERY IN GENERAL

Time and Place of Delivery

Article 455

- (1) A seller shall be bound to deliver objects to a buyer at the time and place specified in a contract.
- (2) As a rule, the seller has performed the obligation to deliver the objects to the buyer upon handing over the objects to the buyer or delivering a certificate that provides for the objects to be taken over.

Subject of Delivery

Article 456

- (1) Unless something else is stipulated or indicated by the nature of the activity, a seller shall be obliged to deliver the object to a buyer in a normal condition, together with its accessories.
- (2) The usufruct and other benefits from the object shall belong to the buyer from the moment the seller was obliged to deliver the same.

Where Delivery is Agreed within a Certain Period of Time

Article 457

Where it is agreed that the delivery of objects shall be performed within a certain period of time, and it is not specified which party shall be entitled to determine the delivery date within that period, such right shall belong to the seller, unless the circumstances of the case indicate that the delivery date is to be determined by the buyer.

Where the Delivery Date is not Determined

Article 458

Where the date of delivery of objects to a buyer is not determined, a seller shall be bound to perform the delivery within a reasonable time period after the contract has been entered, as indicated by the nature of the object and other circumstances.

Where the Place of Delivery is not Indicated in a Contract

Article 459

(1) Where the place of delivery is not indicated in a contract, the delivery of object shall be effected at the place of the seller's permanent or temporary residence at the moment of entering the contract, or in cases where the seller has entered into a contract in the course of his/her regular business activities, the delivery shall be performed at his/her registered office.

(2) However, if, at the moment of entering into a contract, the contracting parties are aware of the location of the object or of where it was manufactured, the delivery shall be effected at such place.

Delivery to a Carrier

Article 460

Where, according to a contract, it is necessary to transport the object and there is no indication in the contract as to where the delivery is to be performed, the delivery shall be considered effected at the moment of handing the goods over to the carrier or to a forwarder.

Organising Transportation

Article 461

Where a seller is bound to forward the object to a buyer, he/she must, in a usual manner and under usual terms, enter into the contracts necessary to transport the goods to the designated place.

Costs

Article 462

Delivery costs, as well as those preceding the delivery shall be covered by the seller, while forwarding costs and all other expenses after the delivery, shall be covered by the buyer, unless otherwise agreed.

II. SIMULTANEOUS DELIVERY OF GOODS AND PAYMENT

Postponing Delivery until Payment

Article 463

Unless it is otherwise agreed or usually done, a seller shall not be bound to deliver goods if a buyer fails to pay or is not ready to pay the price simultaneously, while the buyer shall not be bound to pay before being able to inspect the goods.

Postponing Delivery when Goods Are Transported

Article 464

(1) Where the delivery of goods is effected by handing the goods over to a carrier, a seller may postpone the forwarding of the goods until the price has been paid, or he/she may forward them in such a manner so as to maintain the right to disposal during the transport.

(2) When maintaining the right to disposal over goods during transportation, a seller may request that the goods are not delivered to the buyer at the given destination until he/she pays the price, while the buyer shall not be bound to pay before being able to inspect the goods.

(3) However, where a contract provides that payment is done by providing a certain document, a buyer shall not be entitled to refuse payment of the price because of being unable to inspect the goods.

Preventing Delivery of Forwarded Goods

Article 465

(1) Should it turn out after goods have been forwarded to a buyer that his/her financial state raises reasonable doubt as to his/her ability to pay the price, a seller may prevent delivery of the goods to the buyer even after the latter is already in possession of the document authorising him to request delivery of the goods.

(2) However, a seller shall not prevent delivery that is requested by a third party who is in possession of a document authorising him/her to request delivery of the goods, unless the document contains reservations as to the effect of the transfer, or unless the seller provides evidence that the person in possession of the document, when obtaining it, had acted wilfully to the detriment of the seller.

Component 2

LIABILITY FOR SUBSTANTIVE DEFECTS

I. SUBSTANTIVE DEFECTS IN GENERAL

Substantive Defects for Which a Seller is Liable

Article 466

- (1) A seller shall be liable for substantive defects in the goods existing at the moment when the risk is transferred to the buyer, regardless of whether the seller is aware of the fact.
- (2) A seller shall also be liable for substantive defects which arose after the risk has been transferred to the buyer, provided the defects resulted from a cause that existed before.
- (3) An insignificant substantive defect shall not be taken into consideration.

When Do Substantive Defects Exist

Article 467

A defect shall exist:

1. If the goods do not possess the features necessary for their regular use or trading;
2. If the goods do not possess the features necessary for their specific use for which the buyer is acquiring them, that was known or should have been known to the seller;
3. If the goods do not possess the features and characteristics which are explicitly or implicitly agreed, or stipulated;
4. If a seller has delivered goods which are not equal to a sample or a model, unless the sample or the model was presented only as information.

Defects outside a Seller's Liability

Article 468

- (1) A seller shall not be liable for defects referred to in the previous Article, if they were known to the buyer at the moment of entering into the contract or if it was impossible to remain unknown to him/her.
- (2) Defects shall not be considered as unknown to a buyer if they could have been easily noticed in a usual inspection of the goods by a diligent person as a buyer, having average knowledge and experience characteristic of a person of the same professional vocation.
- (3) However, a seller shall be liable for defects which could easily be noticed by a buyer, if the former declares that the goods are free of all defects or that they have specific features or characteristics.

Inspection of Goods and Visible Defects

Article 469

- (1) A buyer shall be bound to inspect goods accepted in a usual manner or to have them inspected as soon as possible in the regular course of events and to inform the seller of visible defects within eight days, whereas in cases of commercial contracts the buyer shall be bound to inform the seller without delay, or otherwise shall lose the right pertaining to him on that ground.
- (2) Where 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, or otherwise lose the right pertaining to him on that ground.
- (3) Where a buyer forwards goods further without transshipment and the seller at the moment of entering into the contract was aware or could have been aware of the possibility for such further forwarding, the inspection of goods may be postponed until their arrival at the new destination, and the buyer shall be bound to inform the seller of defects as soon as he/she is informed about them by the clients in the regular course of events.

Concealed Defects

Article 470

(1) Should it turn out after a buyer has accepted goods that the goods have a defect that was impossible to detect in the usual inspection upon the delivery of the goods (concealed defect), the buyer shall be bound, or otherwise lose the right, to inform the seller of such a defect within eight days from the discovery of the defect, or in cases of commercial contracts, without delay.

(2) A seller shall not be liable for defects appearing after six months from the delivery of goods, unless a longer time period has been stipulated in the contract.

Time Limits in Cases of Repair, Replacement, etc.

Article 471

Should goods be repaired due to a defect, other goods be delivered, parts replaced, etc., the time limit specified in the two preceding two articles shall run from the moment of delivery of the repaired goods, delivery of other goods, replacement of spare parts, etc.

Notification of Defects

Article 472

(1) In a notification of defect in goods, the buyer shall be bound to include a detailed description of the defect and an invitation to the seller to inspect the goods.

(2) If a notification of a defect timely sent to a seller by a buyer as a registered letter, telegram or in some other reliable way, is late or has not reached the seller, the buyer shall be considered to have performed the obligation to notify the seller.

Significance of the Fact that a Seller Has Been Aware of a Defect

Article 473

A buyer shall not lose the right to claim a defect even failing to meet his duty to inspect the goods immediately or to notify the seller of the existence of a defect within a determined time period, as well as where such a defect has appeared six months after the goods have been delivered, if the defect was known or it could not have remained unknown to the seller.

Limiting or Exempting a Seller's Liability for Substantive Defects through a Contract

Article 474

(1) Contracting parties may limit or entirely exempt a seller's liability for substantive defects of goods.

(2) A contract provision limiting or exempting liability for defects in goods shall be void where the defect was known to the seller but he/she failed to notify the buyer thereof, or where the seller has imposed such provision by using his/her particular monopolistic position.

(3) A buyer who has waived the right to cancel the contract due to a defect in goods shall maintain the remaining rights arising from such a defect.

Compulsory Public Sale

Article 475

The owner whose goods are sold at a compulsory public sale shall not be liable for defects in the object.

II. RIGHTS OF THE BUYER

Performance, Price Reduction, Cancellation of Contract, Compensation for Damage

Article 476

- (1) A buyer who has properly and timely notified a seller of a defect may:
1. Request that the seller eliminates the defect or deliver other goods free of defects (performance of contract);
 2. Request price reduction;
 3. Declare cancellation of the contract.
- (2) In each of these cases a buyer shall be entitled to compensation for damage as well.
- (3) In addition, a seller shall also be liable to a buyer for damage caused to other buyer's goods, in accordance with the general rules relating to liability for damage.

Failing to Perform a Contract within a Reasonable Time Period

Article 477

Where a buyer does not receive the requested performance of a contract within a reasonable time period, he/she shall keep the right to cancel the contract or to reduce the price.

When May a Buyer Cancel a Contract

Article 478

- (1) A buyer may cancel a contract only after having given the seller an additional reasonable time period to perform the contract.
- (2) A buyer may cancel a contract even without giving the seller an additional time period should the seller, after having notified him/her about the defects, inform the buyer that he/she will not perform the contract, or should the circumstances of the case indicate without doubt that the seller will not be able to perform the contract even within the additional time period.

Non-Performance of a Contract within the Additional Time Period

Article 479

Where a seller does not perform a contract within the additional time period, the contract shall be cancelled as a matter of law; however, the buyer may maintain its validity by immediately declaring to the seller that he/she will maintain the contract in effect.

Partial Defects

Article 480

- (1) Where only a part of the delivered goods is defective, or only a part of the goods is delivered, i.e. lesser quantity than stipulated, a buyer may cancel the contract as referred to in the preceding articles only in relation to the defective part or the part or quantity missing.
- (2) A buyer may cancel the entire contract only if the stipulated quantity or the goods delivered make up an entirety, or if the buyer has a justified interest in receiving the goods or the stipulated quantity in their entirety.

Where a Seller Has Delivered a Larger Quantity to a Buyer

Article 481

- (1) Should in a case of a commercial sale contract a seller of goods specified by kind, deliver to a buyer a quantity larger than the one stipulated, and should the buyer fail, within a reasonable time

period, to declare his refusal of the surplus, he/she shall be considered to have accepted the surplus as well and shall be bound to pay the same price for it.

(2) Where a buyer refuses to accept a surplus, a seller shall be bound to pay the buyer compensation for damage.

Where One Price Is Determined for Different Goods

Article 482

(1) Where different goods or a collection of goods are sold by one contract and at one price, and only part of them are defective, a buyer may cancel the contract only in relation to such goods and not to the rest.

(2) However, where the goods make up an entirety and their separation would cause damage, a buyer may cancel the entire contract; however, if the buyer declares cancellation of the contract only in relation to the defective goods, the seller may cancel the contract in relation to the rest of the goods as well.

Losing the Right to Cancel a Contract Due to a Defect

Article 483

(1) A buyer shall lose the right to cancel a contract due to defective goods when it is impossible for him/her to return the goods or to restore them to the state in which they were delivered.

(2) However, a buyer may cancel a contract due to defects in goods if the goods are entirely or partially deteriorated or damaged as a result of a defect that justifies the cancellation of the contract, or due to an event not ensuing from him or from a person under his responsibility.

(3) The same shall apply if goods are entirely or partially deteriorated or damaged in relation to the buyer's duty to inspect the goods, or if the buyer, prior to the discovery of the defect, has consumed or altered part of the goods in course of their regular use, or if the damage or alteration is not significant.

Maintaining Other Rights

Article 484

A buyer who has lost the right to cancel a contract due to inability to return the goods or restore them to the condition in which they were delivered to him, shall maintain the other rights provided by law resulting from the existence of a defect.

Effects of the Cancellation Due to a Defect

Article 485

(1) Cancellation of a contract due to a defect in goods shall produce the same effect as cancellation of bilateral contracts due to non-performance.

(2) Although a contract is cancelled, a buyer shall owe a seller compensation for the benefit obtained from the goods even if the seller is unable to restore the entire goods or part of them..

Price Reduction

Article 486

A price shall be reduced in accordance with the proportion between the value of the goods without defects and the value of the goods with defects at the time the contract was entered.

Gradual Discovery of Defects

Article 487

A buyer having obtained a reduced price due to the existence of a defect may cancel the contract or request a new reduction in the price if another defect has been discovered subsequently.

Losing a Right

Article 488

(1) The rights of a buyer who has notified a seller of the existence of a defect in due time shall expire after a year following the date when the notification has been communicated to the seller, except in cases where the buyer has been prevented from using them by a seller's deceit.

(2) However, a buyer who has notified a seller of the existence of a defect in due time may, if he has not yet paid the price after the expiration of this time period, request that the price is reduced or compensation is paid to him/her in the form of an objection against the seller's request to be paid the price.

III. WARRANTY FOR PROPER FUNCTIONING OF SOLD GOODS

Liability of the Seller and the Manufacturer

Article 489

(1) Where a seller of a machine, engine, appliance or other similar goods of the category of the so called technical goods, provides a buyer with a written warranty from the manufacturer guaranteeing the proper functioning of the goods for a certain time period following the moment of its delivery to the buyer, the buyer may, if the goods do not function properly, request both from the seller and the manufacturer that the object be repaired within a reasonable time period or, if they fail to do so, that they be replaced with ones functioning properly.

(2) These rules shall not affect the rules relating to the liability of a seller for defects in goods.

Request for Repair or Replacement

Article 490

(1) Because of improper functioning of the goods, a buyer may request that the seller or the manufacturer repair or replace the goods during the warranty period, regardless of when the fault in the functioning has appeared.

(2) A buyer is entitled to compensation for damage as a result of being deprived of the utilisation of the goods from the moment the request for repair or replacement has been made until it has been performed.

Extending the Warranty Period

Article 491

(1) In cases of minor repairs the warranty period shall be extended for the time period in which the buyer was prevented from using the goods.

(2) However, where due to improper functioning, goods are replaced or thoroughly repaired, the warranty period shall begin to run anew from the date the goods were replaced or returned repaired.

(3) Should only part of the goods be replaced or thoroughly repaired, the warranty period shall begin to run anew only regarding the part in question.

Cancellation of Contract and Reduction of Price

Article 492

If a seller fails to repair or replace the goods within a reasonable time period, the buyer may cancel the contract or reduce the price and request compensation.

Expenses and Risk

Article 493

- (1) A seller i.e. manufacturer shall be bound to cover the expenses for transportation of the goods to the place of repair or replacement as well as deliver the repaired or replaced goods to the buyer.
- (2) A seller or manufacturer shall bear the risk of deterioration or damage to the goods during the above-mentioned period.

Liability of Subcontractors

Article 494

The liability of several independent manufacturers that participate in the production of certain parts of the goods or in the performance of certain activities towards the final manufacturer for the improper functioning of the goods caused by such parts of activities shall terminate after the liability of the final manufacturer towards the buyer has terminated.

Losing a Right

Article 495

The rights of the buyer in relation to a manufacturer arising from a written warranty shall expire within one year after the date of requesting that the seller repairs or replaces the goods.

Component 3 LIABILITY FOR LEGAL DEFECTS (PROTECTION AGAINST EVICTION)

Legal Defects

Article 496

- (1) A seller shall be liable for sold goods that are subject to a third party's right which excludes, reduces or restricts the buyer's right, when the existence of which has not been communicated to the buyer and the buyer has not accepted the goods burdened with such a right.
- (2) A seller of some other right shall guarantee its existence and the non-existence of legal obstacles to its realisation.

Notifying a Seller

Article 497

Should it turn out that a third party claims a right over the goods, the buyer shall be bound to notify the seller, unless the seller is already aware of that, and the buyer shall request that the seller release the goods from the third party's right or claim within a reasonable time period, or, should the subject of contract be goods specified by kind, that the seller delivers other goods free of legal defects.

Sanctions for Legal Defects

Article 498

- (1) Where a seller fails to proceed in accordance with a buyer's request and the buyer is deprived of the goods, the contract shall be cancelled as a matter of law, while where a buyer's right is reduced

or restricted, he/she may either cancel the contract or request a proportional price reduction.

(2) Should a seller fail to meet a buyer's request to release the goods from a third person's claim or right in a reasonable time period, the buyer may cancel the contract if, because of that, the purpose of the contract is impossible to achieve.

(3) A buyer shall in any case be entitled to compensation for suffered damage.

(4) However, should a buyer, at the moment of entering into a contract, be aware of the possibility of being deprived of the object or of being restricted his/her right, he/she shall have no right to be compensated for damage after such possibility has been realised, but shall still be entitled to request reimbursement or reduction of the price.

Where a Buyer Fails to Notify a Seller

Article 499

A buyer, who engages in litigation against a third party without notifying the seller, and who has lost in the litigation, may still plead the seller's liability for legal defects, unless the seller proves that he/she was in possession of the assets in order to reject a third party's claim.

When the Right of a Third Party Is Obviously Justified

Article 500

(1) A buyer shall also be entitled to plead the seller's liability for legal defects when without notifying the seller and without litigation, the buyer has acknowledged an obviously justified right of a third party.

(2) Where a buyer pays to a third party an amount of money in order that the third party renounces his/her obvious right, a seller may be excused from the liability if he/she compensates the buyer for the amount paid and the suffered damage.

Limiting or Exempting Seller's Liability by Contract

Article 501

(1) The liability of a seller for legal defects may be limited or entirely exempted by contract.

(2) However, if a seller was aware of a defect in his/her right, or if it could not have remained unknown to him at the time of entering the contract, the contract provision limiting or exempting liability for legal defects shall be void.

Public Legal Restrictions

Article 502

A seller shall be liable for particular public legal restrictions that were unknown to a buyer, if being aware of them or being aware that they may be expected, he/she has failed to inform the buyer thereof.

Losing a Right

Article 503

(1) The right of a buyer on the ground of legal defects shall expire one year after he/she has become aware of the existence of a third party's right.

(2) However, where prior to the expiration of such a time limit the third party has initiated litigation and the buyer has called the seller to take part in it, the right of the buyer shall terminate

after six months following the final court decision.

SECTION 4

OBLIGATIONS OF THE BUYER

Component 1

PAYMENT

Time and Place of Payment

Article 504

- (1) A buyer shall be bound to pay the price at the time and place indicated in the contract.
- (2) Where there is no such provision in the contract or no other custom and practice, the payment shall be done at the moment and place of delivery of the goods.
- (3) If the price does not have to be paid upon delivery, the payment shall be done at the residence or the main office of the seller.

Interest in Cases of Sale on Credit

Article 505

In case goods are sold on credit, the buyer shall owe the interest unless otherwise agreed.

Payment in Cases of Consecutive Deliveries

Article 506

- (1) In cases of consecutive deliveries the buyer shall be bound to pay the price for each delivery at the moment of receiving, unless otherwise agreed or indicated by the circumstances of the transaction.
- (2) If in the case of a contract providing for consecutive deliveries, the buyer has made an advance payment to the seller, the first deliveries shall be charged against such an advance payment, unless otherwise agreed.

Component 2

RECEIVING DELIVERY OF GOODS

Article 507

- (1) Receiving a delivery of goods shall consist of undertaking necessary actions in order to make the handing over possible, as well as the taking away of the goods.
- (2) Should a buyer refuse without a justified reason to take over the goods offered to him/her in the usual manner and on time, a seller may, if there is a reasonable ground that the buyer will pay the price, declare an intention to cancel the contract.

SECTION 5

OBLIGATION TO PRESERVE GOODS FOR THE ACCOUNT OF

A CONTRACTING PARTY

Where a Party is Obligated to Preserve Goods

Article 508

- (1) Should due to a buyer's default the risk be transferred to the buyer prior to the delivery of goods, a seller shall be bound to take care of the goods as a good businessman or good head of household, and to take the necessary measures.
- (2) The same shall apply where goods have been delivered to a buyer, if the buyer wants to return the goods to the seller either because he/she has cancelled the contract or because he/she requested the delivered goods to be replaced with other goods.
- (3) In both cases the contracting party that is bound to take measures for preserving the goods shall be entitled to reimbursement of the expenses needed for preserving the goods.

Where a Buyer Refuses to Accept Goods Forwarded to Him / Her

Article 509

A buyer who refuses to accept goods forwarded to him/her and placed at his/her disposal at the destination place, shall be bound to receive the goods for the account of the seller, if the latter is not present at the destination place and there is no one at the place to take the goods for him/her, provided that this is possible without paying the price and without too much inconvenience or excessive costs.

Rights of a Party Obligated to Take Care of Goods

Article 510

A contracting party who, as provided in the forgoing provisions, shall be bound to take measures to preserve the goods may, in compliance with the conditions and consequences specified in the provisions of this Law that relate to depositing at court and to sale of owed goods, deposit the goods at a court, or hand them over to somebody else to keep, or sell the goods to the other party.

SECTION 6

COMPENSATION OF DAMAGE WHERE SALE IS CANCELLED

General Rule

Article 511

Where a sale is cancelled due to breach of contract by one of the contracting parties, the other party shall be entitled to compensation for damage in accordance with the general rules relating to compensation for damage due to breach of contract.

Where Goods Have Current Price

Article 512

- (1) Where a sale is cancelled by one contracting party due to breach of contract, the other party may, if the goods have a current price, request the balance between the contract and the current price on the date of cancelling the contract at the market of the place where the transaction is being performed.
- (2) Where there is no current market price at the place where the transaction is being performed, in order to calculate the compensation, the price existing at that moment at a market that could replace it in the given case shall be taken into account, but increased for any difference in the transportation costs.

Sale or Purchase to Cover Expenses

Article 513

- (1) Where the subject of a sale is a certain quantity of goods specified in kind and one party fails to meet the obligation on time, the other party may sell or purchase goods to cover expenses, and may request the difference between the contracted price and the selling or purchasing price obtained in the transaction for coverage.
- (2) A sale or purchase to cover expenses must be performed within a reasonable time and in a reasonable manner.
- (3) A creditor party shall be bound to inform a debtor party of the intended sale or purchase.

Compensation for Remaining Damage

Article 514

In addition to the right to compensation for damage in accordance with the rules pertaining to the forgoing articles, a party faithful to a contract shall also be entitled to compensation for more excessive damage provided the party in question has suffered it.

SECTION 7

CASES OF SALE WITH SPECIAL ADVANTAGES

Component 1

SALE WITH PRIORITY RIGHT TO PURCHASE

Definition

Article 515

On the basis of a contract provision that provides for a priority right to purchase, a buyer shall be bound to inform a seller of the intention to sell the goods to a certain person and of the terms of such a sale, as well as to offer the seller to purchase the goods at the same price.

Time Limits for Effecting a Right and for Payment

Article 516

- (1) A seller shall be bound to inform a buyer in a reliable manner of his/her decision to exercise the priority right to purchase within a month from the date when the seller has informed the buyer of the intended sale to a third party.

(2) Simultaneously with the statement that he/she is buying the goods, the seller shall be bound to pay the price agreed upon with the third party, or deposit it in a court.

(3) Where a time limit for payment is stipulated in the contract with a third party, the seller may make use of the time limit only after providing a sufficient guarantee.

Possibility of Inheritance and Transfer

Article 517

A right to priority purchase of movable property cannot be transferred to another or inherited, unless otherwise provided by law.

Cases of Compulsory Public Sale

Article 518

(1) In cases of compulsory public sale a seller cannot plead the priority right to purchase.

(2) However, a seller whose priority right to purchase is registered in the public registry may demand annulment of a compulsory sale, unless he/she was explicitly invited to attend.

Duration of the Priority Right to Purchase

Article 519

(1) The priority right to purchase shall be terminated five years after entering into the contract, unless earlier termination is agreed.

(2) A longer stipulated time period shall be reduced to a period of five years.

Transfer of Ownership without Notifying a Seller

Article 520

(1) Where a buyer has sold goods and transferred the ownership to a third person without notifying the seller, while the third person was aware or could not have been unaware of the fact that the seller had the priority right to purchase, the seller may, within six months from the date of becoming aware of such a transfer, request that the transfer be annulled and the goods handed over to him under the same conditions.

(2) Where a buyer has incorrectly notified a seller of the terms and conditions of a sale to a third person, while the third party was aware or could not have been unaware of that, the six months time limit shall begin to run from the date when the seller has found out the correct terms and conditions of the contract.

(3) In any case, the priority right to purchase shall terminate upon the expiration of five years following the transfer of ownership of the goods to a third person.

Statutory Priority Right to Purchase

Article 521

(1) For certain persons the priority right to purchase may be established by law.

(2) The duration of the statutory priority right to purchase shall not be limited.

(3) Persons entitled by law to the priority right to purchase must be notified in writing of the intended sale and its relevant terms; otherwise, they shall be entitled to request annulment of the sale.

(4) The rules relating to sale with priority right to purchase shall accordingly apply to the statutory priority right to purchase.

Component 2

TRIAL PURCHASE

Definition

Article 522

(1) Where it is stipulated that a buyer will take goods on condition to test their suitability to his/her wishes, the buyer shall be bound to inform the seller as to his/her honouring the contract within the time period indicated in the contract or by custom and practice, and where there is no such time period or custom, within a reasonable time determined by the seller; otherwise the contract shall be considered cancelled.

(2) Where goods are delivered to a buyer to try them within a certain time period and the buyer fails to return the goods immediately after the expiration of the set time period or fails to declare to the seller cancellation of the contract, the buyer shall be considered to have honoured the contract.

Impartial Testing

Article 523

Where testing is stipulated in order to find out whether goods have a certain feature or whether they are suitable for a particular use, the existence of the contract shall not depend on the buyer's opinion, but on whether the goods really possess such features or whether they are suitable for a particular use.

Risk

Article 524

The risk of accidental deterioration or damage to goods delivered to a buyer for testing shall be born by the seller until the buyer states that he/she will honour the contract, or until the expiration of the time limit for the buyer to return the goods to the seller.

Purchase after Inspection or with a Trial Option

Article 525

Provisions on trial purchase shall accordingly apply to purchase after inspection and to purchase with trial option.

Component 3

SALE BY SAMPLE OR MODEL

Article 526

(1) In cases of sale by sample or model, if the goods delivered by the seller to the buyer under a commercial contract do not conform to the sample or the model, the seller shall be liable according to the regulations relating to a seller's liability for substantive defects in goods, while in other cases according to the regulations relating to liability for non-performance of the obligation.

(2) A seller shall not be liable for lack of conformity if the sample or the model was submitted only for the buyer to be informed and to determine approximately the features of the goods, without being promised conformity.

Component 4

SALE WITH SPECIFICATION

Article 527

- (1) Where in a contract the right of a buyer to subsequently determine the form, the measure or other details of the goods for sale is reserved, but the buyer fails to make this specification by the agreed date or until the expiration of a reasonable time period following the date when the seller requested that the buyer do so, the seller may declare cancellation of the contract or make a specification according to what is known to him about the buyer's needs.
- (2) Where the seller makes the specification, he/she shall be bound to inform the buyer of its details and set for the buyer a reasonable time limit to prepare a different specification.
- (3) If the buyer does not use this opportunity, the specification prepared by the seller shall be binding.

Component 5

SALE BY KEEPING THE RIGHT OF OWNERSHIP

Terms

Article 528

- (1) A seller of a certain immovable property item may, by a special provision in the contract, keep the right of ownership even after delivering the object to the buyer until the buyer pays the price completely.
- (2) Keeping a right of ownership shall affect a buyer's creditors only if it is made in the form of a certified document, prior to the buyer's bankruptcy or prior to the seizure of the goods.
- (3) The seller of immovable property item or items for which special public registries are maintained may keep the right of ownership with a special provision in the contract until the buyer pays the whole price.

Risk

Article 529

The risk of accidental deterioration or damage to goods shall be born by the buyer from the moment the goods have been delivered to him/her.

Component 6

SALE BY INSTALMENT PAYMENT

Definition

Article 530

- (1) With the contract for sale of movable property item to be paid in instalments, a seller shall be bound to deliver to a buyer the particular movable property item before

he/she pays the whole price, while the buyer shall be bound to pay the price in instalments, i.e. in certain time intervals.

(2) The provisions of this component that relate to sale by instalment payment of price shall apply only when the buyer is an individual.

Form of Contract

Article 531

A contract for sale by instalment payment must be made in writing, regardless of the item for sale.

Essential Elements of Contract

Article 532

(1) In addition to goods and their price in a cash sale, the following has to be indicated in the contract document, in order that the contract does not become void: the total amount of all instalments, including the first payment made at the moment of entering into the contract, the amounts of the individual instalments, their number and time limits.

(2) In order that the contract does not become void, the contract document must include a provision providing that a buyer may cancel the contract if he/she informs the seller in writing, within three days from the date of signing the document, and that the buyer cannot waive this right in advance.

Right of a Buyer to Pay the Rest of the Price in Full at Once

Article 533

(1) A buyer may always pay the rest of the price at once.

(2) Such a remainder shall be paid in net amount, without contractual interest and without costs.

(3) A provision contrary to this shall be void.

Cancellation of Contract and Request to Pay Full Price

Article 534

(1) A seller may cancel a contract if a buyer is in default on the first instalment.

(2) After the first instalment has been paid, a seller may cancel a contract if a buyer defaults with at least two subsequent instalments.

(3) By way of derogation, a seller may cancel a contract if a buyer defaults the payment of only one instalment, if the payment of the price does not provides for more than six instalments, unless the contract provides for smaller number of instalments.

(4) In the cases referred to in paragraph 2 and 3 of this Article, a seller, instead of cancelling a contract, may request that a buyer pays the rest of the price, but prior to such a request the seller shall be bound to give the buyer a subsequent time limit of 15 days.

Court Extension of Payment Time Limits

Article 535

At a buyer's request a court may, where justified by the circumstances of the case, extend the time limit for payment of overdue instalments, if the buyer provides for a guarantee that he/she will perform his/her obligations, and if the seller does not suffer any damage because of that.

Nullity of Contractual Penalty

Article 536

A contractual provision that provides for contractual penalty if the contract is cancelled or if the buyer is late in paying some of the instalments shall be void.

Cancellation of Contract

Article 537

- (1) Where a contract is cancelled a seller shall be bound to return to the buyer the received instalment amounts with statutory interest from the date when the seller has received them, and to reimburse to the buyer the necessary expenses incurred in relation to the goods.
- (2) The buyer, on his/her part, shall be bound to return the goods to the seller in the state in which they were at the moment of delivery, and to pay for the use of the goods until the cancellation of the contract.

Application of the Rules Relating to Sale by Instalment Payment

Article 538

- (1) The rules relating to instalment payment sale shall also apply in cases of other deals with essentially similar contents, such as the lease contract with a provision according to which the ownership over a leased goods shall be transferred to the leaseholder if he/she pays rent for a certain period of time.
- (2) These rules shall also apply where a loan granted to a buyer is intended for purchasing certain goods, if the lender and the seller come to an agreement that, according to a contract entered between the buyer and the seller, the buyer shall effect instalment payments to the lender for the goods that were sold to him/her by the seller.

Nullity of Provisions which are not Favourable to the Buyer

Article 539

Contractual provisions relating to sale by instalment payment which would be less favourable for the buyer of the provisions of this Chapter, except for the provisions relating to keeping the right of ownership, shall be void.

Chapter VIII SELLING ORDER

Definition

Article 540

- (1) By a selling order contract the party accepting the order shall be bound to sell a certain movable item delivered to him/her by the orderer at a certain price and within a certain time period, or to return the goods to the orderer within the same time period.
- (2) A selling order may not be revoked.

Risk of Deterioration and Damaging of the Object

Article 541

Goods delivered to a consignee shall remain property of the orderer and the orderer shall bear the risk of their accidental deterioration or damage, but shall not be able to have them at his/her disposal until they are returned to him/her.

When shall it be considered that a Consignee has Purchased Goods

Article 542

(1) Where a person accepting the order fails to sell the goods and deliver the amount of the indicated price to the orderer within the indicated time period, or to return the goods within that time period, shall be considered to have purchased the goods.

(2) The creditors may not be able to seize the goods until the price is paid to the orderer.

Chapter IX

EXCHANGE

Definition

Article 543

(1) With an exchange contract each contracting party shall be bound to deliver to the other negotiating party the goods that are being exchanged so that the latter obtains the right of ownership over the goods.

(2) Transferable rights may also be subject of exchange.

Effects of the Exchange Contract

Article 544

(1) The exchange contract shall for each contracting party produce the obligations and rights that otherwise arise for the seller from the sale contract.

(2) For all the rest of the exchange, the provisions of the sale contract shall apply adequately.

Chapter X

LOAN

Section 1

GENERAL PROVISIONS

Definition

Article 545

(1) By a loan contract a lender shall be bound to deliver to a borrower a certain amount of money or quantity of fungible goods, while the borrower shall be bound to restitute to the lender after a certain period of time the same amount of money or quantity of goods of equal kind and quality.

(2) A borrower shall acquire the right of ownership upon the received goods.

Interest

Article 546

(1) A borrower may oblige himself/herself to owe interest in addition to the principal.

(2) When the interest rate of the interest referred to in paragraph (1) of this Article is agreed for a monetary obligation in the national currency, and it is expressed in a foreign currency or it is determined in such a currency, it shall be considered as usurious if it is twice bigger than the interest rate paid for the monetary obligation of that foreign currency and is predominant on the international financial market on the maturity date of the monetary obligation in the national currency.

(3) According to this Law, predominant interest rate shall be the interest rate used on the

international financial market (Libor) or the interest rate of the interbank financial market in Europe (Euribor) on the maturity date of the monetary obligation in the national currency.

Section 2

OBLIGATIONS OF A LENDER

Delivery of Promised Goods

Article 547

- (1) A lender shall be bound to deliver the indicated goods at the agreed time, and where the time limit for delivery is not specified, when requested by the borrower.
- (2) The right of a borrower to request delivery of the indicated goods shall expire three months after the lender's default or otherwise, one year after the contract has been entered.

Poor Financial Circumstances of a Borrower

Article 548

- (1) Where the financial state of a borrower indicates that he/she may not be able to pay back the loan, a lender, if not aware of that fact when entering into the contract or if the borrower's financial state deteriorates after the contract has been entered, may refuse to deliver the promised goods.
- (2) A lender shall be bound to perform the obligation if a borrower or someone else on the behalf of the borrower provides sufficient guarantee.

Damage Due to Defects of the Borrowed Goods

Article 549

- (1) A lender shall be bound to pay compensation to a borrower for damage caused due to substantive defects in the borrowed goods.
- (2) If the loan is without compensation, the lender shall be bound to compensate the damage only if the defects were known or could not have been unknown to him/her, but he/she did not inform the borrower thereof.

Section 3

OBLIGATIONS OF A BORROWER

Time Limit for Restituting a Loan

Article 550

- (1) A borrower shall be bound to restitute an equal quantity of goods of the same kind and quality within an agreed time limit.
- (2) Where contracting parties fail to determine a time limit for restituting the loan, or where it is impossible to determine the time limit in light of the circumstances of the loan, the borrower shall be bound to restitute the loan upon the expiration of a reasonable time limit not shorter than two months after the lender's request that the loan be restituted to him/her.

Options at Restituting a Loan

Article 551

- (1) Where the subject of a loan is not money, and where it is stipulated that the borrower pays back

the loan in money, the lender shall be authorised to choose between restituting the borrowed goods and paying back an amount of money equivalent to the value of the goods in question at the time and place specified for restitution in the contract.

(2) The same applies in cases where it is not possible to restitute an equal quantity of goods of the same kind and quality.

Waiver of Contract

Article 552

A borrower may cancel a contract before the goods are delivered to him/her by the lender, but if it results in some kind of damage, the borrower shall be bound to pay compensation.

Early Returning a Loan

Article 553

A borrower may return a loan ahead of the time indicated for restitution, but shall be bound to notify the lender of his/her intention in advance and to pay compensation for the damage caused with the early return, unless otherwise agreed.

Section 4

SPECIAL PURPOSE LOAN

Article 554

Where the purpose for which a borrower may use a loan has been specified in a contract, but the borrower used it for another purpose, the lender may declare cancellation of the contract.

CHAPTER XI

CONTRACT FOR DONATION

Section 1

General Provisions

Definition

Article 555

By the contract for donation, the donor shall be bound to transfer or to deliver to the recipient certain object into ownership or to transfer a right or to annul a debt or to undertake a debt with no compensation.

Form

Article 556

- (1) The contract for donation shall be concluded in written form.
- (2) The contract for donation for moveable assets, which is concluded into oral form, shall only be valid if the assets have been delivered to the recipient.
- (3) Where the contract for donation is concluded for the benefit of a third party, than the acceptance by the recipient does not have to be in a written form, unless subject of the agreement is immovable property.

(4) Where immovable property is the subject of the contract of donation in the form referred to in paragraphs (1) and (3) of this Article, than the provision regarding the form of the contract related to sale of immovable assets shall be applied.

Capability of Donation

Article 557

- (1) Donation may be made only by the person with full business capability.
- (2) Under the terms provided for in this Law and other laws, donation may be made by person with limited or special business capability.

Capability for Accepting Donation

Article 558

- (1) Donation may be accepted also by person with limited business capability, as well as person incapable for business.
- (2) If the donation is accepted by person incapable for business, the legal representative of that person may by statement approve the donation within a period of 30 days.

Where Subject of Donation is a Occasional Donating

Article 559

- (1) The contract for donation where the donor has agreed to provide occasional donations shall terminate with the death of donor.
- (2) In case of death of the donor, the contract liabilities shall not be transferred to his/her successors, unless they have accepted this contract.

Section 2

Contract for Donation with Burden or Order

Article 560

- (1) By the contract for donation with burden or order, the donor may keep for himself or for someone else some right, or may order to the recipient to do something or to allow him to do something.
- (2) In case the recipient does not perform the burden or the order in some additional term, the donor may cancel the contract and request by the recipient to return the received item.
- (3) The successors of the donor may cancel the contract for donation due to not performing the burden or the order where this has been provided for by the contract.
- (4) After the death of the donor, his /her successors or other person provided for in the contract may require performance of the burden or the order.
- (5) If the performance of the burden or the order requires extra funds than the original value of the donation, or if the implementation of the burden or order is difficult due to certain reasons, the donor may be released from such burden or order by returning the donation.

Section 3

Liability of the Donor

Liability for Non-Performance and Default

Article 561

- (1) The donor shall be liable for not performing his/her obligation and for default performance if this is intentionally or due to full negligence.
- (2) In case of default performance of monetary donation, the donor shall be bound to pay interest from the date of submitting the lawsuit, unless otherwise agreed.

Liability for Substantive Legal Defects

Article 562

- (1) The donor shall be liable for the substantive legal defects of the donated item.
- (2) The donor shall be liable for the substantive defects of the item if such defects have been hidden, and the donor must have been known or could have known of such defects and has not informed the recipient of such defects.

Section 4

Withdrawal of Donation and Agreed Return of Donation

Article 563

- (1) The donor may cancel the contract and withdraw the donation in case when the recipient shows complete disrespect and ungratefulness against the donor or a person closely related to him/her.
- (2) This right shall be transferred to the donor's successors.
- (3) This right shall terminate after the expiration of at least one and maximum five years from the date when the donor has found out about the behaviour and attitude of ungratefulness of the recipient.
- (4) In case of withdrawal due to ungratefulness, the recipient shall be bound to return all items received as donation.

Withdrawal of Donation Due to Insufficient Means of Subsistence

Article 564

- (1) The donor, who does not have sufficient means of subsistence or for supporting the persons he/she is obliged to support by law, may cancel contract for donation, and if the item has already been delivered to the recipient may withdraw it and request by the recipient to return the portion of the donation which is still in his possession and ownership.
- (2) The recipient may avoid the withdrawal if he/she bounds himself/herself to provide the donor in adequate amount with the means that the donor needs.
- (3) If the donor made more donations, the withdrawal shall be made in the opposite order.

Withdrawal of Donation

Article 565

The donation may be withdrawn also in other cases prescribed by law.

Giving up the Right for Withdrawal the Donation

Article 566

The giving up of the right for withdrawal of the donation in advance shall have no legal validity.

Donations That May Not Be Withdrawn

Article 567

- (1) The ordinary celebration, prize winning and gratitude donations may not be withdrawn.
- (2) The donations made for charitable and other social purposes may not be withdrawn.

Agreed Return of Donation

Article 568

The contract provision for returning the donation in case of death of the recipient before the death of the donor shall be effective.

Section 5

Donation in Case of Death

Article 569

The contract for donation which provides that the donation is delivered after the death of the donor, must be made in the form of a certified document.

Chapter XII

LEASE

Section 1

GENERAL PROVISIONS

Definition

Article 570

- (1) By a contract of lease a lessor shall undertake an obligation to deliver a specific object to a lessee for use, while the latter shall undertake an obligation to pay him/her a specified rent in return.
- (2) The use shall also include utilisation of the objects (collecting *usus fructus*), unless otherwise provided by contract or by custom.

Application of Particular Regulations

Article 571

The provisions of this Chapter shall not apply to leases regulated by separate regulations.

Section 2

OBLIGATIONS OF A LESSOR

Delivery of an Object

Article 572

- (1) A lessor shall be bound to deliver to the lessee a leased object in condition suitable for proper use together with its accessories.
- (2) An object shall be considered as suitable for proper use if it is in a condition determined by contract, and if there is no contract, in a condition suitable to serve the purpose for entering into the relevant contract.

Maintenance of the Object

Article 573

- (1) A lessor shall be bound to maintain the object in proper condition for use during the lease, including an obligation to make necessary repairs.
- (2) A lessor shall be bound to reimburse the lessee the expenses incurred by him for maintenance of the object, which would otherwise be at his/her 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 bound to notify the lessor about the necessity for repairs.

Cancellation of a Contract and Reducing a Rent Because of Repair

Article 574

- (1) Where necessary repairs of a leased object hinder its use to a considerable degree and for an extended time, a lessee may cancel the contract.
- (2) A lessee shall be entitled to a reduced rent in proportion to the restriction of use of the object because of such repairs.

Alterations of a Leased Object

Article 575

- (1) A lessor shall not make alterations of the leased object during the lease without the lessee's consent, if this hinders the use of the object.
- (2) Where as a result of alterations the use of an object by a lessee is reduced to a certain degree, the rent shall be reduced proportionally.

Liability for Substantive Defects

Article 576

- (1) A lessor shall be liable to a lessee for all defects in the leased object which hinder its stipulated or regular use, regardless of whether he was aware of them or not, as well as for defects in the features or characteristics specified expressly or implicitly by contract.
- (2) Defects of minor importance shall not be taken into consideration.

Defects for which a Lessor is not Liable

Article 577

- (1) A lessor shall not be liable for those defects in the leased objects which were known to the lessee at the moment of entering into the contract, or which could not have been unknown to him/her.
- (2) However, the lessor shall be liable for defects in the leased object which remain unknown to the lessee due to latter's gross negligence, if he/she was aware of such defects and willfully failed to notify the lessee thereof.

Extending Liability for Substantive Defects

Article 578

A lessor shall be liable for all defects in the leased object if he/she stated that it had no defects at all.

Exemption or Limitation of Liability by Contract

Article 579

- (1) Liability for substantive defects in the leased object may be excluded or limited by contract.
- (2) A contractual clause excluding or limiting such liability shall be void if the defect was known to the lessor and he/she wilfully failed to notify the lessee thereof, or if a defect was of such a nature as to prevent the use of the leased object, or if the lessor has imposed such a clause while using his/her monopolistic position.

Notifying a Lessor of Defects and Dangers

Article 580

- (1) A lessee shall be bound to notify a lessor without unnecessary delay of any defects in the leased object which appear during the lease, unless the lessor was aware of the defects.
- (2) A lessee shall also be bound to notify a lessor of any unexpected danger which threatens the leased object during the lease, so that the latter can take necessary measures.
- (3) A lessee failing to notify a lessor on the occurring of a defect or danger otherwise unknown to the lessor, shall lose his/her right to compensation for damage eventually sustained by him/her due to the existence of the defect or the occurred danger for the leased object, but he shall be liable to compensate the damage sustained by the lessor due to the above.

Rights of Lessee in Case of an Object with Defect

Article 581

- (1) Where the leased object, at the moment of delivery has a defect which is impossible to eliminate, the lessee may, at his/her own choice, cancel the contract or request reduction of rent.
- (2) Where the object has a defect which may be eliminated without too much inconvenience for the lessee, provided that a delivery within a specific time limit is not an essential element of the contract, the lessee may request that the lessor either eliminates the defect within a reasonable time period or reduce the rent.
- (3) Where the lessor fails to eliminate the defect within a reasonable time period determined subsequently by the lessee, the lessee may cancel the contract or request reduction of the rent.
- (4) The lessee shall be entitled to compensation for damages in any case.

When a Defect Occurs During the Lease and when an Object does not have Stipulated or Usual Features

Article 582

- (1) The provisions of the Article 581 shall also apply in the case of a defect occurring in the object during the lease.
- (2) They shall also apply in cases of a leased object not having a feature it should have according to contract or usage, or in the case of such feature being lost in the course of the lease.

Liability of a Lessor for Legal Defects

Article 583

- (1) Where a third party claims to have a right regarding the leased object, or only part of it and if such party addresses the lessee accordingly, or if he arbitrarily deprives the lessee of the object, the latter shall be bound to notify the lessor thereof, unless he was already aware of the fact; otherwise, the lessee shall be liable for the damage.
- (2) Where it is established that a third party has a right that entirely excludes the lessee's right to use the object, the lease contract shall be cancelled as a matter of law, while the lessor shall be bound to compensate the damage to the lessee.

(3) Where the third party's right only restricts the lessee's right, the latter may, at his/her own choice, cancel the contract or request reduction of the rent and, in any case, request compensation for damages.

Section 3

OBLIGATIONS OF A LESSEE

Use of an Object According to Contract

Article 584

- (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) A lessee shall be liable for damage occurring in the course of use of the object contrary to contract or contrary to its purpose, regardless of whether he/she has been using the object himself or a person acting under his/her order, or a sublessee or another person enabled to use the object by the lessee.

Cancellation Due to Use Contrary to Contract

Article 585

Where a lessee, even after the lessor's warning, continues to use the object contrary to the contract or to its purpose, or neglects its maintenance, causing danger of considerable damage to the lessor, the latter may cancel the contract without cancellation notice.

Payment of a Rent

Article 586

- (1) A lessee shall be bound to pay the rent within the time limits specified by the contract or by law, and if there is no contract or law, in the way practiced in the place of delivery of the object to the lessee.
- (2) Unless otherwise agreed 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 if it is leased for a shorter period - after the expiration of that period.

Cancellation Due to Unpaid Rent

Article 587

- (1) A lessor may cancel the contract of lease if a lessee fails to pay the rent even in the fifteen days time limit after lessor's request for payment from him/her.
- (2) The contract shall remain valid if the lessee pays the amount of the rent owed before being notified of the cancellation.

Restoring a Leased Object

Article 588

- (1) A lessee shall be bound to take care of the leased object 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) Where a lessee has made alterations to the object during the lease, a lessee shall be liable to restitute it to the state it was in when delivered to him/her for lease.

(5) A lessee may take away additions to the object realised by him/her, if it is 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.

Section 4

SUBLEASE

When May an Object be Subleased

Article 589

(1) Unless otherwise agreed, a lessee may lease the leased object to another (sublease), or he/she may give it to the use of another on some other ground, but only after making sure that this shall cause no damage to the lessor.

(2) The lessee shall guaranty to the lessor that the sublessee shall use the object according to the lease contract.

When a Lessor May Refuse to Give Permission

Article 590

Where permission by the lessor is necessary to sublease a leased object, the latter may refuse to give it only on justified grounds.

Cancellation Due to a Prohibited Sublease

Article 591

Where a lessor's permission is required according to law or a contract, he/she may cancel the lease contract if the leased object is subleased without such permission.

Direct Request by a Lessor

Article 592

In order to effect payment of his claims from the lessee on the ground of a lease, a lessor may directly request from the sublessee the payment of the amount due by the latter to the lessee on the grounds of the sublease.

Termination of a Sublease as a Matter of Law

Article 593

A sublease shall be terminated in any event after the termination of the lease.

Section 5

ALIENATION OF A LEASED OBJECT

Alienation after Delivering for Lease

Article 594

- (1) In case of alienation of an object previously leased to another, an acquirer of the object shall take the place of the lessor, so that subsequently the rights and duties under the lease will be in effect between him and the lessee.
- (2) The acquirer shall not request that the lessee delivers to him the object prior to the expiration of the leasing time, and if that time is not determined by the contract or by law, then, prior to expiration of the cancellation period.
- (3) A lessor shall be liable as a joint guarantor for the acquirer's obligations to the lessee under the lease.

Right to a Rent

Article 595

- (1) Unless otherwise agreed, an acquirer of a leased object shall be entitled to the rent beginning from the first time limit following acquisition of the object, and lessor receiving such rent in advance shall be bound to assign it to him.
- (2) From the moment of notification of alienation of the leased object, the lessee may pay the rent only to the acquirer.

Alienation of the Leased Object Prior to Delivery to the Lessee

Article 596

- (1) Where an object in relation to which a lease contract is concluded is delivered to an acquirer and not to a lessee, the acquirer shall take the place of the lessor, assuming his obligations towards the lessee, 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 of the existence of the lease contract at the moment of entering into contract of alienation shall not be bound to deliver the object to the lessee, while the lessee may only request compensation for damages from the lessor.
- (3) The lessor shall be liable as a joint guarantor for the acquirer's obligations to the lessee under the lease.

Cancellation of a Contract Because of Alienation of an Object

Article 597

Where because of alienation of the leased object, the rights and duties of the lessee are transferred to the acquirer, the lessee may in any case cancel the contract, while adhering to statutory i.e. contractual cancellation periods, in case of absence of the usual ones.

Section 6

TERMINATION OF A LEASE

Expiration of a Designated Time

Article 598

- (1) A lease contract entered into for a definite period shall be terminated by expiration of the time covered by the contract.
- (2) The same shall apply to cases in which, in the absence of intention of the negotiating parties, the lease period is specified by law.

Tacit Renewal of a Lease

Article 599

- (1) Where after the expiration of time covered by a contract of lease, a lessee continues to use the object and the lessor does not object to that, then 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) Security instruments of third persons for the first lease shall be terminated after the expiration of that lease period.

Cancellation

Article 600

- (1) A lease contract whose duration period is not determined or cannot be determined on the ground of circumstances of the case or of local trade practice, shall be terminated by cancellation, which may be given by each party, while honouring an agreed cancellation period. .
- (2) Where the extent of the cancellation period is not fixed either by contract or by law, or by local trade practice, it shall amount to eight days, provided the notice shall not be given in inappropriate time.
- (3) Where a leased object is dangerous to health, the lessee may cancel the contract without a cancellation period, even if he was aware of the fact at the moment of entering into the contract.
- (4) The lessee shall not renounce his right referred to in paragraph 3 of this Article.

Deterioration of an Object Due to Force Major

Article 601

- (1) The lease shall be terminated if the leased object is deteriorated due to force major.
- (2) Where a leased object is partially destroyed or only damaged, the lessee may either cancel the contract or uphold the lease and request an adequate reduction of rent.

Death

Article 602

In the case of death of a lessee or a lessor, the lease shall be continued by their successors, unless otherwise provided by contract.

Chapter XIII

CONTRACT OF SERVICE

SECTION 1

GENERAL PROVISIONS

Definition

Article 603

By the contract of service, the service provider shall be bound to give to the service recipient certain item for use with no compensation for defined or non-defined period of time, and the service recipient shall be bound to return the item after expiration of that time.

Duration of Service

Article 604

- (1) The duration of service may be defined by contract.
- (2) If the duration of service is not defined by contract, and the object is delivered for the purpose

of accomplishing particular objective, it shall be considered that the service has been agreed for a period of time required for accomplishing the objective.

(3) If the period of contract duration is not defined, nor can be determined by other way, the contract of service shall terminate when the service provider requests by the user to return the item but not in inappropriate time.

Death of Service Provider or Service Recipient

Article 605

(1) After the death of the service provider and service recipient, the contract obligations shall be transferred to their successors.

(2) If the contract is entered into with regard to the personality of the service provider, the contract shall terminate after his/her death.

SECTION 2

OBLIGATIONS OF THE SERVICE PROVIDER

Delivery of the Item

Article 606

(1) The service provider shall be bound to deliver the item to the service recipient within a determined time.

(2) If the service provider is late with the delivering of the item to the service recipient, than he/she may require the item to be delivered within a period of 30 days.

Liability for Legal and Substantive Defects of the Item and Its Correct Functioning

Article 607

(1) The legal regulations referring to the liability of bilaterally binding contracts shall be applied to the liability of the service provider regarding the legal and substantive defects of the item and its correct functioning if it is a matter of technical goods.

(2) The service provider shall be bound to inform the service recipient about all defects of the item that were known to him /her or he/she must have known about.

(3) If the service provider does not do that, he/she shall be liable for compensation for damages of the service recipient.

SECTION 3

RIGHTS AND OBLIGATIONS OF THE SERVICE RECIPIENT

Maintenance and Use of Item

Article 608

The service recipient shall be bound to maintain and use the item with required care (of good householder, good businessman or care of good professionalism).

Manner of Use

Article 609

In case when the contract does not define the manner of using the item which is provided as a service, the service recipient may use the item in a manner which is corresponding to its application and purpose.

Impossibility to Transfer the Item to Third Person

Article 610

(1) The service recipient may not give the item for use to third persons, without the consent of the service provider.

(2) If the service recipient has given the item to third person for use, the service provider shall be entitled to require directly from the third person to return the item.

(3) The damaged suffered by the service provider with the item being given for use to third person, shall be jointly covered by the service recipient and the third person, if that person knew or must have known the fact that the item has been given for use without the possibility to be transferred to

another person.

Costs of Maintenance

Article 611

- (1) The service recipient shall bear the costs for regular maintenance of the item granted for use.
- (2) In the cases where the service recipient has made investment expenses for the purpose of improving the item or some other costs, the provisions of this Law on working without order shall be appropriately applied.

Risk of Accidental Destruction of the Item

Article 612

The service provider shall be liable for accidental destruction of the item.

Liability of the service recipient

Article 613

The service recipient shall be liable for damaging or totally destructing the item if has applied it in a manner contrary to the contract or the natural way of application, or if he/she has given the item to third person, although regarding to the circumstances he/she did not have to do it, and the item would have not be destroyed if it were used as agreed i.e. were personally kept.

Returning the Item

Article 614

- (1) The service recipient shall be bound to return the item to the service provider in the condition it has been received.
- (2) The service recipient shall not be liable for reducing the value of the item caused by regular application.

Early Return of the Item

Article 615

- (1) The service recipient shall be bound to receive back the item given for a service also before the time defined for the service, unless the term of returning has been agreed in the interest of both contracting parties or if returning of the item results with certain disadvantages for the service provider.
- (2) The service provider may request early return of the item if he/she suddenly and urgently needs it.

Termination of the Contract of Service

Article 616

- (1) The contract of service concluded for defined period of time shall terminate with the expiration of that time.
- (2) The contract of service defined for indefinite period of time shall terminate when the service provider explores the item pursuant to the contract provisions or by expiration of the term provided for service application.

Other reasons for Termination of the Contract of Service

Article 617

The contract of service may terminate if the service recipient applies the item in a manner not provided for in the contract, if delivers the item to third person contrary to the circumstances provided, and if the service recipient needs the item for reasons which were not known at the moment of concluding the contract

Analogue Application of the Provisions of the Lease Contract

Article 618

The provisions of the lease contract shall be applied for all the rest in the contract of service.

Chapter XIV

TEMPORARY EMPLOYMENT CONTRACT

Section 1

GENERAL PROVISIONS

Definition

Article 619

By a temporary employment contract the party performing the work (entrepreneur, contractor) shall undertake an obligation to perform a particular work, such as production or repair of an object, or to perform physical or intellectual work and the like, while the purchaser shall undertake an obligation to pay compensation in return.

Relation to Sales Contract

Article 620

- (1) Where a contract by which one party undertakes an obligation to produce a certain movable object from its own material, when there is doubt, it shall be considered to be a sales contract.
- (2) The contract shall remain a temporary employment contract if the purchaser undertakes an obligation to provide an essential part of the material needed for the production of the object.
- (3) In any case, such a contract shall be considered as a temporary employment contract if the contracting parties particularly have in mind the labour of the contractor.

Quality of the Contractor's Material

Article 621

- (1) Where it is contracted that the contractor will produce the object by using his/her own material, but the quality is not determined, the contractor shall be bound to provide material of average quality.
- (2) A contractor shall be liable before the purchaser for the quality of the material used just like a seller.

Section 2

SUPERVISION

Article 622

A purchaser shall be entitled to supervise the performance of the work and to give instructions when appropriate to the nature of the work, whereas the contractor shall be bound to make supervision possible for the purchaser.

Section 3

ENTERING INTO A CONTRACT BY BIDDING

Call for Bidding

Article 623

- (1) An invitation addressed to a specified or unspecified number of persons to bid for the performance of certain work, under specified terms and conditions, and with specific guaranties, shall bind the inviter to make a contract for the work in question with the bidder offering the lowest price, unless such an obligation has been excluded from the call for bidding.

(2) Where the obligation to make a contract is excluded, the call for bidding shall be considered an invitation to the interested parties to submit their own offers for entering into a contract under the published terms and conditions.

Call for Bidding for Artistic or Technical Proposals for the Intended Work

Article 624

An invitation addressed to a specified or unspecified number of persons to bid for an artistic or technical proposal for an intended work shall bind the inviter to make, under the terms in the bid invitation, a contract with the bidder whose proposal is accepted by a commission, the structure of which has been disclosed in advance, unless such obligation was excluded from the invitation to bid.

Section 4

OBLIGATIONS OF THE CONTRACTOR

Defects of the Material

Article 625

(1) A contractor shall be bound to draw the purchaser's attention to defects in the material that the purchaser has delivered and which it noticed or should have noticed, or otherwise be liable for the damage.

(2) Where a purchaser has requested that the object is produced from the material the defects of which were indicated to him/her by the contractor, the contractor shall be bound to act according to the purchaser's request, except when it is obvious that the material is not suitable for the ordered work, or that the use of the requested material in the production would harm the reputation of the contractor, in which case the contractor may cancel the contract.

(3) A contractor shall be bound to warn the purchaser of defects in the order, and of other circumstances that he/she is or must have been aware of, that may be of importance for the ordered work or for performing the order on time, or otherwise be liable for the damage.

Obligation to Perform the Work

Article 626

(1) A contractor shall be bound to perform the work as contracted and in accordance with the rules of the corresponding line of business.

(2) A contractor shall be bound to perform the order within a specified time period and where such a time period is not specified, within the time reasonably needed for such a work.

(3) A contractor shall not be liable for being late due to the purchaser's failure to deliver the material on time, the purchaser's request to make alterations, or by the purchaser's failure to make the advance payment and, in general, a contracting party shall not be liable for being late due to the conduct of the purchaser.

Cancelling a Contract Due to Breach of Contracted Conditions

Article 627

(1) Where it is obvious in the course of performing the ordered work that the contractor is failing to adhere to the conditions of contract and, in general, is not working properly, so that the work, when completed, will be defective, the purchaser may warn the contractor thereof and set a reasonable time limit for the contractor to conform the work to his/her obligations.

(2) Where a contractor fails to act according to the purchaser's request within the time limit referred to previously, the purchaser may cancel the contract and request compensation for damages.

Cancellation of Contract Prior to Expiration of Time Limit

Article 628

(1) Where the time limit is an essential element of the contract, and the contractor's delay in commencing or completing the work indicates without doubt that the work will not be completed within the time limit, the purchaser may cancel the contract and request compensation for damages.

(2) A purchaser shall also have such a right where the time limit is not an essential element of the contract, if, due to such default, the purchaser would obviously have no interest in performing the contract.

Entrusting Performance of Work to a Third Party

Article 629

(1) Unless otherwise indicated in the contract or by the nature of the work, the contractor shall not be bound to perform the work personally.

(2) The contractor shall still be liable to the purchaser for the performance of the work, even without performing it personally.

Liability for Subcontractors

Article 630

A contractor shall be liable for subcontractors that take part in the performance of work under his/her order, as if the contractor had performed the work itself.

Direct Claim from the Contractor's Subcontractors against the Purchaser

Article 631

Subcontractors of a contractor may directly address the purchaser for payment of their claims against the contractor, and request from the latter the payment to be charged against the amount owed at that moment to the contractor, should such claims be recognised.

Delivering a Produced Object to a Purchaser

Article 632

(1) A contractor shall be bound to deliver to the purchaser the produced or repaired object.

(2) A contractor shall be released from this obligation if the produced or repaired object has deteriorated for reasons for which it is not responsible.

LIABILITY FOR DEFECTS

Inspection of the Performed Work and Notifying the Contractor

Article 633

- (1) A purchaser shall be bound to inspect the performed work as soon as possible in the regular course of events and to notify the contractor of the detected defects without delay.
- (2) Where a purchaser, being invited by the contractor to inspect and accept the performed work, fails to do so without justified ground, the work shall be considered as accepted.
- (3) After inspection has been performed and the work has been accepted, the contractor shall not be liable for defects which could have been noticed by a usual inspection, unless he/she was aware of the defects but did not notify the purchaser thereof.

Concealed Defects

Article 634

- (1) Where a defect that could not have been discovered by a usual inspection has subsequently become evident, the purchaser shall still be entitled to claim it, provided he/she immediately notifies the contractor thereof, or at the latest within one month from the discovery.
- (2) After the expiration of two years from the acceptance of the performed work, a purchaser shall no longer be entitled to claim defects.

Termination of Rights

Article 635

- (1) A purchaser who has notified the contractor of defects in the work performed on time shall not be able to exercise his/her right at court after the expiration of one year following the notification.
- (2) However, even after the time limit has expired, a purchaser may, having notified the contractor of the defects in due time, proceed with his/her own counter-claim for reduction of the fee and for compensation for damage by means of objection to the contractor's claim for payment.

Where a Contractor Has Lost the Right to Plead the Preceding Articles

Article 636

A contractor shall not plead a provision of the preceding articles if a defect relates to facts, which were known, or could not have been unknown to him/her, but the contractor did not communicate them to the purchaser.

Right to request Defects to be Eliminated

Article 637

- (1) A purchaser, who has duly informed a contractor that the performed work is in some respect defective, shall be entitled to request that the defect be eliminated and to set a reasonable time limit for that.
- (2) A purchaser shall also be entitled to compensation for damage due to the forgoing.
- (3) Where elimination of the defect involves excessive expense, the contractor may refuse to carry it out, but in such a case the purchaser shall be entitled to choose between reducing the fee or cancelling the contract, as well as to compensation for damages.

Cancellation of Contract in a Particular Case

Article 638

Where the performed work is useless because of a defect or where it is performed contrary to the conditions expressed in the contract, a purchaser may, without previously requesting elimination of the defect, cancel the contract and request compensation for damages.

Right of Purchaser in Case of Other Defects of the Performed Work

Article 639

- (1) Where the performed work has a defect that does not make the creation useless, or where the work is not performed contrary to the conditions expressed in the contract, a purchaser shall allow the contractor to eliminate the defect.
- (2) A purchaser may give the contractor a reasonable time limit to eliminate the defect.
- (3) Where a contractor fails to eliminate the defect within such a time limit, the purchaser may, at his/her own choice, eliminate the defect at the expense of the contractor, or reduce the fee for the performed work, or cancel the contract.
- (4) In cases of minor defects, a purchaser cannot make use of his/her right to cancel the contract.
- (5) A purchaser shall in any case be entitled to compensation for damages.

Reduction of Fee

Article 640

A fee shall be reduced in proportion to the value of the performed work without a defect at the time of entering into contract, and the value that the defective work would have at that time.

Section 6

OBLIGATIONS OF A PURCHASER

Obligation to Accept the Performed Work

Article 641

A purchaser shall be bound to accept work performed in accordance with the provisions of the contract and the rules of the work.

Determining and Payment of Fee

Article 642

- (1) A fee for the performed work shall be agreed by contract, unless it is determined by a binding tariff or some other mandatory act.
- (2) Where a fee is not agreed, it shall be specified by a court considering the time normally needed and the usual fee for such kind of work.
- (3) A purchaser shall not be bound to pay the fee before inspecting and approving the performed work, unless otherwise agreed.
- (4) The same shall apply where it is contracted that the work is performed and delivered in parts.

Estimate with an Explicit Guarantee

Article 643

- (1) Where a fee is agreed on the basis of an estimate with an explicit guarantee regarding its accuracy, the contractor shall not request that his/ her fee be increased even if it has put more effort in the work or the performance of the work required expenses higher than originally estimated.
- (2) This shall not exclude the application of rules relating to cancellation and alteration of a contract due to changed circumstances.
- (3) Where a fee is agreed on the basis of an estimate by the contractor without an explicit guarantee regarding its accuracy, and where in the course of work it turns out that it is inevitable that the estimate will be exceeded, the contractor shall be bound to inform the purchaser immediately, or otherwise lose all claims concerning the increased expenses.

Section 7

RISK

Where a Contractor Supplies the Material

Article 644

- (1) Where the contractor supplies the material for the production of the goods and the goods because of whatever reason are damaged or deteriorate prior to being delivered to the purchaser, the contractor shall bear the risk and shall not be entitled to reimbursement of the supplied material, nor to a fee for his/her work.
- (2) Where a purchaser has inspected and approved the performed work, goods shall be considered delivered to him/her, and that they have remained with the contractor for safe keeping.
- (3) Where the purchaser is late because of rejecting the offered goods, the risk of accidental deterioration or damage to the goods shall be transferred to him/her.

Where Purchaser Supplies the Material

Article 645

- (1) Where a purchaser has supplied the material for the production, the risk of accidental deterioration of goods or damage shall be born by the purchaser.
- (2) In the case referred to in paragraph 1 of this Article, the contractor shall be entitled to a fee for the work provided the goods have deteriorated or have been damaged after the purchaser's default, or if the purchaser failed to accept the invitation to inspect the goods.

Risk in Case of Delivery in Parts

Article 646

Where it is agreed that a purchaser is to inspect and accept delivery of individual parts in the course of the production, the contractor shall be entitled to a fee the manufacturing the parts that the purchaser has inspected and approved, even if they subsequently deteriorate while in the contractor's possession and without his/her fault.

Section 8

RIGHT TO LIEN

Article 647

In order to secure the payment of claims for fees for performed work and compensation for used materials, as well as of other claims arising from a contract for work, the contractor shall have a

lien on the goods it has produced or repaired, and on other goods delivered by the purchaser in connection with the work, while the contractor keeps them or voluntarily ceases to keep them in his/her possession.

Section 9

TERMINATION OF CONTRACT

Cancellation of the Contract by the Purchaser

Article 648

Until the ordered work is completed, a purchaser may cancel the contract whenever he/she wants but in such a case the purchaser shall be bound to pay to the contractor the contracted fee, reduced by the amount of costs that the contractor has not incurred but which he/she would have been obliged to incur had the contract not been cancelled, as well as the earnings that the contractor has realised by other work or that the contractor has intentionally failed to realise.

Chapter XV

CONTRACT FOR CONSTRUCTION

SECTION1

GENERAL PROVISIONS

Definition

Article 649

(1) A contract for construction is a contract for services by which a contractor assumes the obligation to construct according to a specific plan, within an agreed time limit, a specific building on a specific building site, or to perform on such building site i.e on an already existing facility, other construction works, and the purchaser assumes the obligation to pay in return a specific price.

(2) A contract for construction must be entered in written form.

Building

Article 650

Within this Chapter, the term "building" shall include buildings, dams, bridges, tunnels, water supply installations, sewerage systems, roads, railway tracks, wells and other construction objects, the manufacture of which requires larger and more complex works.

Supervision over the Works and Material Quality Control

Article 651

A contractor [shall be bound to enable the purchaser to permanently supervise the works and control the quantity and quality of the material used.

Deviation from the Project

Article 652

(1) For every deviation from a project, i.e. agreed works, the contractor shall need written approval from the purchaser.

(2) He shall not be able to demand increase of the agreed price for works done by him/her without such approval.

Urgent Unforeseen Works

Article 653

(1) Unforeseen works may be done by a contractor without previous approval by the purchaser if, due to their urgency, he/she 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 an objector to prevent damage, and which were caused by an unexpectedly harder nature of the 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 the measures undertaken.

(4) The contractor shall be entitled to fair compensation for the unforeseen works, which had to be done.

(5) The purchaser may cancel the contract if, due to such works, the agreed price would have to be considerably raised, of which he shall be bound to notify the contractor without delay.

(6) In case of cancellation of the 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 compensation for the necessary expenses already incurred.

Price of Works

Article 654

The price of works may be determined according to the unit of the agreed works (unit price) or as a total amount for the entire object (total agreed price).

Change of Price

Article 655

(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 entering into contract and its fulfilment, prices have increased of elements on the basis of which the price of works was determined, so that it would be necessary that that price is higher for 2%.

(2) If a contractor on his/her own fault fails to perform the works within the time frame determined in the agreement, he/she may demand a increase of the price for the works if, in the period between entering into contract and the day on which works had to be completed according to the 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, is higher by more than five percent.

(3) In the cases referred to in paragraphs (1) and (2) of this Article, the contractor may request only the difference in price of works, exceeding 2 i.e. 5 %.

(4) A contractor shall not refer to the increased prices of elements on the basis of which the price of works was determined if such price increase took place after his/her delayed fulfilling of the obligations.

Provision on Unchangeability of Prices

Article 656

(1) Should it be agreed that the price of works will not be changed if after entering into contract prices of elements, on the basis of which the price of works was agreed increase, the contractor may, in spite of such contractual provision, demand a change of price of the works, if prices of the elements increase to such a degree that it would be necessary for the price of works to be higher for more than 10%.

(2) In that case as well the contractor may demand a difference in price only in the amount exceeding 10%, unless the increase in price of the elements took place after he/she became late in fulfilling his obligations.

Cancellation of Contract due to an Increase of Prices

Article 657

(1) In the cases referred to in the previous paragraphs, if the agreed price had to be raised considerably, the purchaser may cancel the contract.

(2) In case of cancellation of contract, the purchaser shall be bound to pay to the contractor a corresponding part of the agreed price for the works completed up to that time, as well as fair compensation covering necessary expenses already incurred.

Right of a Purchaser to Demand Reduction of Agreed Price

Article 658

(1) If in the period between entering into contract and fulfilling of the contractor's obligation, the prices of elements serving as a basis for determining the price of works have been reduced by more than two percent, and if the works were completed within the agreed time limit, the purchaser shall be entitled to demand a corresponding reduction of the agreed price of the works above such percentage.

(2) If it was agreed that the price of works shall not be changed, and if the works were completed within the agreed time, the purchaser shall be entitled to a reduction of the agreed price if the prices of elements serving as a basis 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 proportional reduction of the price of works for every reduction of price of elements serving as a basis for determining the price of the works.

SECTION 2

CONTRACT FOR CONSTRUCTION WITH A SPECIAL PROVISION

Article 659

(1) Should a "turn-key contract" provision or other similar provision be included in a contract for construction, the contractor shall assume an independent obligation to perform all the works necessary for the construction and use of a specific complete object.

(2) In the case referred to in paragraph (1) of this Article, the agreed price shall also include the value of all unforeseen works and surplus works, and excludes the influence of the defects of works to the agreed price.

(3) If more contractors participate in the "turn-key" contract as contracting party, their liability towards the purchase shall be solidary.

SECTION 3

LIABILITY FOR DEFECTS

Application of the Rules of the Temporary Employment Contract

Article 660

Unless otherwise specified in this Chapter, the corresponding rules covering the contract for services shall apply to liability for defects in building.

Transfer of Rights Arising from Liability for Defects

Article 661

Rights of purchaser against a contractor acquired on the ground of defects in building shall be transferred to all subsequent acquirers of the building or its part, but subsequent acquirers shall have no new time limits for notification and lawsuit, so that the time limit of the predecessors shall be accounted to them.

Particular Rights of a Leaseholder of State-Owned Apartments

Article 662

A leaseholder of a state-owned apartment shall be entitled to demand that the contractor eliminates the defect within the limits of his/her liability to the purchaser for defects of the building.

SECTION 4

RESPONSIBILITY OF THE CONTRACTOR AND THE DESIGNER FOR THE SOLIDITY OF BUILDING

What Does it Consist of

Article 663

- (1) A contractor shall be liable for defects in the construction process of the building relating to its solidity, should such defects appear within a ten year period from the delivery and acceptance of the works.
- (2) The contractor shall also liable for defects in the building site which appear within a ten year period from the delivery and acceptance of the works, unless a specialised organisation has supplied an expert opinion as to the suitability of the building site, and in the building process itself there were no circumstances which would raise doubt as to the reliability of the expert opinion.
- (3) The same applies to the designer should a defect in the building be caused by a defect in the construction plan.
- (4) The entities referred to in paragraphs (1), (2) and (3) of this Article shall be liable not only to the purchaser but also to every other acquirer of the building.
- (5) The liability may not be excluded nor limited with the contract.

Notification Duty and Forfeit of Right

Article 664

- (1) A purchaser or other acquirer shall be bound to notify the contractor and the designer of defects within a six month time limit after discovering a defect; otherwise he/she shall lose the right to claim the defect.
- (2) The right of the purchaser or other acquirer against the contractor i.e. designer, on the ground of their liability for defect shall be terminated after a year, counting from the day when the purchaser i.e. acquirer notifies the designer i.e. contractor about the defect.

Reduction and Exclusion of Liability

Article 665

- (1) A contractor shall not be released from liability if damage was caused through his/her performance of the work according to the purchaser's request.
- (2) However, if he warned the purchaser, prior to executing the requested specific works, that there was a danger of damage, his/her liability shall be reduced and, according to the circumstances of the case, may even be excluded.

Recourses

Article 647

- (1) When the contractor and the designer are liable for the damage, the liability of each one of them shall be determined according to the scope of their fault.
- (2) The designer designing the plans of a building and being entrusted with supervision over the carrying out of planned works, shall also be liable for defects in the completed works which were caused through the fault of the contractor, provided the designer could have noticed them by normal and reasonable supervision of works, but he/she shall be entitled to claim corresponding compensation from the contractor.
- (3) If the contractor compensates for the damages due to defects in the works completed, he/she shall be entitled to claim compensation from the designer to the degree in which the defects of the completed works originated because of defects in the construction plans of the building.
- (4) If a responsible person entrusted by the contractor to carry out part of the works is liable for defects, the contractor, if intending to claim damages from him/her, must notify him/her of the existence of the defect within a two month time limit, counting from the day when he/she obtained information from the purchaser concerning the same defect.

Chapter XVI

CONTRACT FOR PARTNERSHIP

SECTION 1

GENERAL PROVISIONS

Definition

Article 667

By the contract for partnership, two or more persons shall mutually bound themselves to joint their property and labour or part of the property and labour for the purpose of obtaining mutual benefit and distribution of such benefit (as a profit).

Form and Amendments of the Contract for Partnership

Article 668

- (1) The contract for partnership shall be entered into in a written form.
- (2) Each amendment of the contract of partnership shall require consent of all partners.

- (3) The contract provision, which provides amendment of the contract without such consent, shall be void.

Validity of the Contract for Partnership

Article 669

The contract for partnership may be entered into for a definite or indefinite period of time.

SECTION 2

MUTUAL RELATIONS OF THE PARTNERS

Property of the Partnership Relation

Article 670

- (1) The property of the partnership relation shall be composed of partner's deposits (principal) and the property gained through the partnership activities.
- (2) The partners shall be co-owners of the partnership property.

Partnership Deposits

Article 671

- (1) Each of the partners shall be bound to make a deposit to the partnership.
- (2) The partnership deposit may be composed of equipment, money, rights and labour.
- (3) It shall be considered that the partnership portions are equal, unless it is otherwise agreed in the contract for partnership.
- (4) The value of partner's deposits shall be determined by the partners, or by a third person.

Liability for Legal and Substantive Defects and Guarantee for Proper Functioning

Article 672

- (1) Each partner shall be liable for the legal and substantive defects of the object and the proper functioning of the so called technical goods that were entered in the partnership relation as a deposit.
- (2) The provisions of this Law shall adequately apply regarding the liability of the partner for legal and substantive defects of the object and the proper functioning of the so called technical goods in relation to bilaterally binding contracts.

Risk

Article 673

The partner shall cover the risk of accidental destruction or damage of the object given as deposit, unless it is otherwise agreed.

Additional Increase of the Deposit

Article 674

- (1) The portions set out by the contract for partnership may additionally be increased only by mutual consent of all partners.
- (2) A deposit increase may be considered the giving of the profit gained through the partnership relation.
- (3) In cases where keeping of the partnership object as part of the deposit i.e. the property requires additional costs, than each of the partners shall be bound to provide proportional contribution for covering such costs.

Withdrawal and Dismissal of Partners

Article 675

- (1) Where the contract for partnership is entered into for an unlimited period of time, the partner may withdraw from the partnership relation at any time. In such case, the partner shall be bound to announce its withdrawal three months in advance before the expiration of the accounting year.

- (2) The partner may withdraw from the partnership relation no matter of the cancellation terms in relation with the fixed term partnership relation if he/she has justified reasons such as breach of contract obligations with intention or full negligence, impossibility of fulfilment the obligations, not having the right to be fully informed etc.
- (3) The partner shall be liable for causing damage to the partnership relation when withdrawing from such relation in cases which are not in accordance with paragraphs (1) and (2) of this Article.
- (4) The partner may be dismissed from the partnership relation for justified reasons: breaching the main obligations provided by the contract for partnership, full negligence, impossibility to fulfil the obligations, not having the right to be fully informed etc.
- (5) The decision for dismissal the partner for justified reasons shall be adopted unanimously by other partners.

Returning the Deposit in Case of Withdrawal from the Partnership

Article 676

- (1) The partner withdrawing from the partnership relation shall be returned the objects they deposited in kind, and shall be paid equivalent amount of money for the rights and objects which cannot be returned, and if the value of such rights and objects was not defined in the contract, the value of the deposit when establishing the partnership shall be refunded. The deposit value referring to the business activity of the partner shall not be refunded
- (2) In addition, the partner withdrawing from the partnership shall be paid in money part of the value of the partnership joint property after deducting the value of the deposits of all the partners, which is proportional to his/her contribution to the increase of the value of the joint property, unless it is otherwise agreed.
- (3) In case of a dispute relating to the partner's right referred to in paragraph (2) of this Article, the competent or the appointed court shall decide.

Distribution of Profit and Losses

Article 677

- (1) Profit shall be part of the partnership property, after deducting the value of partnership deposits (principal), mutual debts and costs.
- (2) There shall be a loss if the value of property drops below the value of partner's portions (the principal).
- (3) The partners may define by contract the manner of distribution the profit and the loss.
- (4) If the partnership contract defines the manner of distribution the profit, the same manner shall be applied for distribution the loss.
- (5) If the partnership contract does not define the manner of distribution the profit, it shall be considered that they have equal participation in profit distribution, and this rule shall apply for the loss distribution as well.
- (6) By rule, the partner, who has deposited only labour, shall not participate in covering the loss, unless this is explicitly agreed.
- (7) The contract provision, which deprives the right of participation of the partner in the profit, shall be void.
- (8) The partnership contract provision, which provides for losing the right of participation in profit distribution due to breach of an obligation, shall be valid.

Distribution and Payment of Profit

Article 678

- (1) The partner may request distribution and payment of the profit after termination of the partnership relation.
- (2) Where the partnership relation is entered into for a longer period of time, the partners may request distribution and payment of the profit at the end of each accounting year.

Disposal with the Partnership Property

Article 679

- (1) The partner may neither have at disposal part of the partnership property in co-ownership of the partners nor with particular deposits of such property.
- (2) The partner may not request dividing the joint partnership property during the duration of the partnership.

Liability for Damage

Article 680

The partner shall be liable for the damage caused to the partnership, by intention or full negligence.

Management and Representation

Article 681

- (1) All partners shall be entitled to the right of managing the partnership activities.
- (2) Each of the partners may without previous consent of other partners proceed the activities which do not go over the limits of regular management with the partnership, but if any of the partners is opposing, it would require decision of all partners.
- (3) If any of the partners cross the limits of regular management activities or authorisations granted by other partners, then the rules for working without order shall be applied.
- (4) Each of the partners may without previous consent of other partners immediately perform the activity the non-undertaking of which may cause damage to the partnership, and which damage can not be removed in another way.
- (5) Where the partners have not agreed, each of the partners shall be authorised to represent the partnership to the extent he/she is authorised to perform his/her tasks.

Liabilities of the Partners and of the third Persons Authorised to Manage the Activities

Article 682

- (1) The managing activities of the partnership may be granted to one or more partners (authorised partners) or third persons who are not members of the partnership.
- (2) If the manager is not one of the partners, the relations between the manager and the partners shall be defined by separate contract.
- (3) The partner or the third person appointed to manage the activities: the manager shall be authorised to undertake all activities required to accomplish the objectives of the partnership (regular management activities), unless it otherwise agreed by the contract.
- (4) If there are more managers, they shall take decision with majority of votes.
- (5) The managers shall be bound to submit reports of their activities at the end of each year, unless different term is defined by contract.
- (6) The partners, who are not participating in the management, shall be entitled to right of supervision.
- (7) The right of management may be withdrawn with a unanimous decision by the partners.
- (8) Where, one of the partners is appointed as a manager, he/she may not resign the position without justified reason, otherwise he/she shall be liable for damage.

SECTION 3

RELATION WITH THIRD PERSONS

Partnership Liabilities

Article 683

- (1) The partner may not bind the partnership relation with a legal affair without the previous consent of other partners.
- (2) The consent may be granted before entering into contract as permission or after the contract has been entered into as an approval, unless otherwise prescribed in this Law.

Liability of the Partners for Partnership Debts

Article 684

- (1) The provisions of this Law shall be applied in relation to liabilities of more debtors and creditors regarding the claims and debts of the partnership relation, unless otherwise agreed. The partners shall be solidary liable about the partnership liabilities.
- (2) The provisions of the contract for partnership which define the partner's liabilities to the amount of their deposits or by other way shall be applied on the partnership creditors if the creditors had been informed of such limitation before conclusion of the contract.

Rights of the Partners' Personal Creditors

Article 685

- (1) The personal creditors of the partners may not request any payment from the partnership property.
- (2) Creditors of each partner may put a prohibition of disposal and use to the part of profit belonging to their debtor and request separation of the deposit of their debtor from the partnership property.

Settlement

Article 686

The debtor of the partnership cannot settle the claim towards one of the partners, nor the partnership can settle the claim of the creditor against a debt to one of the partners.

Transfer of the Partnership Debts to a third Person

Article 687

Where one of the partners, by contract transfers its debt in the partnership to a third person, as a whole or part of it, the third person shall not become a partner instead of him/her, but shall only gain the right to be paid the partnership deposit of the transferor in case of liquidation, unless the partners have agreed otherwise.

SECTION 4

TERMINATION OF THE PARTNERSHIP

Term Expiration and Tacit Extension of Partnership

Article 688

- (1) The partnership shall terminate by expiration of the defined term.
- (2) If the partners continue to jointly perform the activities of the same kind after the expiration the term defined for the partnership relation, it shall be considered that the partnership has been extended for indefinite period of time.

Accomplishing the Objective

Article 689

The partnership shall terminate after having accomplished the objective for which the contract of partnership has been concluded, as well as when the accomplishment of that objective becomes impossible.

Resignation or Discharge of the Manager

Article 690

The partnership shall terminate with the resignation or discharge of the manager of the partners cannot agree to appoint another manager.

Death of a Partner

Article 691

- (1) The partnership relation shall terminate with the death of one of the partners, unless it is otherwise agreed.
- (2) It may be defined by contract that the successors of the deceased partner may replace his/her position in the partnership relation and in such case the successors shall be bound to appoint a representative, who would represent their rights and interests.

Termination of the Legal Person

Article 692

The partnership relation shall be terminated if the partner - legal person has ceased to exist due to the merge with another legal person, due to separation of more legal persons or by other status changes, unless it has been agreed in a contract that the partnership shall continue with the legal successors of the legal person.

Bankruptcy and Overindebtedness

Article 693

- (1) The partnership shall terminate by bankruptcy of one of the partners-legal person.

(2) The partnership shall also terminate in case when the personal creditors of one of the partners, who could not obtain their claim against the partner, requires separation the partner's property from the partnership property.

Loosing the Business Capability

Article 694

The partnership shall terminate when one of the partners loses his/her business capability.

Extension of the Partnership after the Death, the Termination, Bankruptcy, Overindebtedness or Loosing the Business Capability

Article 695

(1) In case of death, termination or bankruptcy of one of the partners or when his/her personal creditors require separation of his portion from the partnership property, and in case when one of the partners loses the business capability, the other partners may prevent the partnership termination if they agree to continue the partnership between themselves.

(2) In such case part of the property that belongs to the partner shall be separated according to the situation when the event occurred.

Other reasons for Terminating the Partnership

Article 696

The partnership shall terminate by:

- agreement between the partners;
- destruction of joint property; and
- destruction of object which should have been or had been entered by one of the partners before or after the delivery in the partnership, if this has significantly made difficult the accomplishment of the objective of the partnership.

Cancellation of the Contract and Dismissal of Partner by a Court Decision

Article 697

(1) Each of the partners may request by the court to cancel the contract in case when one of the partners does not fulfil the obligations of the partnership relation or by any other way prevents or makes difficult the accomplishment of the objective of the partnership.

(2) For the same reasons, each of the partners may request from the court to declare dismissal of one of the partners.

(3) The contract provision, which provides that the partners are revoking from the right of cancellation of the contract or dismissal of one of the partners in relation with the reasons referred to in paragraph (1) of this Article, shall be void.

SECTION 5

LIQUIDATION OF PARTNERSHIP

Extension of Partnership for the Purposes of Liquidation

Article 698

The partnership may continue after the circumstances which require termination of partnership, if this is required by the process of liquidation of the partnership.

Termination of Authorisations

Article 699

(1) After the termination of the partnership, the persons authorised to manage the partnership relation may only complete the already commenced activities, if the non-completing of such activities causes damage to the partners.

(2) The legal act concluded by the manager or other authorised person shall be valid if this person did not know or could not know of the partnership termination.

(3) The legal act concluded between the third person and the partnership which has terminated shall be valid if this person did not know or could not know of the partnership termination.

Liquidators

Article 700

- (1) If all partners cannot agree on conducting the liquidation procedure by themselves and cannot agree to which person to entrust the liquidation, the court shall appoint one or more liquidators at the request of any of the partners.
- (2) The liquidator shall represent the partnership in the process of liquidation.
- (3) The liquidator shall be bound to transfer into money the partnership equity, to obtain the financial claims, to pay to the partnership creditors, and to pay the partners the value of their portions and to distribute the profit or loss to the partners.
- (4) The liquidator may complete the already commenced activities of the partnership, but may not commence new activities.
- (5) In case of more liquidators, they shall decide by majority of votes.

Withdrawal of Liquidator

Article 701

The liquidator may be discharged with a unanimous decision of the partners and with a court decision at the request of any of the partners.

Repayment Order

Article 702

- (1) From the partnership property, first the partnership debts shall be repaid, then certain costs made by some of the partners, and after this, the value of the partner's portion shall be paid. As a value of the portion which consisted of an object, the value of the object shall be considered but reduced due to the use.
- (2) The rest of the property shall be divided between the partners according to the rules for profit distribution.
- (3) In cases where, after repayment of partnership creditors and compensation of costs caused by some of the partners in the interest of the partnership, the remaining equity is not sufficient for complete payment of partner's portions, the regulations of suffered losses shall be applied.
- (4) If the value of the property is not sufficient for repayment of their debts, the liquidator may request each of the partners to pay certain amount, in a proportion to their deposit, for the purpose of covering the deficit.

Article 703

The provisions of the Company Law shall apply on everything relating to the termination and liquidation of the partnership which is not regulated with this Law.

Chapter XVII

TRANSPORTATION

SECTION 1

GENERAL PROVISIONS

Definition

Article 704

- (1) By a contract of transportation a transporter shall undertake an obligation to transport to a determined place a person or an object, whereas the passenger i.e. the consignor shall be bound to pay the transporter a certain compensation.
- (2) Within the meaning of this Law, transporter shall mean a person who is doing transportation as a regular business activity, as well as any other person undertaking an obligation by contract to transport for compensation.

Obligations of a Transporter in Line Transportation

Article 705

- (1) A transporter who is performing transport on a specified line (line transportation) shall be bound to maintain the scheduled line in a regular and orderly manner.
- (2) A transporter shall be bound to accept for transportation any person and any object that meet the requirements specified in the announced general terms and conditions.
- (3) Where the regular transportation vehicles of a transporter are insufficient to meet all the requests for transportation, priority shall be given to persons and objects provided for by separate regulations, while further priority shall be given according to the order of requests, and for priority between simultaneous requests priority shall be given to those requests with longer transportation distance.

Rescinding the Contract

Article 706

- (1) A consignor or passenger may rescind the contract before the commencement of its performance, but shall be bound to pay compensation for the damages that the transporter would suffer because of that.
- (2) If a transporter delays commencement of transportation to a degree that the other party ceases to be interested in the agreed transportation, or if the transporter is unwilling or unable to carry out the transportation in question, the other party may rescind the contract and request reimbursement of the paid transportation fee.

Amount of Transportation Fee

Article 707

- (1) Where the amount of transportation fee is determined by a tariff or some other published compulsory act, a higher transportation fee may not be agreed.
- (2) Where the amount of a transportation fee is determined neither by tariff nor by some other published compulsory act, nor by contract, the transporter shall be entitled to the usual transportation fee otherwise charged for that kind of transportation.
- (3) In other cases, the provisions relating to fees referred to in Chapter XIV regarding the temporary employment contract of this Law shall be applicable.

Restriction on the Application of Provisions of this Chapter

Article 708

The provisions of this Chapter shall be applicable to all kinds of transportation, unless otherwise provided for by law for certain kinds of transportation.

SECTION 2

CONTRACT FOR TRANSPORTATION OF OBJECTS

Component 1

1. GENERAL PROVISIONS

Delivery of Objects

Article 709

A transporter shall be bound to deliver the object accepted for transportation at the designated place to the consignor or to a designated person (consignee).

Contents of Notification of a Consignor to a Transporter

Article 710

- (1) A consignor shall be bound to inform a transporter of the kind of shipment and of its contents and quantity, and to inform him/her of the shipment's place of destination, the name and the address of the consignee, and his/her own name and address, as well as everything else necessary for the transporter to perform his/her obligation without delay and difficulties.
- (2) Where a shipment contains valuables, securities or other precious objects, the consignor shall be bound to inform the transporter thereof at the moment they are delivered for transportation, including information about their value.
- (3) Where a dangerous object or an object requiring particular transportation conditions is transported, the consignor shall be bound to inform the transporter thereof on time, so that the latter will be able to take special corresponding measures.
- (4) Where a consignor fails to supply a transporter with the information referred to in paragraphs (1) and (3) of this Article, or provides wrong information, he/she shall be liable for the damage caused because of that.

Bill of Lading

Article 711

- (1) Contracting parties may agree that a bill of lading is issued for a shipment delivered for transportation.
- (2) A bill of lading should contain the following information: name and address of the consignor and the transporter; kind, contents and quantity of shipment, as well as the value of valuables and other precious items; place of destination; amount of the transportation fee i.e. a note that the fee has been paid in advance; and place and date of issuing the bill of lading.
- (3) Other provisions of the transportation contract may also be included in the bill of lading.
- (4) A bill of lading must be signed by both contracting parties.
- (5) A bill of lading may contain "by order" provision or it may be made out to a bearer.

Contract of Transportation and Bill of Lading

Article 712

The existence and the validity of a contract of transportation shall be independent of the existence and the accuracy of a bill of lading.

Confirmation Note for Received Shipment of Transportation

Article 713

Where a bill of lading is not issued, a consignor may request that a transporter issue a confirmation note for the reception of the shipment delivered to him/her for transporting, containing information which should otherwise be included in a bill of lading.

Component 2

RELATION BETWEEN A CONSIGNOR AND A TRANSPORTER

Packing

Article 714

- (1) A consignor shall be bound to pack the object in a prescribed or usual manner in order to prevent damage to be caused or the safety of the people and the goods to be endangered.
- (2) A transporter shall be bound to draw the consignor's attention to noticeable defects in packing, or otherwise be liable for damage to the shipment resulting from the defects.
- (3) A transporter shall not be liable for damage to shipment if the consignor, although being notified of the defects in the packing, requests that the transporter accept the shipment with the defects.
- (4) A transporter shall be bound to refuse the shipment if the nature of the defects is such to potentially endanger the safety of the people and the goods, or cause damage.
- (5) While the goods are still in his/her possession, a transporter shall be liable for damage suffered by third parties due to defects in the packing and shall be entitled to request compensation from the consignor.

Transportation Fee and Expenses Related to Transport

Article 715

- (1) A consignor shall be bound to pay the transporter a transportation fee and to cover expenses related to the transport.
- (2) If there is no indication in the bill of lading that the consignor is to pay the transportation fee and to cover other expenses connected to the transportation, it shall be presumed that the consignor has directed the transporter to charge them to the consignee.

Disposing of Shipment

Article 716

- (1) A consignor may have at disposal the shipment and change the instructions indicated in the contract, and instruct the transporter to suspend further transportation of the shipment, to return the shipment, to deliver it to another consignee, or to direct it to another destination.
- (2) The right of the consignor to change the orders shall expire when the shipment arrives at the point of destination and the transporter hands over the bill of lading to the consignee, or when the transporter invites the consignee to accept the shipment, or when the consignee himself/herself demands delivery of the shipment.
- (3) Where a bill of lading is issued by order i.e. by bearer, the rights of the consignor referred to in paragraph (2) shall belong exclusively to the party in possession of the bill of lading.
- (4) The authorised person exercising the right to give new instructions to a transporter shall be bound to pay compensation for incurred expenses and caused damage, as well as to supply the transporter, at his/her request, with a guaranty that he/she will be paid compensation for the damages and the expenses.

Direction of Transportation

Article 717

- (1) A transporter shall be bound to perform the transportation on the agreed route.
- (2) Where the transportation route is not agreed, the transporter shall be bound to take the route which best suits the consignor's interests.

Difficulties in the Course of Transportation

Article 718

- (1) A transporter shall be bound to inform the consignor of all the circumstances relevant to the performance of the transportation and shall act according to the instructions that he/she receives from the consignor.
- (2) A transporter shall not be bound to act according to the instructions of the consignor if that will endanger the safety of the people and the goods.
- (3) Where the case is such that the transporter cannot wait for the consignor's instruction, the transporter shall be bound to act as a good businessman or a good head of household would in the same situation; he/she shall inform the consignor thereof while requesting further instructions.
- (4) A transporter shall be entitled to compensation of expenses incurred due to difficulties that have occurred without his/her fault.

Transportation Fee in Cases Where Transport Is Suspended

Article 719

- (1) Where transportation is suspended for a reason for which the transporter is responsible, he/she shall be entitled to a proportional share of the transportation fee for the effected transportation, but shall also be liable for damage caused to the other party due to the suspension of the transportation.
- (2) Where transport is suspended for a reason for which none of the interested parties is responsible, the transporter shall be entitled to the difference between the agreed transportation fee and the transportation expenses from the place of suspending the transportation to the destination place.
- (3) A transporter shall not be entitled to a share of the transportation fee if during transportation the shipment is destroyed due to a force major.

When a Shipment Cannot Be Delivered

Article 720

- (1) Where it is impossible to inform a consignee of the arrival of a shipment, or where he/she refuses to accept it and where it is impossible to deliver the shipment, or where the consignee fails to pay to the transporter the due transportation fee and the remaining shipment charges, the transporter shall be bound to inform the consignor thereof, ask for instructions and take all measures necessary for preserving the goods on the behalf of the consignor.
- (2) Where an authorised person fails to take any measures relating to the shipment within a reasonable time, the transporter shall be entitled to sell it according to the rules for sale of goods owed in case of a creditor's default, to charge his/her claims, and deposit the rest at a court for authorised person.

Liability of the Transporter to the Consignor

Article 721

If a transporter delivers a shipment to a consignee and does not collect the shipment charges, he/she shall be bound to pay the amount in question to the consignor, but shall be entitled to request compensation from the consignee.

Component 3

RELATION BETWEEN A TRANSPORTER AND A CONSIGNEE

Notifying a Consignee on Arrival of Shipment

Article 722

- (1) A transporter shall be bound to inform a consignee without delay that the shipment has arrived, to place it at his/her disposal as agreed, and to submit a bill of lading, if issued.
- (2) Where a bill of lading is issued by order or to bearer, the transporter shall be bound to act according to paragraph (1) only if there is an indication in the bill of lading of the person at the point of destination who must be notified of the arrival of the shipment.

Delivery of Shipment when a Duplicate of the Bill of Lading Is Issued

Article 723

A transporter may refuse to deliver a shipment if he/she is not simultaneously presented with a duplicate of the bill of lading, on which the consignee confirms the delivery of the shipment.

Right of Consignee to Request Delivery of Shipment

Article 724

- (1) A consignee may exercise his/her rights arising out of the contract of transportation against a transporter and request that the transporter delivers to him/her the bill of lading and the shipment, after the shipment has arrived at the place of destination.
- (2) At a consignee's request, a transporter shall be bound to deliver a shipment before arriving on the place of destination, only if authorised to do so by the consignor.
- (3) A consignee may exercise the rights arising out of a contract of transportation and request from a transporter to deliver the shipment, but only if he/she fulfils the conditions specified in the contract of transportation.

Identifying and Establishing the Condition of the Shipment

Article 725

- (1) An authorised person shall be entitled to request identification of a shipment and if the shipment is damaged, to establish the nature of the damage.
- (2) When it is established that the shipment is not the one that was delivered to the transporter, or that the damage is more serious than stated by the transporter, the expenses for establishing the condition of the shipment shall be born by the transporter.

Duty of a Consignee to Pay the Transportation Fee

Article 726

- (1) By accepting the shipment and the bill of lading, if issued, a consignee shall undertake an obligation to pay to the transporter the transportation fee, unless otherwise provided by the contract for transportation or indicated in the bill of lading, as well as to pay the shipment charges.
- (2) Where a consignee considers that he/she is not bound to pay to the transporter the amount that the transporter requires, he/she may exercise the rights arising out of the contract provided he/she deposits the disputed amount at court.

Component 4

LIABILITY OF TRANSPORTER FOR LOSS, DAMAGE AND DELAY OF SHIPMENT

Loss or Damage of Shipment

Article 727

- (1) A transporter shall be liable for loss or damage of the shipment which occurs from the moment of being accepted for transportation until delivery, unless caused by an act of an authorised person, by the properties of the shipment, or by external causes which could not have been foreseen, avoided or eliminated.
- (2) The provisions of the contract for transportation, of the general terms of transportation, of tariffs or any other general act that reduce this liability, shall be void.
- (3) A provision by which the highest amount of compensation for damages is determined in advance shall be valid provided it is not in an obvious disproportion with the damage.
- (4) This limitation of the amount of compensation for damages shall not apply if the damage was caused by the transporter on purpose or with extreme negligence.
- (5) Unless otherwise agreed, the amount of compensation for damages shall be determined according to the market price of the shipment at the time and in the place where it is delivered for transportation.

Loss or Damage of Shipment of Precious Objects

Article 728

- (1) In case of loss or damage of a shipment of valuables, securities, or other precious objects, the transporter shall be bound to pay compensation for the damage caused only if at the moment of delivering the objects for transportation, he/she was informed of the nature of the objects and their value, or if he/she caused the damage on purpose or with extreme negligence.
- (2) Where other goods are placed in the shipment together with the abovementioned objects, the transporter shall be liable for their loss or damaging according to the general rules relating to liability of a transporter.

Reimbursement of Paid Transportation Fee

Article 729

Where a shipment is completely lost, the transporter shall be bound to reimburse to the consignor the paid transportation fee in addition to paying compensation for damages.

Where a Consignee Accepts a Shipment without Objections

Article 730

- (1) Where a consignee accepts a shipment without objections and pays the transporter his claims, the liability of the transporter shall terminate, unless the damage has been established and recorded before the consignee has accepted the shipment.
- (2) A transporter shall remain liable for damage to a shipment that could not have been noticed at the moment of delivery, if the consignee notifies him/her of the damage immediately after discovering it, but not later than eight days after the delivery.
- (3) A transporter may not invoke to the provisions of paragraphs (1) and (2) if he/she has caused the damage on purpose or with extreme negligence.

Liability of Transporter for Being Late

Article 731

A transporter shall be liable for loss or damage caused due to belatedness, unless the belatedness was caused by a fact which excludes his/her liability for loss or damage to the object.

Liability for Assistants

Article 732

A transporter shall be liable for persons that are engaged on his/her order in performing the transportation.

Component 5

PARTICIPATION OF SEVERAL TRANSPORTERS IN TRANSPORTING A SHIPMENT

Cases of Joint Liability of Several Transporters

Article 733

- (1) A transporter who has entrusted to another transporter full or partial performance of the transportation of the shipment that he/she has accepted for transportation, shall remain liable for the transportation of the shipment from the moment of acceptance until delivery, but shall be entitled to be paid a transportation fee by the transporter to whom he/she has entrusted the shipment.
- (2) If the second transporter receives from the first transporter a bill of lading together with the shipment, he/she shall become a contracting party in the contract for transportation, with rights and obligations of a joint debtor and joint creditor that are proportional to his/her participation in the transportation.
- (3) The same shall apply in cases of a contract for transportation of a shipment that binds several transporters to perform the transportation consecutively.
- (4) Each of the several transporters shall be entitled to request that the condition of the shipment is established at the moment of accepting the shipment for transportation in order to perform his/her part of the transportation.
- (5) Solidary transporters shall participate in covering damage in proportion to their shares in the transportation, except the one who proves that the damage was not caused while he/she was transporting the shipment.
- (6) Objections raised against a subsequent transporter shall also have effect against all previous transporters.

Divided Liability of Transporters

Article 734

Where transportation of the same shipment is done by several transporters successively as determined by the consignor, each one shall be liable only for his/her part of the transportation.

Component 6 **RIGHT TO LIEN**

Lien of a Transporter

Article 735

- (1) In order to secure payment of the transportation fee and the necessary expenses incurred by him/her in relation with the transportation, a transporter shall have a right to lien over the objects delivered to him/her for transportation and in connection with the transportation, for the time that

the objects are in his/her possession or for the time that he/she possesses a document that enables him/her to dispose of them.

(2) Where several consecutive transporters participate in performing the transportation, their claims relating to the performance of the transportation shall also be secured by such a lien, and the last transporter, unless otherwise indicated in the bill of lading, shall be bound to collect all claims from the bill of lading.

(3) Claims of an earlier transporter, as well as his/her right to lien, shall be transferred as a matter of law to the subsequent transporter who has paid to him/her the claims in question.

(4) The same shall apply if a transporter has paid the forwarder's claims.

Conflict of Lien Rights

Article 736

(1) Where in addition to the lien right of a transporter, the same object shall be burdened with simultaneous liens rights of a commission agent, forwarder and warehouse keeper, priority in payment shall be given to the claims of any of these creditors that have been created by forwarding or transportation, in order opposite to the order of their creation.

(2) All remaining claims of the commission agent and the warehouse keeper, as well as claims of the forwarder and the transporter that were created by depositing an advance, shall be collected after the claims referred to in paragraph (1) of this Article have been paid, in the order of their creation.

SECTION 3

CONTRACT FOR TRANSPORTATION OF PERSONS

General Provisions

Article 737

A transporter shall be bound to perform the transportation of persons safely, in the transportation vehicle indicated in the contract of transportation, and to provide such conditions of comfort and hygiene as considered necessary for the relevant kind of vehicle and the duration of the journey.

Right of the Passenger to a Specified Seat

Article 738

A transporter shall be bound to provide a passenger with a seat in the transportation vehicle as agreed.

Liability of the Transporter for Being Late

Article 739

(1) A transporter shall be bound to transport a passenger to the specified place on time.

(2) A transporter shall be liable for damage suffered by a passenger due to belatedness, unless the belatedness was caused by reasons which were impossible for him/her to eliminate, even with the care of an expert.

Liability of the Transporter regarding the Safety of Passengers

Article 740

(1) A transporter shall be liable for the safety of passengers during the entire transportation, both in case of paid and free transportation, and shall be bound to pay compensation

for damages caused by illness, injury or death of a passenger, except when caused by an action of the passenger or by an unforeseeable external cause which could not have been foreseen, avoided or eliminated.

(2) The provisions of a contract as well as those of general terms of transportation, of tariffs or of other general acts, which reduce this liability, shall be void.

Liability for Luggage Delivered for Transportation and for other Objects

Article 741

(1) A transporter shall be bound to transport the luggage delivered to him/her by a passenger at the same time as the passenger, and he/she shall deliver the luggage to the passenger when the transportation is over.

(2) A transporter shall be liable for loss or damage to luggage delivered to him/her by a passenger according to the provisions relating to transportation of objects.

(3) A transporter shall be liable for damage to objects carried by a passenger according to the general rules relating to liability.

Chapter XVIII

LICENSE CONTRACT

Section 1

GENERAL PROVISIONS

Definition

Article 742

(1) By a license contract, a licensor shall be bound to assign to a licensee, fully or partially, the right to make use of an invention, technical know-how and experience, trademark, sample or model, whereas the licensee shall undertake the obligation to pay a certain fee in return.

(2) By a license contract, a licensor may bound himself/herself to assign to a licensee a potential right of the patent application, trademark model and sample, as well as unpatented invention.

Form

Article 743

A license contract must be entered in a written form.

License Period

Article 744

Licenses for the use of a patented invention sample or of a model shall not be concluded for a period longer than the period covered by statutory protection of such rights.

Exclusive License

Article 745

(1) A licensee shall acquire by license contract an exclusive right of use of the subject of the license only after this has been expressly stipulated (exclusive license).

(2) Other possibilities of using the subject of a license shall be reserved by the licensor.

(3) Where there is 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.

Spatial Limit of the Right of Use

Article 746

- (1) A right to use the subject of a license may be limited to a certain area.
- (2) Where there is no spatial limit in the license contract of the right to use the subject of license, the license shall be considered as unlimited in terms of space.

SECTION 2

OBLIGATIONS OF LICENSOR

Delivery of the Subject of License

Article 747

- (1) A licensor shall be bound to deliver to a licensee the subject of the license within the determined time limit.
- (2) A licensor shall also be bound to deliver to a licensee the technical documentation necessary for practical application of the subject of the license.

Providing Instructions and Information

Article 748

A licensor shall be bound to provide a licensee with all instructions and information necessary for the successful use of the subject of the license.

Obligation to Guarantee

Article 749

A licensor shall guarantee to the licensee the technical feasibility and technical use of the subject of the license.

Guaranty

Article 750

- (1) A licensor shall guarantee that the right of use, which is subject of the agreement, belongs to him/her, that there is no lien on it and that it is not restricted in favour of a third person.
- (2) If the subject of an agreement is an exclusive license, the licensor shall guarantee that he/she has not assigned the right of use to another, either fully or partially.
- (3) A licensor shall be bound to protect and defend the right, which he/she has assigned to the licensee against all third parties' requests.

Obligation of a Licensor of an Exclusive License

Article 751

Where an exclusive license is agreed, the licensor shall not use in any way the subject of the license alone, or some of its parts, nor shall he/she entrust that to another within the limits of regional validity of the license.

SECTION 3

OBLIGATIONS OF THE LICENSEE

Use of the Subject of License

Article 752

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 753

Unless otherwise determined by law or by contract, a licensee shall not be authorised to use subsequent advancements in the subject of the license.

Keeping the Subject of License Secret

Article 754

If the subject of a license is an unpatented invention or secret technical know-how, the licensee shall be bound to keep it confidential.

Quality

Article 755

- (1) If a manufacturing license is assigned together with a license concerning the use of a trademark, 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.

Labelling

Article 756

A licensee shall be bound to put an indication on the goods that they are manufactured according to a license.

Fee

Article 757

The licensee shall be bound to pay to a licensor the fee stipulated, at the time and in the manner stipulated in the contract.

Submitting a Report

Article 758

Where the fee is fixed in relation to the scope of use of the subject of a license, the licensee shall be bound 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 on the matter.

Changing a Stipulated Fee

Article 759

Should the stipulated fee be obviously inadequate in relation to the revenue realised by the licensee through the use of the subject of the license, the interested party may request a change in the stipulated fee.

SECTION 4

SUBLICENSE

In Case When it May be Granted

Article 760

- (1) A licensee of an exclusive license may transfer to another the right of use of the subject of the license (sublicense).
- (2) A contract may provide that a licensee be precluded from granting a sublicense to another, or from granting it without the licensor's permission.

In Case When a Licensor May Refuse Permission

Article 761

If permission by a licensor is needed for granting a sublicense, he/she may only refuse it to the licensee of an exclusive license for serious reasons.

Cancellation Due to a Prohibited Sublicense

Article 762

A licensor may cancel the licensing agreement without honouring a period of notice if a sublicense has been granted without his/her permission, where permission is necessary pursuant to law or contract.

Direct Request by a Licensor

Article 763

- (1) A sublicense contract shall create no particular legal relationship as between the sublicensee and the licensor, even if the licensor granted the necessary permission to make the sublicense contract possible.
- (2) But in order to collect his/her claims against the licensee on the basis of license, the licensor may request the payment of the amount owed to the sublicensor on the basis of the sublicense directly from the sublicensee.

SECTION 5

TERMINATION OF THE CONTRACT

Expiration of Specified Time

Article 764

A licensing agreement for a definite period shall be terminated on expiration of the stipulated period, so that there shall be no need for cancellation.

Tacit Renewal of a License

Article 765

- (1) If after the expiration of a definite period specified in the licensing agreement, the licensee continues to use the subject of a license, but the licensor fails 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) The guarantees supplied by third parties regarding the first license shall be terminated with the expiration of the validity period of that license.

Notice

Article 766

- (1) The license contract whose validity period is not determined shall be terminated by notice, which may be given by either party, after observing a fixed period of notice.
- (2) Should the period of notice not be stipulated by agreement, it shall be six months, provided the licensor does not cancel the agreement during the first year of its validity.

Death, Bankruptcy and Regular Liquidation

Article 767

- (1) In case of death of a licensor, the license shall continue to be effective for his/her successors, unless otherwise agreed.
- (2) In case of death of a licensee, the license shall continue to be effective for his/her successors continuing his/her activity.
- (3) In case of a bankruptcy or liquidation of a licensee, a licensor may cancel the contract.

Chapter XIX

DEPOSIT

Section 1

GENERALLY ON DEPOSIT

Component 1

GENERAL PROVISIONS

Definition

Article 768

- (1) By a deposit contract, the depositary shall undertake the obligation to accept an object from the depositor, to store it and to restore it at his/her request.
- (2) Only movable property may be subject of deposit.

Deposit of Another Person's Object

Article 769

- (1) A deposit contract may be validly entered into also by a person, on his/her own behalf, who is not the owner of the object and the depositary shall be bound to restore the object to him/her, unless he/she discovers that the object was stolen.
- (2) If a third party claims at court the object from the depositary as an owner, the depositary shall be bound to inform the court of the name of the person from whom the object was accepted, and at the same time notify the depositor of the action filed with the court.

Component 2

OBLIGATIONS OF A DEPOSITARY

Duty of Storing and Informing

Article 770

- (1) A depositary shall be bound to store the object as his/her own and, and if the deposit is with a fee, as a good businessman or good head of household.
- (2) If the place or manner of storing the object is agreed, the depositary may change them only if this is required by changed circumstances; he/she shall otherwise be liable for accidental loss or accidental damage to the object.
- (3) A depositary shall be bound 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 771

A depositary may not, without the depositor's consent or without necessity, deliver the object to another for storing; he/she shall otherwise be liable for its accidental loss or damage.

Using the Object

Article 772

- (1) A depositary shall not be entitled to use the object entrusted to him/her for storage.
- (2) In case of unallowed use of the object, the depositary shall owe to the depositor suitable fee, and shall be liable for any accidental loss or damage of the object that occurs.
- (3) Where a non-expendable object is deposited with the depositary, coupled with his/her right to use it, the relations between the contracting parties shall be governed by the rules of the 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 773

A depositary who, without the depositor's consent and without necessity, contrary to contract, uses 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/her proceeding according to the contract.

Restoring the Object

Article 774

- (1) A depositary shall be bound to restore the object immediately upon a corresponding request by the depositor, including all *usus fructus* 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 agreed fully 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 is stipulated for the purpose, and in such case the depositary shall be entitled to reimbursement of expenses for transporting the object.

Component 3

RIGHTS OF A DEPOSITARY

Reimbursement of Expenses and Compensation of Loss

Article 775

A depositary shall be entitled to request reimbursement from the depositor for expenses incurred justifiably by him/her in order to store the object, and to pay monetary compensation for the damage suffered due to such storing.

Fee

Article 776

A depositary shall not be entitled to compensation for his/her efforts, unless compensation is agreed, or if the depositary is engaged in the business of storing, or if compensation was expected due to the circumstances of the transaction.

Restoring the Object in Case of Depositing Free of Charge

Article 777

- (1) A depositary undertaking 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 it.
- (2) If a time limit is not agreed, the depositary referred to in paragraph (1) of this Article may cancel the contract at any time, but shall be bound to determine a reasonable time limit to the depositor for taking the object over.

Component 4

PARTICULAR CASES OF DEPOSIT

A Non-Genuine Deposit

Article 778

Where replaceable objects are 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/her 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 agreed otherwise in that respect.

Deposit Due to Necessity

Article 779

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 an increased degree of care.

Section 2

CATERER'S DEPOSIT

Caterer as a Depositary

Article 780

- (1) An innkeeper shall be considered a depositary regarding the objects brought in by guests, and shall be liable for their disappearance or damage up to MKD 10,000.
- (2) There shall be no such liability if the objects have perished 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/herself, or due to the conduct of persons accompanying him/her, or of those visiting him/her as guests.

(3) The caterer shall be liable for total loss if the guest entrusted the object to him/her for storing, or if damage occurred through his/her fault or the fault of persons under his/her responsibility.

Obligations of the Caterer to Accept Objects for Storing

Article 781

(1) A caterer shall be bound to accept for storing the objects brought in by the guests for such purpose, unless he/she has no adequate space for keeping them, or if such storage exceeds his/her resources in some other way.

(2) A caterer unjustifiably refusing to accept an object for storing shall be liable for the entire damage caused thereby to a guest.

Obligation of the Guest to Report Damage

Article 782

A guest shall be bound to report loss or damage of the object as soon as he/she becomes aware of it; he/she shall otherwise be entitled to damages only after proving that the damage was caused by the caterer's fault or by the fault of persons within his/her responsibility.

Notices on Excluding Liability

Article 783

Notices displayed in the premises of the caterer by which his/her liability is excluded, limited or made dependent on some conditions concerning objects brought in by the guests, shall have no legal effect.

Right of Retention

Article 784

A caterer accepting guests overnight shall be entitled to keep the objects brought in by the guests until complete payment of the claim covering the lodging and other services.

Extending the Application of Provisions on Caterer's Deposit

Article 785

Provisions on caterer's deposit shall apply accordingly to hospitals, garages, railway sleeping cars, organised camping sites, and the like.

Chapter XX

WAREHOUSING

Section 1

GENERAL PROVISIONS

Definition

Article 786

(1) By a warehousing contract, the warehouse keeper shall undertake the obligation to accept and store specified goods 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 another

authorised person, while the depositor shall undertake the obligation to pay him/her in return an agreed fee.

(2) In delivering the goods, the depositor shall be bound to provide all necessary information on the goods, and to state their value.

Exclusion of Liability and some Obligations of a Warehouse Keeper

Article 787

(1) A warehouse keeper shall be liable for damage to the goods, unless he/she 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 goods, or by inadequate packaging.

(2) A warehouse keeper shall be bound to warn the depositor about the shortcomings or natural properties of the goods, or about the inadequate packaging, due to which damage to goods may ensue, and he/she shall do that as soon as he/she becomes aware of such deficiencies, or as soon as he/she must become aware of them.

(3) If the goods are exposed to such irremediable changes so as to cause danger of being spoiled or deteriorated, the warehouse keeper shall be bound to sell the goods immediately and in the most convenient way, if the depositor, while being invited by him/her, is unable to do so.

(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 goods to him for the account of the depositor, if the goods are damaged or are defective.

In Case When is there a Duty to Insure

Article 788

(1) A warehouse keeper shall be bound to insure the goods accepted for storage only if agreed so.

(2) If there is no agreement regarding the kind of risk to be covered by insurance, the warehouse keeper shall be bound to insure the goods against usual risks.

Limitation of Compensation

Article 789

Compensations that must be paid by a warehouse keeper due to loss, partial loss or damage to the goods in the period between its acceptance and delivery, shall not exceed the real value of the goods, unless damage was caused by him/her willfully or through extreme negligence.

Mixing of Replaceable Objects

Article 790

(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) If the objects are mixed, the warehouse keeper may, at the request of an authorised person and without the participation of other authorised persons, set apart from the mixture of replaceable objects the part belonging to him/her.

Inspection of Goods and Taking Samples

Article 791

A warehouse keeper shall be bound to permit an authorised person to inspect the goods and take corresponding samples.

Warehouse Keeper's Claim and the Right of Lien

Article 792

- (1) In addition to the storage fee, the warehouse keeper shall be entitled to reimbursement of expenses, which are necessary for storing the goods.
- (2) A warehouse keeper shall have the right of lien over the goods, to cover his/her contractual claims of warehousing, and for other claims relating to the storage of goods.

Collecting of Goods and Sale of Uncollected Goods

Article 793

- (1) A depositor shall be entitled to collect the goods even prior to the agreed time limit.
- (2) If a depositor fails to collect the goods after the expiration of the stipulated time limit, or one year after, if a time limit for storage is not stipulated, the warehouse keeper may sell the goods for his/her benefit at a public sale, but shall be bound to notify him/her beforehand of his/her intention, and shall give him/her a subsequent time limit of minimum eight days to collect the goods.

Defects when Accepting the Goods

Article 794

- (1) A recipient shall be bound to inspect the goods at the moment of taking the delivery.
- (2) After noticing defects on taking delivery, the recipient shall be bound to warn the warehouse keeper thereof immediately, otherwise the goods shall be considered to have been accepted in a regular way.
- (3) The recipient shall be bound to notify the warehouse keeper in a reliable way, within a seven days time limit, counting from the day of taking the delivery, of defects in the goods which could not be established at the moment of taking the delivery, otherwise goods shall be considered as having been accepted in a regular way.

Application of the Rules of Deposit

Article 795

The rules of deposit shall apply accordingly to the contract of warehousing, unless otherwise regulated by the rules of warehousing.

Section 2

WAREHOUSE RECEIPT

Duty of Issuing a Warehouse Receipt

Article 796

A warehouse keeper being authorised by law to issue a warehouse receipt covering the goods accepted for storage, shall issue such receipt to the depositor at his/her request.

Elements and Contents of Warehouse Receipt

Article 797

- (1) A warehouse receipt shall consist of a receipt and a letter of lien.
- (2) The receipt and the letter of lien shall include the following: title or name and profession of the depositor, his/her business address or residence, title and business address of the warehouse keeper, date and number of the warehouse receipt, location of the warehouse, kind, nature and quantity of goods, information concerning the amount of insurance of the goods, as well as other data necessary

to identify the goods and to determine their value.

(3) The receipt and letter of lien shall refer to each other.

Warehouse Receipt for Parts of the Goods

Article 798

(1) A depositor may demand that the warehouse keeper separates the goods into specific parts and issues to him/her a separate warehouse receipt for each such part.

(2) After he/she has already obtained a warehouse receipt covering the entire quantity of goods, he/she may demand that the warehouse keeper separates the goods into specific parts and issues him/her, while replacing the already obtained warehouse receipt, the separate warehouse receipts covering each part of the goods.

(3) A depositor may demand the warehouse keeper to issue him/her the warehouse receipt for only one part of the replaceable goods left by him/her with the warehouse keeper.

Right of a Holder of the Warehouse Receipt

Article 799

(1) A holder of a warehouse receipt may demand that the goods indicated therein be delivered to him/her.

(2) He/she may dispose of the goods indicated in the warehouse receipt by transferring the warehouse receipt.

Transferring the Receipt and the Letter of Lien

Article 800

(1) A receipt and a letter of lien 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 letter of lien, the transfer effected to his benefit shall be recorded in the warehouse ledger, where also his/her business address or his/her residence, shall be noted.

Right of a Holder of the Receipt

Article 801

(1) The transfer of a receipt without a letter of lien shall entitle the recipient to claim delivery of goods only after paying the holder of the letter of lien, or depositing the amount which should be paid to him/her on the day of maturity of the claim to the warehouse keeper for the holder of the letter of lien.

(2) A holder of the receipt without the letter of lien may request that the goods be sold, if the price to be achieved covers the amount to which the holder of the letter of lien is entitled, provided that the surplus realised is remitted to him/her.

(3) In case of replaceable objects, the holder of the receipt without the letter of lien may request that the warehouse keeper delivers to him/her one part of the goods, provided that he/she deposits a corresponding amount of money to the warehouse keeper for the account of the holder of the letter of lien.

Rights of a Holder of the Letter of Lien

Article 802

(1) A transfer of the letter of lien without the receipt shall entitle the recipient to a lien over the

goods.

(2) On the occasion of the first transfer, the letter of lien shall include the title or name and profession of the creditor, his/her business address or residence, the amount of his/her claim, including the interest, and the maturity date.

(3) The first recipient of the letter of lien shall be bound to notify without delay the warehouse keeper that the letter of lien is transferred to him/her, while the warehouse shall be bound to record such transfer into the warehouse ledger, indicating on the face of the letter of lien the fact of making such transcription.

(4) Without the actions referred to in paragraph (3) of this Article, it shall not be possible to transfer further the letter of lien by endorsement.

(5) A letter of lien without the indication as to the amount of claim of the pledgee, shall be binding in favour of the pledgee up to the entire value of the objects indicated therein.

Complaint for Failing to Pay and Selling of Goods

Article 803

(1) The holder of the letter of lien without the receipt, whose claim secured by the letter of lien is not paid in the specified time, shall be bound, under threat of forfeiting his/her right to demand payment from the transferors, to file a complaint in conformity with the Law on the Bill of Exchange.

(2) The holder of the letter of lien who has filed a complaint shall be entitled, after the expiration of the eight day time limit from the maturity of the claim, to demand the sale of the pledged goods, while the same right shall also pertain to a transferor who has paid to the letter of lien holder the claim secured by the letter of lien.

(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 goods, as well as for covering payment of the secured claim of the letter of lien holder, while the remainder shall belong to the holder of the receipt.

Requesting Payment from Transferors of the Letter of Lien

Article 804

(1) A holder of the letter of lien may demand payment from a transferor only if he/she was not successful in the total settlement by selling the letter of lien goods.

(2) Such request must be filed within the time limit determined by the Law on the Bill of Exchange in case of request against the endorsors, and that time limit shall begin to run from the date of selling the goods.

(3) The letter of lien holder shall forfeit the right to demand payment from the transferors after failing to request the sale of goods within a month from the date of protest at the latest.

Chapter XXI

ORDER

Section 1

GENERAL PROVISIONS

Definition

Article 805

- (1) By an order contract, the consignee shall undertake the obligation to the orderer to carry out specific transactions for his/her account.
- (2) At the same time the consignee shall be authorised to undertake such transactions.
- (3) The consignee shall be entitled to a fee for the effort, unless otherwise provided by the contract or resulting from the nature of the mutual relations of the parties.

Persons Bound to Respond to the Offer of the Order

Article 806

One professionally engaged in performing other persons' transactions, or in making public 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/she shall be liable for any loss sustained by such party.

Section 2

Performing an Order as It Stands

OBLIGATIONS OF THE PERSON RECEIVING AN ORDER

Article 807

- (1) A consignee shall be bound 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 guidelines.
- (2) When the consignee considers that following the order according to instructions received would be harmful to the orderer, he/she shall draw his/her attention accordingly and request new instructions.
- (3) If the orderer fails to supply specific instructions concerning the job to be done, the consignee shall, while being guided by the interests of the orderer, proceed as a good businessman or head of household, and if the order is without fee, he/she shall proceed as he/she would with his/her own matters under the same circumstances.

Departures from Order and from Instructions

Article 808

- (1) A consignee may depart from the order and instructions accepted only by agreement with the orderer, and if it is impossible, due to shortage of time or some other reason, to ask for the orderer's consent, he/she may depart from the order and instructions only if, assessing all the circumstances, he/she is able to reasonably conclude that this is required in the interests of the orderer.
- (2) If the consignee exceeds the limits of the order or departs from the instructions received, he/she shall not be considered as a party accepting an order, but as [performing an] unauthorised action, unless the orderer subsequently approves what was done by him/her.

Substitution

Article 809

- (1) A consignee shall perform the order personally.
- (2) He/she 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/she did.

(3) In such cases he/she shall be liable only for the choice of person substituting him/her and for the instructions communicated to such person.

(4) In the rest of the cases, he/she shall be liable for the work of his/her substitute, and for accidental loss or damage to the object, which occurs with the person substituting for him/her.

(5) The orderer in each case may demand, directly from the substitute, the carrying out of the obligation in the order.

Submitting Account

Article 810

A party accepting an order shall be bound to submit account of the transaction performed, while handing over to the orderer without delay everything he/she received on the ground of the affairs performed, regardless of whether what was received by him/her for the orderer, was owed to the latter or not.

Submitting Reports

Article 811

A consignee shall be bound, at the orderer's request, to submit a report concerning the state of affairs, and submit account even prior to the designated time.

Liability for Use of Orderer's Money

Article 812

If a consignee uses for his/her own needs the money received for the orderer, he/she shall be bound to pay interest at the highest permitted contractual rate, counting from the date of use, and regarding other money owed and not handed over on time, he/she shall pay default interest, counting from the date he/she was bound to hand the money over.

Solidary Liability of Consignees

Article 813

If performing a transaction is entrusted by the same order to several persons to perform it jointly, they shall be solidarily liable for obligations in such order, unless otherwise stipulated.

Section 3

OBLIGATIONS OF THE ORDERER

Advancement of Money

Article 814

At the request by the consignee, the orderer shall be bound to pay him/her a sum of money to cover anticipated expenses.

Reimbursement of Expenses and Assuming Obligations

Article 815

(1) An orderer shall reimburse a consignee, even if his/her effort is not successful without his/her fault, all necessary expenses incurred by him/her in performing the order, together with interest from the date of expenditure.

(2) He/she shall be bound to undertake the obligations of the consignee while engaging on his/her

own behalf in affairs entrusted to him/her, or shall disengage him/her from obligations in some other way.

Compensation for Damages

Article 816

An orderer shall be bound to compensate the damages suffered by the person performing the order through no fault of his own.

Level of Compensation

Article 817

Unless otherwise agreed, the orderer shall owe a usual amount of compensation and if there is no trade usage in this respect, he/she shall owe a fair compensation.

Payment of Compensation

Article 818

- (1) Unless otherwise agreed, the orderer shall be bound to pay a fee to the consignee when the job is done.
- (2) If the consignee, without fault on his/her part, completes the order only partially, he/she shall be entitled to a proportionate part of the fee.
- (3) When the fee agreed in advance is in obvious disproportion to services rendered, the orderer may request its reduction.

Right of Lien

Article 819

In order to secure a fee and recovery of expenses, the consignee shall be entitled to acquire a lien over the orderer's movables received under order, and over the sums of money he/she has collected for the account of orderer.

Solidary Liability of the Orderers

Article 820

If several persons entrust the performance of an order to a consignee, they shall be solidarily liable to him/her.

Section 4

TERMINATION OF ORDER

Withdrawing from Contract

Article 821

- (1) An orderer may withdraw from a contract.
- (2) In case of withdrawing from a contract providing for compensation to the benefit of the consignee, the orderer shall be bound to pay to the latter a corresponding part of compensation, as well as compensate the damage sustained by him/her due to withdrawing from the contract should there be no well-grounded reasons.

Cancellation

Article 822

- (1) A consignee may cancel it by his own choice, but not at an inappropriate time.
- (2) He/she shall be bound to compensate the damages to the orderer, if sustained by him/her because of cancellation of the order at a bad time, unless well-grounded reasons existed for cancellation.
- (3) The consignee shall be bound 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 the Legal Person

Article 823

- (1) An order shall be terminated by the death of a party accepting it.
- (2) Successors of the consignee shall be bound to notify the orderer of his/her death without delay, and to take measures necessary for protection of the orderer's interests, until he/she becomes able to take care of them himself/herself.
- (3) An order shall be terminated by death of the orderer only if so provided in the contract, or if the consignee accepted it because of his/her personal relations with the orderer.
- (4) In such case the consignee shall be bound 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 consignee is a legal person, the order shall come to an end when the legal person ceases to exist.

Bankruptcy, Loss of Business Capacity

Article 824

An order shall be terminated with the bankruptcy of the orderer or consignee, or if either of them loses business capacity.

Moment of Termination of Order

Article 825

- (1) If the orderer cancels the contract, or in the case of his/her death or bankruptcy, or if he/she completely or partially loses business capacity, the order shall come to an end at the moment the consignee becomes aware of the event causing the termination of the order.
- (2) Should written authorisation be issued to the consignee, he/she shall be bound to return it after the termination of the order.

Exceptions

Article 826

If an order is given to enable the consignee to achieve performance 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 with the death or bankruptcy of either the orderer or the party accepting the order; nor shall it come to an end should one of them be deprived, fully or partially, of business capacity.

Chapter XXII

COMMISSION

Section 1

Definition

Article 827

(1) By a contract of commission, the commission agent shall assume the obligation to perform, for a fee (commission), on his/her 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 a commission fee even if it has not been agreed.

Application of Rules of the Contract of Order

Article 828

The rules relating to orders shall apply to the contract for commission, unless the rules of commission provide otherwise.

Transacting Under Terms Different From an Order

Article 829

(1) If a commission agent transacts a deal under terms less favourable than the ones determined by the order, when not allowed to do so, he/she shall be bound to reimburse the difference to the client and the damages caused.

(2) In the case referred to in paragraph (1) of this Article, the client may refuse to accept the deal, but shall notify the commission agent thereof without delay.

(3) The client shall forfeit that right if the commission agent is ready to pay the difference immediately and compensate the caused damages.

(4) If a deal is transacted under more favourable terms than determined by the order, all gains resulting thereof shall belong to the client.

Sale of Goods to a Person Burdened with Debts

Article 830

A commission agent shall be liable to a client for losses if he/she sells the goods to a person heavily in debt, provided he/she is aware of the fact or could have been aware of it.

In Case When the Commission Agent Purchases Goods from the Client or Sells Goods to the Client

Article 831

(1) A commission agent entrusted to sell or buy goods being quoted at the stock exchange or in the market may, with the client's permission, keep the goods for himself/herself as a purchaser i.e. deliver it as a seller, at the price effective at the time of executing the entrusted transaction.

(2) In such case, the relations stemming from the contract of sale shall ensue between the commission agent and the client.

(3) If the stock exchange price i.e. 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 bound to pay the price which is higher.

Section 2

OBLIGATIONS OF THE COMMISSION AGENT

Preserving and Insuring

Article 832

- (1) The commission agent shall be bound to preserve the goods entrusted to him/her with care of a good businessman.
- (2) He/she shall also be liable for accidental loss or damage of the goods, if he/she does not insure it although bound to do that by the terms of the order.

Notification about the Condition of the Accepted Goods

Article 833

- (1) On the occasion of taking delivery of merchandise from a carrier, forwarded to him/her by the client, a commission agent shall be bound to ascertain its condition, and notify the client thereof without delay on the date of arrival of the goods, as well as of visible defects or shortage, otherwise he/she shall be liable for loss caused to the client due to such omission.
- (2) He shall be bound to take all necessary measures to preserve the rights of the client against the liable person.

Notification about Changes of Goods

Article 834

A commission agent shall be bound to notify the client about all changes to the goods by which it could lose 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 goods, the commission agent shall be bound to sell it in the most adequate way.

Notifying the Client of the Name of the Contracting Partner

Article 835

- (1) A commission agent shall be bound to notify the client of the name of the person with whom he/she has effected the transaction entrusted to him/her by the client.
- (2) This rule shall not apply in the case of sale of movables in the commission shops, unless otherwise agreed.

Submitting Account

Article 836

- (1) A commission agent shall be bound to submit account of the transaction performed, without unnecessary delay.
- (2) He/she shall be bound to hand over to the client everything he/she has received under the transaction effected for his/her account.
- (3) A commission agent shall be bound to transfer to the client the claims and other rights acquired by him/her against a third party to the transaction effected in his/her own behalf and for his/her account.

Del Credere

Article 837

- (1) A commission agent shall only be liable to perform the obligations of his/her contracting partner if he/she specifically guarantees that he/she shall do so (del credere), in which case he/she shall be solidarily liable.
- (2) A commission agent guaranteeing the performance of obligations of his/her contracting partner shall be entitled to a special fee (del credere commission fee).

Section 3

OBLIGATIONS OF CLIENT

Fee (Commission)

Article 838

- (1) The client shall be bound to pay to the commission agent a fee when the transaction entrusted to him/her has been performed, and if performance of the transaction is prevented due to a cause within the scope of the client's responsibility.
- (2) In case of gradual performance, the commission agent may demand a proportionate part of the fee after each partial performance.
- (3) If the concluded transaction is not performed due to a cause outside the responsibility of both the commission agent and the client, the commission agent shall be entitled to a corresponding fee for his/her effort.
- (4) A commission agent which was unfair to his/her client shall not be entitled to a fee.

Amount of the Fee

Article 839

- (1) If the amount of the fee is not fixed 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) If in a specific case the commission fee is not in 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 840

- (1) A client shall be bound to reimburse to the commission agent the expenses necessary for performing the order, including interest from the date of expenditure.
- (2) A client shall be bound to pay to a commission agent special compensation to cover the use of his/her warehouses and transportation facilities, if this is not included in the fee provided for performance of the transaction.

Advancement Payment to the Commission Agent

Article 841

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 entrusted work.

Section 4

LIEN RIGHT

Article 842

- (1) A commission agent shall acquire the right of lien relating to goods covered by the commission contract while in his/her possession, or in the possession of someone holding them on his/her behalf, or while he/she remains the holder of a document enabling him/her to have them at

disposal.

(2) From the value of the goods, the commission agent shall be entitled, before other creditors of the client, to collect his/her 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 priority payment shall pertain to the commission agent out of the claims acquired by him/her for the account of a client while carrying out his/her order.

Section 5

RELATIONS WITH THIRD PARTIES

Client's Right to Claims Originating from Transactions with a Third Party

Article 843

A client may demand performance of claims from the transactions entered into by a commission agent with a third party and for his/her account, only after the commission agent has assigned them to him/her.

However, in terms of relations between a client and a commission agent and his/her creditors, such claims shall be treated from their incurrence as claims of the client.

Limitation of Rights of Commission Agent's Creditors

Article 844

The commission agent's creditors shall not, in order to collect their claims, even in case of his/her bankruptcy, take measures of execution against rights and objects acquired by the commission agent in performing the order on his/her own behalf but for the account of the client, except in the case of claims in relation to acquiring these rights and objects.

Bankruptcy of a Commission Agent

Article 845

In case of a commission agent's bankruptcy, the client may request separation from bankruptcy estate of goods handed over by him/her to the commission agent to be sold on his/her account out of the bankrupt's assets, as well as of goods acquired by the commission agent on his/her account.

In such case the client may request from a third party, to whom the commission agent has delivered the objects, payment of their price, i.e. any unpaid part.

Chapter XXIII

TRADE REPRESENTATION CONTRACT

Section 1

Definition

Article 846

(1) By a contract of commercial agency an agent shall be bound to take permanent care that third persons conclude contracts with his/her orderer, and to mediate in that respect between them and the orderer, as well as to conclude contracts, after obtaining authorisation, with third persons on behalf and for the account of the orderer, whereas the orderer shall be bound to pay him/her, for each contract concluded, an agreed compensation (commission).

A principal may have several agents in the same area for the same type of business.

One agent shall not undertake, without his/her orderer's consent, an obligation to work for another orderer regarding the same kind of business in the same area.

Form

Article 847

A trade representation contract must be concluded in written form.

Concluding Contracts on Behalf of Orderer

Article 848

An agent may enter into contracts on behalf and for the account of his/her orderer only after obtaining from the orderer a special or general authorisation.

Accepting Performance

Article 849

An agent shall not request neither accept performance of a claim from his/her orderer, unless particularly authorised.

Statements of Orderer's Agent

Article 850

Where a contract is concluded by mediation of the agent, a contracting partner of the orderer may validly make statements to the agent concerning defects in the subject of a contract as well as other statements relating to such contract with the purpose of preserving or realising rights arising from the contract.

Statements on Behalf of the Orderer

Article 851

In order to protect the rights of his/her orderer, an agent shall be authorised to make necessary statements to the principal's contracting partner.

Security Instruments

Article 852

In order to protect the interest of the lessor, an agent may request necessary undertaking of necessary security instruments.

Section 2

OBLIGATIONS OF AN AGENT

Taking Care of Orderer's Interests

Article 853

An agent shall be bound to take care of the interests of the orderer and shall be bound to proceed in

all transactions undertaken by him/her with the care of a good businessman.

An agent shall be bound to conform to the instructions given by the orderer.

(3) An agent shall be bound to provide the orderer with all the necessary information concerning the market situation, particularly those significant for each particular transaction.

Participation in the Conclusion of Transactions

Article 854

An agent shall be bound to participate, according to the instructions of the orderer, both in concluding transactions and in their complete execution.

Keeping Business Secrets

Article 855

(1) An agent shall be bound to keep the business secrets of his/her orderer which become known to him in relation to the agreed transaction.

(2) An agent shall be liable if he/she uses the business secrets or discloses them to another person even after the termination of the trade representation contract.

Restitution of Objects Given for Use

Article 856

After the termination of the trade representation contract, the agent shall be bound to restitute to the orderer all objects handed over by the orderer for use during the contract.

Particular Case of Liability

Article 857

An agent shall be liable to the orderer for performance of the obligations arising from a contract concluded through an agent's mediation, or entered into by his/her authorisation on behalf of the principal, only if an agent gives a particular written guaranty in that respect.

In such case the agent shall be entitled to a special compensation (del credere commission).

Section 3

OBLIGATIONS OF THE ORDERER

Material and Documentation

Article 858

If specific material or specific documentation is necessary for the agent to do his/her business, the principal shall be bound to provide it to him.

Obligation to Inform

Article 859

(1) An orderer may accept or reject in his/her opinion the conclusion of a contract drafted by the agent, but shall be bound to inform the agent about his/her decision without delay.

(2) An orderer shall be bound to inform the agent without delay of 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/her own business efforts to an adequate degree on time; the orderer shall otherwise be liable for loss sustained by the agent in this respect.

Compensation (Commission)

Article 860

- (1) A principal shall be bound to pay compensation (commission) to the agent for the contracts concluded through his/her mediation, as well as for contracts concluded by the agent him/herself, if authorised accordingly.
- (2) An agent shall also be entitled compensation for contracts concluded directly by the orderer with clients found by the agent.

Acquiring a Right to Compensation

Article 861

Unless otherwise agreed between the contracting parties, the agent shall acquire a right to compensation after the contract has been performed, but such right shall belong to him/her even if the contract remains unperformed, if this is due to a reason for which the orderer is to blame.

Level of Compensation

Article 862

Where the amount of compensation is not agreed either by contract or tariff, the agent shall be entitled to the usual compensation.

Where compensation in a specific case is excessively higher in comparison to the service provided, the court may, at the principal's request, reduce it to an equitable amount.

Special Compensation

Article 863

An agent successful in collecting the principal's claims after being authorised accordingly, shall be entitled to special compensation from the collected amount.

Expenses

Article 864

- (1) Unless otherwise agreed, an agent shall not be entitled to compensation of expenses originating from regular performance of broker's transactions.
- (2) However, the agent shall be entitled to compensation for special expenses incurred by him/her to the benefit of the principal or at his/her order.

Section 4

RIGHT TO LIEN

Article 865

In order to secure collection of his/her due claims originated in connection with the contract, an agent shall have right to lien against the amounts collected on behalf of the principal after his/her

authorisation, as well as regarding all of the orderer's objects received from him/her, or from another person, in connection with the contract while these objects are in the agent's possession, or in the possession of another person holding them for him/her, or while the agent possesses a document enabling him/her to dispose of them.

Section 5

TERMINATION OF CONTRACT

Cancellation of Contract Concluded for an Indefinite Period of Time

Article 866

(1) If the period of validity of a trade representation contract is not fixed by contract, or if it cannot be determined by circumstances of the transaction, each party may cancel the contract at the end of each calendar quarter.

A cancellation 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.

The contracting parties may agree for different time limits of notice and cancellation of the contract, but a minimum one month time limit must be left between the notice and the termination of a contract.

Cancellation of a Contract without Notice

Article 867

Each party may cancel the contract without notice on the ground of serious causes, which must be stated.

If the statement of cancellation of contract is made with no serious reasons, it shall be considered as cancellation with regular notice.

An agent whose activity is interrupted due to an unfounded notice shall be entitled to compensation to cover his/her lost commission, and if he/she cancels the contract without grounds, the right to compensation for damage shall belong to the orderer.

An unfounded notice shall entitle the other party to cancel the contract without notice.

Termination of Contract Concluded for a Definite Period of Time

Article 868

Where a trade representation contract is concluded for a definite period of time, it shall be terminated by the expiration of that time period.

Where such contract is tacitly extended, it shall be treated as a contract agreed for an indefinite period of time.

Chapter XXIV INTERMEDIATION

Section 1 GENERAL PROVISIONS

Definition

Article 869

By a contract of intermediation, an intermediary shall undertake an obligation to try to find and connect his/her principal with a person who will negotiate with him/her to enter into a specific contract, while the orderer shall undertake an obligation to pay him/her a particular commission if such contract is concluded.

Applying Provisions of the Law on Temporary Employment Contract

Article 870

Where it has been agreed that the intermediary will be entitled to a particular compensation, even if his/her effort remains without result, such contract shall be treated according to the provisions applicable to the temporary employment contract.

Accepting a Performance

Article 871

An intermediation order shall not contain an authorisation for the intermediary to accept on behalf of the orderer performance of a contractual obligation arising from the contract entered into through his/her intermediation.

A specific written authorisation shall be needed for the above.

Revocation of an Intermediation Order

Article 872

An orderer shall be entitled to revoke an intermediation order whenever he/she pleases, if he/she does not renounce such right and provided the revocation is not contrary to good faith.

Absence of Duty of Orderer to Conclude a Contract

Article 873

An orderer shall not be bound to engage him/herself in negotiations for entering into a contract with a person found by the intermediary, neither shall the principal be bound to conclude a contract with him/her under terms communicated by the intermediary, but the principal shall be liable for damages if he/she does not act in good faith.

Section 2

OBLIGATIONS OF THE INTERMEDIATOR

Obligation to Seek Opportunity

Article 874

An intermediary shall be bound to seek opportunity for conclusion of a particular contract and to direct the principal to that with the care of a good businessman.

An intermediary shall be bound to intermediate in negotiations and endeavour to conclude a contract, if he/she has undertaken a specific obligation in that respect.

(3) An intermediary shall not be liable if, despite applying the necessary care, he was not successful in his endeavor.

Obligation to Inform

Article 875

An intermediary shall be bound to notify his/her orderer of all circumstances relevant to the intended transaction which are known to him/her or which should be known to him/her.

Liability of an Intermediator

Article 876

An intermediary shall be liable for damage eventually sustained by one or the other party involved in his/her intermediation, which occurs because of his/her intermediation on behalf of a person without business capacity, of whose incapacity the intermediary was or should have been aware, or on behalf of a person of whose incapacity to meet the contractual obligations he/she was or should have been aware, and shall generally be liable for any damage caused by his/her fault.

An intermediary shall be liable for damage sustained by his/her principal if he/she informs a third party of the substance of the order, or negotiations going on, or on terms and conditions of the contract entered into, without the orderer's permission.

Intermediator's Day Book and Sheet

Article 877

An intermediary shall be bound to note down in a separate book (intermediator's day book) essential data about a contract entered into by his/her intermediation, and shall issue a statement from such a book signed by him/her (intermediator's sheet).

Section 3

OBLIGATIONS OF THE ORDERER

Compensation

Article 878

An intermediary shall be entitled to compensation even if it has not been agreed.

If the amount of a compensation is not fixed either by tariff or other general enactment, or by contract or trade practice, it shall be determined by the court according to the intermediary's effort and the service provided.

An agreed intermediary's compensation may be reduced by a court at the orderer's request, if the court finds that it is excessively high in relation to the intermediary's effort and the service provided.

Reduction of the agreed compensation shall not be requested if paid to the intermediary after conclusion of the contract mediated by him/her.

Acquisition of the Intermediator's Right to Compensation

Article 879

(1) Unless otherwise agreed, an intermediary shall acquire the right to compensation at the moment of conclusion of the contract he/she has intermediated.

However, if a contract is concluded under a subsequent condition, the intermediary shall acquire the right to compensation after such condition is realised.

Where a contract is concluded under a rescinding condition, the realisation of the condition shall not affect the intermediary's right to compensation.

In case of a void contract the intermediary shall be entitled to a commission if the cause of invalidity was unknown to him/her.

Compensation of Expenses

Article 880

Unless otherwise agreed, an intermediary shall not be entitled to compensation of expenses incurred in carrying out the order.

But if the intermediary's right to compensation of expenses is recognised by the contract, he/she shall be entitled to such compensation even if the contract has not been concluded.

Intermediation for Both Parties

Article 881

Unless otherwise agreed, an intermediary who receives an order for intermediation by both parties may request from each only half of the intermediary's compensation, and compensation of half of the expenses, if compensation of expenses has been agreed.

An intermediary shall be bound to care for the interests of both parties between which he/she intermediates with the attention of a good businessman.

Losing the Right to Compensation

Article 882

An intermediary who contrary to the contract or contrary to the interests of his/her orderer works for the other party shall lose his/her right to intermediary compensation and to a compensation of expenses.

Chapter XXV

FORWARDING (freight forwarding)

Section 1

GENERAL PROVISIONS

Definition

Article 883

With the forwarding contract the forwarder shall be bound to conclude, for transport of a particular object on his/her behalf and for account of the orderer, a contract of transport and other contracts necessary to perform the transport, as well as to perform the other usual activities and actions, and the orderer shall be bound to pay out to him/her a definite compensation.

Unless otherwise provided by the contract, the forwarder can conclude a contract of transport and can take other legal activities on behalf and for the account of the orderer.

Cancellation of Contract

Article 884

The orderer can cancel the contract by his/her own will but in that case he shall be bound to compensate the forwarder all the costs he/she has had so far and to pay him/her out a proportional part of the compensation for the work performed until then.

Application of the Rules for the Commission Contract, i.e. for Trade Representation

Article 885

The rules for the commission contract, i.e. for trade representation shall be applied based on the relations of the orderer and forwarder which are not regulated in this Chapter.

Section 2

OBLIGATIONS OF THE FORWARDER

Warning about Order Defaults

Article 886

The forwarder shall be bound to warn the orderer of the defaults in his/her order, especially for those that cause him greater costs or damage.

Warning about Package Defaults

Article 887

If the goods are not packed or otherwise not prepared for transport as necessary, the forwarder shall be bound to warn the orderer of such defaults, and if waiting for the orderer to eliminate them would be harmful to him/her, the forwarder shall be bound to eliminate them for the account of the orderer.

Taking Care of the Orderer's Interests

Article 888

The forwarder shall be bound to act in each occasion according to the interests of the orderer and taking care as a good businessman.

He shall be bound without delay to inform the orderer for damage of the goods, as well as for all events important to him/her and to take all the necessary measures in order to keep his/her rights towards the responsible person.

Acting upon the Orderer's Instructions

Article 889

The forwarder shall be bound to follow the instructions for direction, means and method of transport as well as the other instructions of the orderer.

If it is not possible to follow the instructions in the order, the forwarder shall be bound to require new instructions, and if he/she has no time or it is impossible, the forwarder shall be bound to act upon the orderer's interests.

For each deviation from the order, the forwarder shall be bound without delay to inform the orderer.

If the orderer has not determined the direction, the means neither the method of transport, the forwarder will determine these according to the interests of the orderer in the appropriate case.

If the forwarder has deviated from the received instructions he/she shall be responsible for the damage caused due to force majeure, except if he/she proves that the damage would happen even if he/she followed the given instructions.

Responsibility of the Forwarder for Other Persons

Article 890

The forwarder shall be responsible for choosing the transporter as well as for choosing other persons with whom he/she made a contract of executing the order (storage of goods etc.) but is not responsible for their work, except if he/she has taken that responsibility with the contract.

If the forwarder assigns the performance of the order to another forwarder, instead of executing it him/herself, he/she will be responsible for his/her work.

If there is explicit or implied authorisation for the forwarder to assign the execution of the order to another forwarder or if it is obviously in the interest of the orderer, he/she is responsible only for his/her choice, unless he/she has taken the responsibility for his/her work .

The responsibilities in the previous paragraphs of this Article can not be excluded nor limited by a contract.

Customs Actions and Duty Payment

Article 891

Unless otherwise provided by the contract, the order for forwarding goods across the border contains obligation for the forwarder to implement the required customs actions and to pay the customs duties for account of the orderer.

Performance of Transport or Other Activities of the Forwarder

Article 892

The forwarder alone can perform completely or partly transport of goods assigned to him/her for forwarding, unless otherwise agreed.

If the forwarder performed the transport or part of the transport alone, he/she has the rights and obligations of a transporter and in that case he/she has the right to suitable compensation for the transport, besides the compensation based on forwarding and the compensation of costs in relation to the forwarding.

The same applies to other activities included with the order, the habits or the general conditions.

Insurance of a Shipment

Article 893

The forwarder shall be bound to insure the shipment only if it is agreed.

If the contract does not define the risks that should be included in the insurance, the forwarder shall be bound to insure the goods from the usual risks.

Accountability

Article 894

Upon completion of the work, the forwarder shall be bound to give the orderer an account.

If requested by the orderer the forwarder shall be bound to provide account during the performance of the forwarding order.

Section 3

OBLIGATIONS OF THE ORDERER

Payment of Compensation

Article 895

The orderer shall be bound to pay compensation to the forwarder according to the contract and if the compensation is not agreed it is determined by the tariff or some other general act, but in the absence of such, the compensation is determined by the court.

Claiming Compensation by the Forwarder

Article 896

The forwarder can claim compensation when he/she fulfils his/her obligations in the forwarding contract.

Costs and Advance Payment

Article 897

The orderer shall be bound to compensate the forwarder the necessary costs made due to performance of the order for forwarding goods.

The forwarder can claim compensation for the costs immediately after their incurrence.

The orderer shall be bound, upon the forwarder's request, to pay in advance the required amount for the costs necessary to execute the order for forwarding goods.

Agreement for the Consignee of Goods to Pay the Compensation

Article 898

If it is agreed that the forwarder will charge his/her claims from the consignee of the goods, the forwarder shall retain the right to claim payment of compensation from the orderer if the consignee rejects to pay it.

Dangerous Goods and Valuables

Article 899

The orderer shall be bound to inform the forwarder of the properties of the goods that might jeopardise the safety of persons, or goods or can inflict damages.

When the shipment contains valuables, securities or other precious goods, the orderer shall be bound to inform the forwarder thereof and to state their value at the moment of delivery due to forwarding.

Section 4

SPECIAL CASES OF FORWARDING

Forwarding with Fixed Compensation

Article 900

When the forwarding contract determines a total amount for performance of the order for goods forwarding, it shall include the compensation on the basis of forwarding and compensation for transport and compensation for all other costs, unless otherwise agreed.

In that case the forwarder shall be responsible for the work of the transporter and of the other persons he/she has used by the authorisations of the contract

Collective Forwarding

Article 901

The forwarder can, while executing the received orders, organise collective forwarding, unless it is

excluded by the contract.

If by the collective forwarding the forwarder achieves freight difference on behalf of the orderer, he/she shall have the right to special additional compensation .

(3) In case of collective forwarding, the forwarder shall be responsible for loss or damage of the goods during transport which would not have occurred if there was no collective forwarding.

Section 5

RIGHT TO LIEN OF THE FORWARDER

Article 902

In order to provide payment of his/her claims resulting from the forwarding contract, the forwarder shall have the right to lien over the goods delivered for forwarding and in connection with the forwarding as long as he/she has a document by which he can have them at disposal.

If another forwarder has taken part in the performance of the forwarding, he/she shall be bound to take care of payment of the claims and realisation of the right to lien of the previous forwarders.

If another forwarder charges the forwarder claims towards the orderer, these claims and the right to lien of the forwarder shall be transferred to him/her according to the law.

The same applies if another forwarder pays the claims of the transporter.

Chapter XXVI

CONTRACT OF GOODS AND SERVICES CONTROL

Definition

Article 903

By the contract of goods control one contracting party (control performer), shall be bound to perform the agreed control of the goods professionally and impartially and to issue a certificate therefor, and the other party (control orderer), shall be bound to pay the agreed amount for the performed control.

Goods control can include determination of identity, quality, quantity and other properties of the goods.

Scope of Control

Article 904

The control performer shall be bound to perform control of the scope and method determined in the contract, and if nothing is defined in the contract, then of the scope and method suitable for the nature of the goods.

Nullity of Specific Contract Provisions

Article 905

Void provisions of the contract shall be those that impose duties to the control performer, which could affect the impartiality of control performance or the correctness of the document (certificate) for the performed control.

The control shall be considered as performed after issuing the certificate.

Storage of Goods, i.e. Samples

Article 906

The control performer shall be bound to keep and protect from change the goods delivered by the control orderer to the control performer for performing the agreed control.

The control performer shall be bound to keep the delivered samples at least six months, unless otherwise agreed.

Obligation for Informing the Orderer

Article 907

The control performer shall be bound to inform in due time the control orderer for all important circumstances during control and keeping the goods, especially for the necessary and useful costs made for his/her account.

Compensation

Article 908

The control performer shall be entitled to the agreed, i.e. the usual compensation for the performed control and keeping of the goods

The control performer shall be entitled to compensation for all the necessary and useful costs made for the account of the control orderer.

Right to Lien

Article 909

In order to provide the agreed and usual compensation and the compensation for the necessary and useful costs, the control performer shall have right to lien for the goods delivered for control.

Assigning the Goods Control to Another Control Performer

Article 910

The control performer can assign the performance of the agreed control to another, unless the control orderer has explicitly forbidden it.

The control performer shall be responsible to the control orderer for the work of the other control performer.

Goods Control by Performing Separate Legal Actions

Article 911

On the basis of order delivered from the control orderer, the control performer shall be authorised, besides performance of the agreed goods control, to perform some legal effects for and on behalf of the control orderer.

The control performer shall have right to special, usual or agreed compensation for performance of separate legal effects for and on behalf of the control orderer.

Goods Control with Guarantee

Article 912

The control performer can guarantee for the unchangeable properties of the controlled goods in the agreed date.

Regarding the guarantee for goods properties, the control performer shall be entitled to special, agreed or usual compensation.

Control of Services and Goods not Intended for Sale

Article 913

If the control performance refers to services and goods not intended for sale, the control performer and the control orderer shall have the same rights and obligations, as with the goods control.

Termination of a Contract

Article 914

The control orderer can state that he/she terminates the contract until the ordered control is made, but in that case he shall be bound to pay the control performer a proportional part of the compensation and all necessary and useful costs made as well as to compensate the damages.

Chapter XXVII

CONTRACT FOR ORGANISATION OF TRAVELLING

Section 1

GENERAL PROVISIONS

Definition

Article 915

With the contract for organisation of travelling, the travel organiser shall be bound to provide the traveller with the complete services consisting of transport, stay and other accompanying services, and the traveller shall be bound to pay the organiser a total (lump) sum.

Issuing a Travelling Receipt

Article 916

The travel organiser shall issue the traveller a travelling receipt when concluding the contract. The travelling receipt should contain: place and date of issue; mark and address of the organiser; name of traveller; place and date of start and end of travelling, date of stay, necessary data for transport, stay and other services included in the total price; the least number of required travellers; total price for the complete service provided for with the contract, as well as other information considered to be useful and included in the receipt.

If prior to issuing the travelling receipt a travelling program is handed to the traveller with the information referred to in paragraph (2) of this Article, the travelling receipt can include only a reference to that program.

Relation between the Contract and Travelling Receipt

Article 917

The existence and validity of the contract for organisation of travelling shall be independent of the existence of the travelling receipt and its contents.

The travel organiser shall be responsible for all damage suffered by the other party, due to non issuing of a travelling receipt or its non accuracy.

Assumption for Receipt Accuracy

Article 918

The data in the receipt shall be assumed as accurate until the opposite is proved.

Section 2

OBLIGATIONS OF THE TRAVEL ORGANISER

Protection of the Traveller's Rights and Interests

Article 919

The travel organiser shall be bound to give services to the traveller having the content and the characteristics provided by the contract, with the receipt, that is the travelling program and to take care of the rights and interests of the traveller according to the good business customs in this field.

Obligation for Informing

Article 920

The travel organiser shall be bound to provide the traveller with the required information about the price and conditions of transport, stay and special services, as well as information for the quality of means of transportation and accommodation, the timetable, connections, border and customs formalities, sanitary, monetary and other administrative regulations.

Obligation for Keeping a Secret

Article 921

The information which the organiser receives for the traveller, his luggage and his movements, can notify third parties, only with traveller's approval or if requested by the competent authority.

Responsibility for Organisation of Travelling

Article 922

The travel organiser shall be responsible for the damage caused to the traveller, due to complete or partial non-fulfilment of the obligations referring to organising the travelling, stipulated with the contract and this law.

Responsibility of the Travel Organiser when Performing Certain Services Alone

Article 923

If the organiser alone performs services for transport, accommodation or other services in reference to performing the organised travelling, he/she shall be responsible for the damage made to the traveller according to the suitable regulations for these services.

Responsibility of the Travel Organiser when Assigning Performance of Separate Services to a Third Party

Article 924

The travel organiser who has assigned performance of services for transport, accommodation or other services referring to performance of travelling to a third party, shall be responsible to the traveller for the damage caused due to complete or partial non-accomplishment of these services, in compliance with the suitable regulations.

If the services are performed according to the contract and the suitable regulations, the organiser shall be responsible for the damage that the traveller has suffered due to their non-accomplishment, unless he/she proves that he/she behaved as a careful organiser of the travelling in choosing the persons to perform those services.

The traveller has right to request directly from the third party, responsible for the damage, complete or additional compensation for the suffered damage.

To the extent of compensation of damages to the traveller, the organiser of travelling acquires all the rights the traveller would have towards the third party responsible for this damage (right of recourse).

(5) The traveller shall be bound to give the organiser of the travelling, the documents and all that is necessary for realisation of the right to recourse.

Price Reduction

Article 925

If the services in the contract for organisation of travelling are performed incompletely or with bad quality, the traveller can request proportional price reduction provided that he/she objected to the travel organiser within eight days from the date of ending the travel.

The request for price reduction does not affect the right of the traveller to claim compensation for damages.

Exclusion and Limitation of the responsibility of the Travel Organiser

Article 926

(1) The provisions of the contract for organisation of travelling, which exclude or decrease the responsibility of the travel organiser shall be void.

(2) However, the written provision of the contract which determines in advance the highest compensation amount shall be valid, provided that it is not obviously non proportional to the damage.

(3) This limitation of the compensation amount shall not be valid if the travel organiser caused the damage deliberately or with extreme negligence.

Section 3

TRAVELER'S OBLIGATIONS

Payment of Price

Article 927

The traveller shall be bound to pay the travel organiser the contract price for travelling in the agreed i.e. usual time.

Obligation for Providing Information

Article 928

The traveller shall be bound upon request of the organiser to send in due time all the information necessary for organisation of the travelling and especially for providing travelling tickets, accommodation reservation, as well as documents for passing the border.

Fulfilment of the Conditions Provided for with the Regulations

Article 929

The traveller shall be bound to take care, him/herself, his/her personal documents and luggage to fulfil the conditions provided for with the border, customs, sanitary, monetary and other administrative regulations.

Responsibility of the Traveller for the Damage Caused

Article 930

The traveller shall be responsible for the damage he/she will cause to the travel organiser by non fulfilment of his/her obligations from the contract and from the provisions of this law.

Section 4

SPECIAL RIGHTS AND OBLIGATIONS OF THE CONTRACTING PARTIES

Replacing the Traveller by another Person

Article 931

Unless otherwise agreed, the traveller can assign another person instead of him/her to use the agreed services provided that this person meets the special requirements provided for a particular travelling, and the traveller compensates the costs of the organiser of the travelling caused by the change.

Increase of contract price Article 932

The travel organiser can demand increase of the contract price only if after concluding the contract there were changes in the exchange rate of the currency or changes in the transporter tariffs, which affected the price of travelling.

The travel organiser can realise the right to increasing the contract price in paragraph (1) of this Article only if it is provided in the travel receipt.

If the contract price is increased by more than 10%, the traveller can terminate the contract without obligation to compensate the damage.

In that case the traveller has right to returning what he/she has paid the travel organiser.

Right of the Traveller to Cancel the Contract

Article 933

The traveller can cancel the contract at any time, completely or partially.

If the traveller, before travelling, cancels the contract within reasonable term which is determined according to the type of arrangement (cancellation in due time), the travel organiser has only right to compensation of the administrative costs.

In case of untimely cancellation of the contract, the organiser of the travel can demand compensation from the traveller with a specified percentage of the contract price defined in proportion with the time left until starting the travel and which must be economically justified.

The travel organiser has only right to compensation for the incurred costs if the traveller cancelled the contract due to circumstances he/she could not avoid or eliminate and which, if existed in the

period of concluding the contract, would be justified reason for not concluding the contract, as well as in case if the traveller provided suitable replacement or the organiser him/herself found a suitable replacement.

If the traveller cancels the contract after the travel has started and the reason are not the circumstances in paragraph (4) of this Article, the organiser shall be entitled to the full amount of the agreed travel price.

Right of the Travel Organiser to Cancel the Contract

Article 934

(1) The travel organiser can cancel the contract, completely or partially, without obligation to compensate the damage, if prior or during performance of the contract there are some extraordinary circumstances which could not be foreseen neither avoid nor eliminate, and which if existed when concluding the contract, would be a justified reason for the travel organiser not to conclude the contract.

(2) The travel organiser can cancel the contract without obligation to compensate the damage and when the minimum number of travellers which is provided in the travel receipt, are not gathered, provided that the traveller is informed about that circumstance in due date which can not be less than five days prior the date of starting the travel.

In case of cancellation of the contract prior to its performance, the organiser must return completely all he/she has received from the traveller.

If the organiser cancelled the contract in the course of its performance, he/she has right of fair compensation for the realised agreed services and shall be bound to take all the necessary measures to protect the travellers' interest.

Changes in the Travelling Program

Article 935

Changes in the travelling program may be made only if caused by extraordinary circumstances which the organiser could not foresee, avoid or eliminate.

The organiser of the travel bears the costs resulted from program changes, and the cost reduction is in favour of the traveller.

The agreed accommodation can be changed only with a building of the same category or will be charged to the organiser using a building of a higher category and at the agreed place of accommodation.

If there are essential changes in the travelling program without justified reason, the travel organiser must return in full the amount he/she has received from the traveller who has cancelled the travel because of it.

If there are essential changes in the program during performance of the contract, the traveller in case of cancellation bears only the real costs for the provided services.

Chapter XXVIII

MEDIATION CONTRACT FOR TRAVELLING

Definition

Article 936

With the mediation contract for travelling the mediator shall be bound to conclude, for and on behalf of the traveller a contract for organising the travelling or a contract for performing one or more

special services for realisation of a certain travelling or stay, and the traveller shall be bound to pay compensation

Obligation for Issuing a Receipt

Article 937

If by mediation contract for travelling there is an obligation for concluding a contract of organising a travelling, the mediator shall be bound while concluding it to issue a travelling receipt which, besides the information for the travelling and a marking and address of the travel organiser, must contain a marking and address of the mediator as well as information that he/she acts as a mediator. If the activities of the mediator are not stated in the travel receipt, the mediator for organising the travelling shall be considered a travel organiser.

If the mediation contract for travelling refers to concluding a contract for some special service, the mediator shall be bound to issue a receipt for that service with stated amount paid for the service.

Acting according to Traveller's Instructions

Article 938

The mediator shall be bound to act according to the instructions given by the traveller in due time, if they are in compliance with the contract, the usual work of the mediator and the interests of the other travellers.

If the traveller does not give the required instructions the mediator shall be bound to act according to the most suitable way for the traveller in the appropriate circumstances.

Choice of Third Parties

Article 939

The mediator shall be bound to make conscientious choice of third parties who should make the services provided for with the contract and is responsible to the traveller for his/her choice.

Suitable Application of the Contract Provisions for Organisation of Travelling

Article 940

The provisions of this Law that refer to the contract for organising a travelling shall be suitably applied to the mediatory contract for travelling unless otherwise determined with the provisions in this Chapter.

Chapter XXIX

CONTRACT FOR ENGAGEMENT OF CATERING CAPACITIES

(ALLOTMENT CONTRACT)

Section 1

GENERAL PROVISIONS

Definition

Article 941

With the allotment contract the caterer shall be bound in a definite time to make available for the

tourist agency a definite number of beds in a definite establishment, to give catering services to the persons directed by the agency and to pay the agency a definite commission, and he shall be bound to fill up that is to inform within the fixed terms that it is not possible as well as to pay the amount for the given services if the engaged hotel capacities have been already used.

Unless otherwise agreed in the contract, it shall be assumed that the catering capacities for accommodation are available for one year.

Form of the Contract

Article 942

The allotment contract must be concluded in writing.

Section 2

OBLIGATIONS OF THE TOURIST AGENCY

Obligation for Informing

Article 943

The tourist agency shall be bound to inform the caterer for the course of filling up the accommodation capacities.

If it is not possible to fill up all engaged accommodation capacities, the tourist agency shall be bound within the agreed or usual date to inform the caterer about it and to send him the list of guests and in the information to set a time limit in which the caterer can freely have at his disposal the engaged capacities.

The catering capacities which are not marked as filled up in the list of guests shall be considered free from the date of receiving the list from the hotel for the period mentioned in the list.

After expiration of that date the tourist agency shall acquire again a right to fill up the engaged accommodation capacities.

Obligation for Observing the Contract Prices

Article 944

The tourist agency can not charge higher prices for catering services to the guests sent to the catering establishment than those provided for in the allotment contract or in the catering price list.

Obligation for Payment of Catering Services

Article 945

Unless otherwise provided with the contract, the tourist agency shall pay the caterer the price for the given services after their performance.

The caterer shall have the right to request suitable advance payment.

Obligation for Issuing a Special Written Document

Article 946

The tourist agency shall be bound to issue a special written document to the persons it sends on the basis of an allotment contract.

The written document shall be addressed to a name or specific group, it is non transferable and it contains an order for the caterer to give the services mentioned in the document.

The special written document shall be evidence that the person is a client of the tourist agency which has concluded a allotment contract with the caterer.

On the basis of the special written document a calculation shall be made of the mutual claims between the tourist agency and the caterer.

Section 3

OBLIGATIONS OF THE CATERER

Obligation for Placing at Disposal the Agreed Accommodation Capacities

Article 947

(1) The caterer shall undertake a final and irrevocable obligation to place at disposal an agreed number of beds within a fixed time and to provide the persons directed by the tourist agency with the services mentioned in the special written document.

(2) The caterer can not agree with other tourist agency engagement of capacities that have been already reserved according to the allotment contract.

Obligations for Equal Treatment

Article 948

The caterer shall be bound to provide services for the persons directed by the tourist agency under the same conditions as the persons with whom he/she concluded directly a contract for catering services.

Obligation of the Caterer for Non-alteration of the Service Prices

Article 949

The caterer can not change the contract prices if he/she has not informed the tourist agency at least six months before, except if there is a change in exchange rate of currency that affects the contract price.

The new prices can be used one month after sending them to the tourist agency.

The new prices will not apply for services for which a list of guests has already been sent.

In any case the changes of prices shall not affect the reservations confirmed by the caterer.

Obligation for Payment of Commission

Article 950

The caterer shall be bound to pay the tourist agency a turnover commission realised with the allotment contract.

The commission shall be determined in percentage out of the price for performed catering services.

If the commission percentage is not defined by a contract, the tourist agency shall be entitled to the commission defined by the general conditions for working of the tourist agency or, if there are not any, by the business customs.

Section 4

RIGHT OF THE TOURIST AGENCY TO CANCEL THE CONTRACT

Right to Cancellation of the Engaged Accommodation Capacities

Article 951

The tourist agency can temporarily cancel the use of the engaged accommodation capacities, without terminating the allotment contract, nor creating an obligation for itself to compensate the damage to the caterer, if at the contract date it sends him/her a notice for cancelling the use.

If the date for sending a notice for cancellation is not defined by the contract, it shall be fixed according to the business customs in the catering.

If the notice for cancellation shall not be sent in the provided date, the caterer shall be entitled to compensation for damages.

The tourist agency can cancel the contract completely without obligation to compensate the damage if the notice for cancellation is sent within the agreed date.

Obligations of the Tourist Agency to Fulfil the Engaged Capacities

Article 952

The allotment contract can provide for a special obligation for the tourist agency to fulfil the engaged catering capacities.

If in this case the tourist agency does not fulfil the engaged catering capacities, it shall be bound to pay the caterer compensation for each not used bed per day.

In that case the tourist agency shall not have the right to cancel the contract partially or completely by notice sent in due time.

Chapter XXX

INSURANCE

Section 1

COMMON PROVISIONS FOR PROPERTY INSURANCES AND PERSONAL INSURANCES

Component 1

1. GENERAL PROVISIONS

Definition

Article 953

By the insurance contract, the insurance contracting party shall be bound, on the principles of mutuality and solidarity to join a definite amount in the insurance company, i.e. in the risk company (insurer), and the company shall be bound in the event of insured case to pay the insured person or some third party the compensation, i.e. the agreed amount or to do something else.

Insured case

Article 954

The event for which the insurance is concluded (the insured case), must be future, non-informed and independent of the exclusive will of the contracting party.

The contract for insurance shall be void if at the moment of its conclusion the insured case has already occurred, or was in the process of happening or it was known to happen, or if the possibility to happen then ceased.

If it is agreed that the insurance will include a definite period before concluding the contract, the contract will be void only if at the moment of concluding it the interested party knew that the

insured case has already occurred, that is the possibility to happen then ceased.

Exclusion of certain Insurance

Article 955

The provisions in this Chapter will not apply to sailing insurance as well as to other insurances for which the sailing insurance rules apply.

The stated provisions will not apply for the insurance of claims, neither for reinsurance relations.

Deviation from the Provisions in this Chapter

Article 956

A deviation can be made by a contract only for those provisions in this Chapter in which that deviation is explicitly allowed, as well as from those that allow the contracting parties to act as they want.

Deviation from the other provisions, if not forbidden by this or some other law, shall be allowed only if it is in certain interest of the insured person.

Part 2

CONCLUDING A CONTRACT

Cases of Concluding a Contract

Article 957

The insurance contract shall be concluded when the contracting parties will sign the insurance policy or the cover list.

The written offer made by the insurer for concluding an insurance contract shall bind the offerer, if he/she has not determined a shorter date, within eight days from the date the insurer receives the offer, and if a medical examination is necessary, then within 30 days.

If the insurer within that time does not reject the offer which fulfils the conditions under which he/she performs the suggested insurance, it will be considered that he/she accepted the offer and the contract is concluded.

In that case the contract shall be considered as concluded when the offer arrives at the insurer.

Policy and Cover List

Article 958

The policy must include: the contracting parties, the insured object, i.e. the insured person, the risk contained in the insurance, insurance duration and the cover period, insurance amount or that the insurance is unlimited; the premium or contribution, date of issuing the policy and signatures of the contracting parties.

The insurance policy can be temporarily replaced by the cover list which includes the essential components of the contract.

The insurer shall be bound to warn the insurance taker that the general and special conditions of insurance are an integral part of the contract and to hand over their text, if these conditions are not printed in the policy itself.

The performance of the obligation in paragraph (3) of this Article must be stated in the policy.

In case of inconsistency between some provision about the general or particular conditions and

some provision in the policy, the provision in the policy will apply, and in case of inconsistency between some printed provision and some written provision in the policy, the latter will apply. As agreed between the contracting parties, the policy can be made out to a particular person by order or to a bearer.

Insurance without Policy

Article 959

By the conditions of the insurance, the cases may be foreseen in which the contract relation of insurance occurs with the premium payment itself.

Concluding Contracts on Behalf of another Person without Authorisation

Article 960

The person concluding an insurance contract on behalf of another person without his/her authorisation, shall be responsible to the insurer for the obligations of the contract until it is approved by the person, on whose behalf the contract is concluded.

The interested person can approve the contract even after the insured case has occurred.

If the approval is rejected, the insurance taker shall owe a premium for the period of insurance in which the insurer is informed about the approval rejection.

He/she shall not be responsible for the insurance obligations, without an order by which the insurer is informed that he/she acts without authorisation for and on behalf of other person.

Insurance for the Account of a another Party or for the Account to whom it Refers

Article 961

(1) In case of insurance for account of another party or for account to whom it refers, the insurance taker shall be bound to perform the obligations for premium payment and the other obligations of the contract but he/she can not perform the rights of the insurance, even if he/she holds a policy, without consent from the person whose interest is insured and to whom they belong.

The insurance taker shall not be bound to hand over the policy to the interested person until he receives compensation for the premiums paid to the insurer, as well as the costs of the contract.

The insurance taker shall have the right to initial charge of these claims from the owed compensation as well as a right to a claim paid directly from the insurer.

The insurer can, to each insurance beneficiary for account of a third party, point out all objections he/she has on the basis of the contract towards the insurance taker.

Insurance agents

Article 962

If the insurer authorises an agent to represent him/her, and does not define the scope of his/her authorisations, the agent shall be authorised for and on behalf of the insurer to conclude insurance contracts, to determine changes of the contract or to extend their validity, to issue insurance policies, to charge premiums and to receive statements sent by the insurer.

If the insurer limited the authorisation of his/her agent, and the insurance taker was not informed, it is considered as if there were no limitations.

Component 3

OBLIGATION OF THE INSURED PERSON, I.E. OF THE INSURANCE TAKER

REPORTING OF CIRCUMSTANCES IMPORTANT FOR RISK ASSESSMENT

Obligation for Reporting

Article 963

The insurance taker shall be bound when concluding the contract to report to the insurer all the circumstances important for risk estimation, which are known or could not have been unknown to him/her.

Intentional Inaccurate Report or Concealment

Article 964

If the insurance taker has made inaccurate report or intentionally concealed some circumstance of such a nature so that the insurer would not conclude a contract if he/she knew about the real situation, the insurer can demand cancellation of the contract.

In case of cancelling the contract for the reasons stated in paragraph (1) of this Article, the insurer shall keep the paid premiums and shall not have the right to demand payment of the premium for the insurance period in which he/she demanded cancellation of the contract.

The right of the insurer to demand cancellation of the contract shall cease if within three months from the date of finding out the inaccurate report or concealment, he/she does not report to the insurance taker that he/she intends to exercise that right.

Non-intentional Inaccuracy or Incompleteness of the Report

Article 965

(1) If the insurance taker made an inaccurate report, or missed to give the required report, but he/she did not make it intentionally, the insurer can, at his/her choice, within one month after finding out about the inaccuracy or incompleteness of the report, declare that he/she terminates the contract or to suggest premium increase in proportion with the higher risk.

In that case the contract shall be terminated upon expiration of 14 days when the insurer gave his/her report for terminating the contract to the insurance taker, and if the insurer suggests a premium increase, the termination is in force by the law itself if the insurance taker does not accept the suggestion within 14 days from the date he/she received it.

In case of termination of the contract the insurer shall be bound to return the portion of the premium which refers to the time up to the end of the insurance period.

If the insured case occurred before determination of inaccuracy or incompleteness of the report or after that but before termination of the contract, that is before premium increase is achieved, the compensation shall be reduced in proportion between the rate of paid premiums and the rate of premiums to be paid according to the actual risk.

Extending Application of the Previous Articles

Article 966

The provisions in Articles 964 and 965 of this Law, for the consequences from inaccurate report or concealment of circumstances important for risk assessment, shall be applied also in cases of insurance made for and on behalf of other, or on behalf of a third or for the account of a third party, or for the account to whom it refers, if these persons knew for the inaccuracy of the report or for the concealment of the circumstances important for the risk assessment.

Cases in which the Insurer can not Refer to the Inaccuracy or Incompleteness of the Report

Article 967

The insurer, to whom at the moment of concluding the contract the circumstances important for risk assessment were known or could not have been unknown, and which were inaccurately reported or concealed by the insurance taker, can not refer to the inaccuracy of the report or the concealment.

The same applies in cases when the insurer found out about that circumstances for the time of insurance duration but he/she did not use the legal authorisations.

II. PAYMENT OF PREMIUM

Obligation for Payment and Receiving a Premium

Article 968

The insurance taker shall be bound to pay the insurance premium, but the insurer shall be bound to receive the payment of the premium from each person who has legal interest for the premium to be paid.

The premium shall be paid within the contract date and if it should be paid in full, it shall be paid when concluding the contract.

The place of payment of the premium shall be the place of the insurance taker's head office i.e. residence, unless some other place is defined by the contract.

Consequences of Non-payment of a Premium

Article 969

(1) If it is agreed to pay the premium while concluding the contract, the obligation of the insurer to pay the compensation or the amount defined in the contract starts the next day from the date of payment of the premium.

If it is agreed to pay the premium after concluding the contract, the obligation of the insurer to pay the compensation or the amount defined in the contract shall start from the date set in the contract as a date for insurance commencement.

If the insurance taker does not pay the premium due after concluding the contract until maturity, nor it is done by some other interested person, the insurance contract shall be terminated according to the law itself upon expiration of 30 days when the insurance taker received a registered letter from the insurer with information about maturity of premium, but that period can not expire before 30 days from maturity of premium.

In any case the insurance contract shall be terminated according to the law itself if the premium is not paid within one year from maturity.

The provisions of this Article do not apply to life insurance.

III. INFORMING THE INSURER ABOUT RISK CHANGES

Increase of Risk

Article 970

The insurance taker shall be bound in relation to property insurance to inform the insurer for each change in the circumstances that could be important for risk assessment and in relation to personal insurance only if the risk is increased because the insured person has changed his/her occupation.

He shall be bound without delay to inform the insurer about risk increase, if the risk is increased by some act he/she has made, and if the risk increase occurred without his/her participation he shall be bound to inform within 14 days from the date he/she found out.

If the risk increase is such that the insurer would not conclude a contract if there was such a state at the moment of concluding it, he/she can terminate the contract.

If the risk increase is such that the insurer would not conclude a contract only with a higher premium if there was such a state at the moment of concluding the contract, he/she can suggest the insurance taker a new rate of premium.

If the insurance taker does not agree with a new rate of premium within 14 days from the date of receiving the proposal for the new rate, the contract shall be terminated under the law.

The contract shall be force and the insurer can not use any more the authorisations to suggest the insurance taker a new rate of premium or to terminate the contract, if he/she does not use those authorisations within one month from the date when in whatever way he/she found out about the increase of the risk, or if even before expiration of that period shows in some way that he/she is agreed with the extension of the contract (if he/she receives the premium, pays compensation for insured case that occurred after that increase and similar).

Occurrence of the Insured Case in the Meantime

Article 971

If the insured case occurs before the insurer is informed about the risk increase or after he/she is informed about risk increase, but before he/she terminates the contract, or agrees with the insurance taker about premium increase, then the compensation is decreased in proportion between the paid premiums and the premiums that should be paid according the increased risk.

Decrease of Risk

Article 972

In case when after concluding the insurance contract there is a decrease of risk, the insurance taker shall have the right to demand suitable decrease of the premium, counting from the date when he/she informed the insurer about the decrease.

If the insurer has not agreed to the decrease of the premium, the insurance taker can terminate the contract.

Obligation to inform about Occurrence of the Insured Case

Article 973

The insured person shall be bound, except in case of life insurance, to inform the insurer about occurrence of the insured case no later than three days from the date he/she found out about it.

If he/she does not perform this obligation in the defined time, he/she shall be bound to compensate the insurer the damage he/she would have because of it.

Nullity of Provisions for Forfeiting the Right

Article 974

The provisions of the contract that stipulate loss of the right to compensation or the amount of insurance shall be null and void, if the insured person after occurrence of the insured case, does not perform some of the regulated or contract obligations.

Component 4

INSURER'S OBLIGATIONS

Payment of Compensation or Contract Amount

Article 975

When an insured case occurs, the insurer shall be bound to pay the compensation or the amount determined in the contract within contract date which can not be more than 14 days, counting from the date the insurer received information for the occurrence of the insured case.

If a certain time is necessary to determine existence of insurer obligation, this period starts from the date of determining the existence of his obligation and its amount.

If the obligation amount is not established in the period set in paragraph (1) of this Article, the insurer shall be bound upon request of the authorised person, to pay the amount of the non-disputable part of his/her obligation as advance payment.

Excluding Insurer's Responsibility in Case of Intention and Fraud

Article 976

If the insurance taker, insured person or beneficiary caused an insured case intentionally or by fraud, the insurer shall not be bound to pay any fees, and the opposite contract provision shall have no legal effect.

Objections of the Insurer

Article 977

(1) Against the demand of the policy bearer, as well as the demand of some other person who refers to it, the insurer can emphasise all objections he/she has, in reference to the contract, to the person with whom he/she concluded the insurance contract.

(2) As an exception, against the demand of a third party in case of voluntary insurance from the responsibility and the demands of the bearers of certain rights to the insured object whose right was transferred according to the law from the destroyed or damaged insured object to the insurance compensation, the insurer can emphasise only the objections aroused before the insured case.

Component 5

DURATION OF INSURANCE

Start of Insurance Effect

Article 978

Unless otherwise agreed, the insurance contract shall produce its own effect starting 24 hours from the day indicated in the policy as the day of start of insurance duration, by the end of the last day of

the term for which the insurance is agreed.

If the duration term of the insurance is not set by a contract, each party can terminate the contract with the date of maturity of premium, informing, in writing, the other party no later than three months before maturity of premium.

If the insurance is made for a term longer than five years, each party can, at expiration of this term with a notice period of six months, inform the other party that it terminates the contract.

By the contract it shall not be possible to exclude the right of each party to terminate the contract as mentioned before.

The provisions of this Article do not apply to life insurance.

Effects of Bankruptcy on Insurance

Article 979

In case of bankruptcy of the insurance taker, the insurance shall be extended, but each party has a right to terminate the insurance contract within three months from adjudication of bankruptcy, in which case a part of the paid premium that corresponds to the rest of the insurance period, belongs to the bankruptcy estate of the insurance taker.

In case of insurer bankruptcy, the insurance contract shall be terminated after expiry of 30 days from adjudication of bankruptcy.

Section 2

PROPERTY INSURANCE

Component 1

GENERAL PROVISIONS

Interest for Insurance

Article 980

(1) Each person who has interest for non occurrence of the insured case can conclude property insurance because he/she could suffer some material loss.

(3) Only the persons can have right to the insurance which, at the moment of damage occurrence, had material interest for non occurrence of the insured case.

Aim of the Property Insurance

Article 981

(1) The property insurance provides compensation for damages that would arouse in the property of the insured person because of occurrence of the insured case.

(2) The compensation amount can not be higher than the damage the insurer suffered by occurrence of the insured case.

(3) For insurance of crops and fruits and other products of the soil the amount of damage shall be determined according to the value they would have at the time of gathering, unless otherwise agreed.

(4) The contract provisions by which the amount of compensation is limited to a smaller amount than the amount of damage shall be valid.

(5) When establishing the amount of damage the missed gain shall be taken into consideration only if agreed.

(6) If during the same insurance period there are more insured cases one after another, the insurance compensation for each case shall be determined and paid in full with reference to the full insurance amount without reducing the amount of the former paid compensation in that period.

(7) If with the insurance contract the value of the insured object is determined as agreed, the compensation shall be determined according to that value, except if the insurer proves that the agreed value is significantly higher than the real value, and there is no justified reason for that difference (as for example, insurance of used object, the value of such new object or insurance of the subjective value)

Prevention of the Insured Case and Saving

Article 982

The insured person shall be bound to take the prescribed, agreed and all other necessary measures to prevent occurrence of the insured case, and if the insured case occurs, he/she shall be bound to make anything in his/her power to limit the harmful consequences.

The insurer shall be bound to compensate the costs, losses and other damages caused by reasonable attempt to eliminate the direct danger from occurrence of the insured case, as well as an attempt to limit its harmful consequences, even when those attempts were unsuccessful.

The insurer shall be bound to give this compensation even if, together with the compensation for damages from the insured case, it exceeds the insurance amount.

If the insured person does not fulfil his/her obligation for preventing the insured case or the obligation for saving, without justification, the obligation of the insurer shall be decreased for as much as there is greater damage due to its non-fulfilment.

Giving up Damaged Insured Object

Article 983

Unless otherwise agreed, the insured person shall do not have the right, after occurrence of the insured case, to give up the damaged object to the insurer and to ask him/her to pay the full insurance amount.

Failure of Object due to an Event not Prescribed in the Policy

Article 984

(1) If the insured object or the object in connection with whose use an insurance of responsibility is made fails during the insurance period, because of some event not provided by the policy, the contract shall not be valid any further, and the insurer shall be bound to return to the insurance taker, a part of the premium in proportion with the remaining time.

(2) If one of more objects included in one contract fail because of an event not prescribed in the policy, the insurance remains further in effect in relation to the other objects with the required changes due to decrease of insurance object.

Component 2

LIMITATION OF INSURED RISKS

Damages Covered by Insurance

Article 985

The insurer shall be bound to compensate the damages that occurred by accident or by fault of the

insurance taker, to the insured or the insurance beneficiary, except if regarding a particular damage this obligation shall be expressly excluded with the insurance contract.

He/she shall not be responsible for the damage made intentionally by those persons, so the provision in the policy that would foresee his/her responsibility in that case shall be void.

If the insured case was realised, the insurer shall be bound to compensate each damage caused by some person for whose acts the insured is responsible in any way, no matter if the damage was caused accidentally or intentionally.

Damage Caused by Lacks of the Insured Object

Article 986

The insurer shall not be responsible for the damage of the insured object because of its lacks, unless otherwise agreed.

Damages Caused by War Operations and Insurgencies

Article 987

The insurer shall not be bound to compensate the damages caused by war operations and insurgencies, unless otherwise agreed.

The insurer shall be bound to prove that the damage is caused by some of these events.

Component 3

SUPERINSURANCE AND CONTRACT WITH MORE INSURERS

Super insurance Article 988

If during conclusion of the contract one party used a fraud and agreed an insurance amount higher than the real value of the insured object, the other party can demand cancellation of the contract.

If the agreed insurance amount is higher than the value of the insured object, and no party acted unconsciously, the contract shall enter into force, the insurance amount shall be reduced to the real value amount of the insured object, and the premiums shall be proportionally reduced.

In both cases the conscious insurer keeps the received premiums and shall have right to non-reduced premium for the current period.

Additional Value Decrease

Article 989

If the insured value is decreased in the course of insurance duration, each contracting party shall have right to a suitable decrease of insurance amount and premium, starting from the date when the other party has reported its request.

Multiple and double insurance

Article 990

If some object is insured with two or more insurers for the same risk, interest and time, so that the sum of the insurance amounts does not exceed the value of that object (multiple insurance), each insurer shall be responsible for complete fulfilment of the obligations from the contract he/she has

concluded.

If, the sum of insurance amounts exceeds the value of the insured object (double insurance), and the insurance taker did not act unconsciously, all these insurances shall be valid and each insurer shall have right to the contract premium for the insurance period in course, and the insured person shall have right to seek compensation from each individual insurer under the contract, but totally no more than the amount of damage.

When the insured case occurs, the insurance taker shall be bound to inform about it each insurer of the same risk and to state the names and addresses of the other insurers, as well as the insurance amounts of the separate contracts they have concluded.

After payment of the compensation to the insured person, each insurer bears a part of the compensation in proportion to the insurance amount for which he/she shall be bound according to the total sum of the insurance amounts, so the insurer that paid more has right to demand from the other insurers a compensation to the amount paid in excess.

If a contract is concluded without stating the insurance amount or with unlimited cover, it will be considered a contract concluded with the highest insurance amount.

For the part of the insurer who can not pay, the other insurers shall be responsible according to their parts.

If the insurance taker concluded an insurance contract by which double insurance occurred not knowing about the previous concluded insurance, he/she can, no matter if the previous insurance was concluded by him/her or someone else, within one month after he/she found out about that insurance, demand suitable decrease of insurance amount and premiums of the later insurance, but the insurer keeps the received premiums and has right to premium for the current period.

If the double insurance was a result of the decreased value of the insured object in the course of insurance duration, the insurance taker has right to suitable decrease of the insurance amounts and premiums, starting from the date when he/she informed the insurer about his/her demand for decrease.

If at occurrence of a double insurance the insurance taker has acted unconsciously, each insurer can demand cancellation of the contract, to keep the received premiums and to demand non decreased premium for the current period.

Joint insurance

Article 991

When the insurance contract is concluded with more insurers who agreed for joint bearing and distributing the risk, each insurer stated in the insurance policy shall be responsible to the insured person for the full compensation.

Component 4 SUBINSURANCE

Article 992

When it is determined that at the beginning of the suitable insurance period the value of the insured object was higher than the insurance amount, the compensation amount owed by the insurer shall be decreased proportionally, unless otherwise agreed.

The insurer shall be bound to give full compensation up to the insurance amount, if it is agreed that the relation between the object value and the insurance amount is not important about

determination of the compensation amount.

Component 5

TRANSFER OF THE CONTRACT AND PAYMENT OF INSURANCE COMPENSATION TO ANOTHER PERSON

Transfer of the Contract to the Provider of Insured Object

Article 993

In case of alienation of an insured object, as well as of an object for the use of which responsibility insurance is concluded, the rights and obligations of the insurance taker shall be transferred, according to the law, to the provider, unless otherwise agreed.

If there is alienation only of a part of the insured goods which regarding insurance do not comprise a special entity, the insurance contract shall be terminated according to the law regarding the alienated goods.

In case when due to alienation of an object the probability for occurrence of the insured case will increase or decrease, the general provisions for risk increase or decrease will apply.

The insurance taker who fails to inform the insurer that the insured object has been alienated, shall be bound to pay the premiums due after the alienation date.

The insurer and the provider of the insured object can cancel the insurance within a 15 days notice period, and shall be bound to send the notice no later than 30 days from the date of finding out about the alienation.

The insurance contract can not be terminated if the insurance policy is issued to a bearer or by order.

Assigning Compensation to Holders of Lien and Other Rights

Article 994

After occurrence of the insured case, the lien rights and other rights that existed previously to the insured object, have as object the compensation that is owed, in case of insurance of one's own object, as well as in case of insurance of foreign goods due to the obligation for keeping and returning them, so the insurer can not pay the compensation to the insured person without consent from the bearers of those rights.

These persons can demand directly from the insurer, to the extent of the insurance amount and according to the law order, to pay their claims.

However, if at the moment of payment the insurer did not know or could not have known about those rights, the performed compensation payment to the insurer remains valid.

Component 6

TRANSFER OF THE RIGHTS OF THE INSURED PERSON TOWARDS THE RESPONSIBLE PERSON TO THE INSURER (SUBROGATION)

Article 995

By payment of the insurance compensation, all rights of the insured person towards the person who

on whatever basis is responsible for the damage, shall be transferred to the insurer according to the law, up to the amount of paid compensation.

If by fault of the insurer this transfer of rights to the insurer is not possible, completely or partially, the insurer shall be suitably released from his obligation towards the insured person.

The transfer of the rights from the insured person to the insurer can not be to the detriment of insured person, so if the compensation of the insured person received from the insurer of whatever reason is less than the damage he/she has suffered, the insured person shall be entitled to the rest of the compensation to be paid to him/her from the means of the responsible person, before making payment of the insurer claim according to the rights which were transferred to him/her.

As exception to the rule for transfer of rights from the insured person to the insurer, these rights shall not be transferred to the insurer if the damage was caused by a person in direct relationship with the insured person or a person for whose actions the insured person is responsible, or who lives with him/her in the same household or a person who is employee of the insured person, except if those persons caused the damage intentionally.

If some of the persons mentioned in paragraph (4) of this Article were insured from liability, the insurer can claim from his/her insurer the compensation for the amount he/she has paid to the insured person.

Component 7

LIABILITY INSURANCE

Responsibility of the Insurer

Article 996

In case of liability insurance, the insurer shall be responsible for the damage occurred with the insured case only if the third person suffering the loss claims its compensation.

The insurer shall bear the dispute costs for the insured person's liability to the extent of the insurance amount.

Personal Right of the Damaged Party and Direct Lawsuit

Article 997

(1) In case of responsibility insurance, the damaged party can claim directly from the insurer compensation for the damage he/she has suffered by the event for which the insured person is liable, but at most up to the amount of the insurer's liability.

(2) The damaged party has, since the moment of occurrence of the insured case, his/her own right of insurance compensation, so each later change of the insured person rights towards the insurer does not affect the right of the person suffering the loss to compensation.

Section 3

PERSONAL INSURANCE

Component 1

GENERAL PROVISIONS

Determination of Insured Amount

Article 998

In the contracts for personal insurance (life insurance and accident insurance), the amount of the insured sum which the insurer shall be bound to pay when the insured case occurs, shall be determined in the policy as agreed between the contracting parties.

Life Insurance Policy

Article 999

Besides the components that must be included in any policy, the following must be stated in the life insurance policy: name and surname of the person to whom the insurance refers, date of birth or the event on which depends the right to claim payment of the insured amount.

The life insurance policy can be made out to a particular person or by order, but can not be made out to a bearer.

In order for the endorsement of policy by order to be valid, it shall be necessary to contain the name of the beneficiary, date of endorsement and signature of endorser.

Inaccurate Report of the Insurer Age

Article 1000

After exclusion of the general provisions in this Chapter for the consequences of inaccurate reports and concealments of the circumstances important for risk assessment, for inaccurate report of the age in the life insurance contracts the following rules shall apply:

the life insurance contract shall be valid and the insurer shall be bound in each case to return all received premiums, if when concluding it the age of the insured person is inaccurately reported, and its real limit exceeds the age of the insured person up to which the insurer, according to his/her conditions and tariffs, performs life insurance.

if it is inaccurately reported that the insured person has less years, and his/her real age does not exceed the limit up to which the insurer performs life insurance, the contract shall be valid, and the insured amount shall be decreased in proportion to the contract premium and to the premium stipulated for life insurance of persons at the same age as the insured person, and

when the insured person has less years than it is reported when concluding the contract, the premium shall be reduced to a suitable amount, and the insurer shall be bound to return the difference between the premiums received and the premiums to which he/she is entitled.

Consequences of Non-payment of the Premium and Decreasing of the Insured Amount

Article 1001

If the life insurance taker does not pay a premium in due date, the insurer shall not be entitled to demand its payment by means of court.

If the insurance taker, upon invitation from the insurer which must be sent by registered letter, does not pay the due premium at the date set in the letter, which can not be less than a month counting from the date of receiving the letter, neither some other interested person will do that, the insurer can only, if at least three annual premiums have been paid until then, state the insurance taker that he/she decreases the insured sum to the amount of repurchasing the insurance value, and in opposite case that he/she terminates the contract.

(3) If the insured case occurred before terminating the contract or before decrease of the insured amount, the insured amount will be considered as decreased, that is the contract is terminated, depending if the premiums have been paid at least for three years or not.

Third Party Insurance

Article 1002

The life insurance can refer to the life of the insurance taker and can refer to the life of a third party.

The same applies to insurance against accident.

If the insurance refers to death of a third party, for valid contract it is necessary to have his/her consent in the policy or in a separate letter, while signing the policy, stating the insured amount.

Insurance in Case of Death of Minors and Persons Deprived from Working Ability

Article 1003

The insurance in case of death of a third party younger than 14 years, as well as a person deprived from working ability, and the insurer shall be bound to return to the insurance taker all the premiums received according to such contract.

For valid insurance in case of death of a third party older than 14 years it shall be necessary to have a written consent by his/her legal representative as well as written consent by each insured person.

Accumulation of Compensation and Insured Amount

Article 1004

In the personal insurance, the insurer who has paid the insured amount can not have, on whatever basis, a right to compensation of third party responsible for occurrence of the insured case.

The right of compensation from a third party responsible for occurrence of the insured case, belongs to the insured person, i.e. the beneficiary, independently of his/her right to the insured amount.

The provisions referred to in paragraph (1) and (2) of this Article do not refer to the case when the insurance of the consequences from an accident is agreed as liability insurance.

Component 2

EXCLUDED RISKS

Suicide of the Insured Person

Article 1005

By insurance contract against death, the suicide risk of the insured person shall not be included, if it occurred in the first year of insurance.

If the suicide occurred within three days from the date of concluding the contract, the insurer shall not be bound to pay the insured amount to the beneficiary, but only the mathematical reserve of the contract.

Murder in the First Degree of the Insured Person

Article 1006

The insurer shall be released from the obligation to pay the insured amount to the beneficiary, if he/she caused intentionally death of the insured person, but shall be bound, if at least three annual premiums have been paid until then, to pay the mathematical reserve of the contract to the insurance taker, and if he/she is an insured person, to his/her heirs.

Intentional Causing of an Accident

Article 1007

The insurer shall be released from the obligation of the insurance contract against accidents, if the insured person caused the accident intentionally.

Military Operations

Article 1008

If the death of the insured person is caused by military operations, the insurer, if nothing else is agreed, shall not be bound to pay the insured amount to the beneficiary, but shall be bound to pay him/her the mathematical reserve of the contract.

If nothing else is agreed, the insurer shall be released from the obligation of the insurance contract for accident insurance if the accident is caused by military operations.

Contractual Exclusion of Risks

Article 1009

By the insurance contract against death or accident, other risks can be excluded from the insurance.

Component 3

RIGHTS OF THE INSURANCE TAKER BEFORE OCCURRENCE OF THE INSURED CASE

Repurchase

Article 1010

Upon request of the life insurance taker concluded for life time of the insured person, the insurer shall be bound to pay the repurchase value of the policy, if at least three annual premiums have been paid until then.

The policy must state the conditions under which the insurance taker can demand payment of its repurchase value, as well as the calculation method of that value, according to the insurance conditions.

The right to demand repurchase can not be performed by the creditors of the insurance taker, nor the insurance beneficiary, but the repurchase value will be paid to the beneficiary, upon his/her request, if the orientation of the beneficiary is irrevocable.

As an exception from paragraph (3) of this Article, the creditor who has the policy in pledge, can demand policy repurchase, if the claim for whose insurance the pledge is given, is not settled in due date.

Article 1011

Advance Payment

Upon request of the life insurance taker concluded for life time of the insured person, the insurer can pay in advance a part of the insured amount to the amount of repurchased value of the policy which can be returned later by the insurance taker.

The insurance taker shall be bound to pay a fixed interest.

(3) If the insurance taker is late with payment of the due interest, it will be preceded as if he/she demanded repurchase.

(4) The insurance policy must state the conditions for giving advance payment, the possibility to

return the amount received as advance payment to the insurer, the amount of interest rate, consequences of non payment of due interest, as determined with the insurance conditions.

Pledging of Policy

Article 1012

The insurance policy can be pledged.

Pledging of policy shall affect the insurer only if he/she has been informed, in writing, that the policy is pledged with a particular creditor.

When the policy is by order, pledging shall be made with endorsement.

Component 4

LIFE INSURANCE IN FAVOUR OF A THIRD PARTY

Appointing the Beneficiary

Article 1013

(1) The life insurance taker can, in the contract as well as by some later legal matter, and by a will, appoint the person who will have the rights in the contract.

If the insurance refers to a life of some other person, to appoint the beneficiary it shall be necessary to have his/her written consent.

The beneficiary does not have to be appointed by name, it shall be sufficient if the act contains the necessary information about his/her appointing.

When the children or descendants are appointed as beneficiaries, the benefit shall belong to those born later, and the benefit assigned to the spouse shall belong to the person who was married to the insured person at the moment of his/her death.

Dividing the Benefit between More Beneficiaries

Article 1014

When the children, the descendants or heirs at all are appointed as beneficiaries, if the insurance taker has not determined how to perform the division between them, the division will be made in proportion to their portions, and if the beneficiaries are not heirs, the insured amount will be divided to equal portions.

Revoking the Provision for Appointing the Beneficiary

Article 1015

(1) The provision, by which the insurance benefit is assigned to a particular person, can be revoked only by the insurance taker, and this right can not be performed by his/her creditors neither by his/her legal heirs.

(2) The insurance taker can revoke the provision for the benefit until the beneficiary states in whatever way that he receives it, when it becomes irrevocable.

(3) However, the insurance taker can revoke the provision for the benefit even after the beneficiary statement that he/she accepts it, if the beneficiary tried to murder the insured person, and if the benefit is assigned without compensation the provisions for revoking a present will apply for revoking.

(4) It shall be considered that the beneficiary rejected the benefit assigned to him/her, if after the death of the insurance taker, by invitation of his/her heirs, he/she does not declare, within a month, that he/she accepts it.

Individual and Direct Right of the Beneficiary

Article 1016

The insured amount that should be paid to the beneficiary shall not be included in the inheritance of the insurance takers, even when their heirs are appointed as beneficiaries.

Only the beneficiary shall have the right to the insured amount, since concluding the contract itself no matter how and when he/she is appointed as a beneficiary, and no matter if he/she declared his/her acceptance before or after the death of the insured person, so he/she can directly claim payment of the insured amount from the insurer.

If the insurance taker appointed his/her children as beneficiaries, his/her descendants or his/her heirs at all, each appointed beneficiary shall be entitled to a suitable part of the insured amount even if he/she refuses the inheritance.

Creditors of the Insurance Taker and the Insured Person

Article 1017

(1) The creditors of the insurance taker and the insured person shall not be entitled to the insured amount agreed for the beneficiary

(2) If the premiums paid by the insurance taker were disproportional higher than his/her possibilities at the moment of payment, his/her creditors can demand a part of the premiums which exceeds his possibilities, if conditions are fulfilled under which the creditors have a right to suppress the legal effects of the debtor.

Transfer of the Insured Amount

Article 1018

The beneficiary can transfer his/her right of the insured amount to another before the insured case, but he/she needs a written consent by the insurance taker which must state the name of the person to whom the right is transferred, and if the insurance refers to the life of some other person, the same consent shall be necessary by that person as well.

In Case of Death of the Appointed Beneficiary before Maturity

Article 1019

In case the appointed beneficiary dies before maturity of the insured capital or rent, the insurance benefit does not belong to his/her heirs, but to the next beneficiary, and if he/she is not appointed, then to the insurance taker.

Insurance in Case of Death without Appointed Beneficiary

Article 1020

If the insurance taker against death did not appoint a beneficiary or if the provision for appointing a beneficiary remains in effect due to revoking or due to rejection by the appointed person or of whatever reason, and the insurance taker has not appointed other beneficiary, the insured amount

shall belong to the property of the insurance taker and as his/her part shall be transferred with his/her other rights to his/her heirs.

Conscious Payment of the Insured Amount to an Unauthorised Person

Article 1021

When the insurer will pay the insured amount to the person who would be entitled to it if the insurance taker did not appoint a beneficiary, he/she shall be released from the obligation of the insurance contract if at the moment of the performed payment he/she did not know nor could know that the beneficiary is appointed by a will or some other act which was not delivered to him/her, and the beneficiary shall be entitled to demand returning the payment from the person who received the insured amount.

The same shall apply if the beneficiary is changed.

Chapter XXXI

CONTRACT TO CEDE PROPERTY DURING LIFE TIME

Definition

Article 1022

By the contract to cede property during life time, the assignor shall be bound to cede all of his/her property or a part of the property to the descendants.

Conditions for Validity of the Ceding

Article 1023

- (1) The ceding referred to in Article 1022 of this Article and the arrangement of the property shall be valid only if all the descendants and the spouse of the deceased, who will be invited according to the law, have agreed to inherit his/her inheritance.
- (2) The contract of assigning the property during life must be in writing and certified at a competent court.
- (3) In the process of certification the judge will read the contract and will warn the contracting parties about the consequences of it.
- (4) If some descendant did not give his/her consent he/she can give it additionally in the same form.
- (5) The assignment remains valid if the descendant who did not give his/her consent died before the assignor and did not leave any descendants or revoked the inheritance or is excluded from inheritance, or is unworthy.

Subject of Ceding

Article 1024

The ceding can include only the existing property of the assignor.

The provision of the contract, which foresees distribution of the estate that will be found additionally in the inheritance of the assignor, shall be null and void.

In Case of Considering the Ceded Parts as a Present

Article 1025

(1) If some of the descendants do not agree, the parts of the estate ceded to the other heirs shall be considered as presents given to the heirs.

(2) The procedure shall be the same if the assignor after assigning has a child born or if some heir declared to be dead appears.

Retaining Rights

Article 1026

During the ceding, the assignor can, for him/herself or for his/her spouse, or for him/herself and his/her spouse, or for some other person, keep the right to enjoy the fruits of all assigned estates or some of them, or agree a rent for life in kind or money or support for lifetime, or some other compensation.

If enjoying the fruit or the rent for lifetime are agreed for the assignor and his/her spouse together, in case of death of one of them, the other shall be completely entitled to enjoying the fruits and the rent up to his/her death, unless otherwise agreed, or if something else arouses from the case.

Rights of the Assignor's Spouse

Article 1027

The assignor can include his/her spouse in the ceding, but with consent of the spouse.

If the spouse is not included he/she shall still be entitled to a necessary part.

In that case, the ceding shall remain valid, but when setting the inheritance value for determination and settlement of the necessary part of the survived spouse, the parts of the property of the assignor which are assigned to his descendants shall be considered as present.

Termination and Cancellation

Article 1028

The assignor shall have right to terminate unilaterally the contract for ceding by application of the provisions of this Law for unilateral termination of two-sided obligatory contracts.

The assignor may revoke the contract for ceding by appropriate provision of this Law's provisions for cancellation of the present, due to uttermost ungratefulness by the person to whom the property has been ceded.

Chapter XXXII

CONTRACT FOR LIFETIME SUPPORT

Section 1

GENERAL PROVISIONS

Article 1029

By the contract for lifetime support, the support giver shall be bound to support for lifetime the support receiver or some third party, and the support receiver leaves to him/her as compensation his/her whole property or a definite part of the property, its transfer shall be postponed until his/her death.

Form of the Contract for Lifetime Support

Article 1030

The contract for lifetime support shall be made in writing and shall be certified by a competent court.

When certified in the presence of the contractors and two witnesses who know them, the judge will read the contract out loud and will warn the contracting parties about the legal consequences of the contract.

When certifying the contract for support for lifetime, only persons who can be witnesses in the process of drafting a legal will can be witnesses.

When concluding the contract for lifetime support, the support giver can be represented by an authorised agent. The power of attorney can be issued as an official document and it should state precisely the person with whom the support giver will conclude a contract, as well as the content of the contract. This power of attorney shall be valid for three months from the date of issue.

Registering the Creditor's Rights

Article 1031

The support giver can demand registration of his/her right to the immovable property of the contract in a public register.

Responsibility for Debts

Article 1032

After the death of the receiver, the support giver shall not be responsible for his/her debts, but it can be agreed to be responsible for his/her existing debts to particular creditors.

Termination of Contract for Lifetime Support

Article 1033

The contracting parties can agree to terminate the contract for lifetime support since the start of its performance.

If according to the contract for lifetime support, the contracting parties live together, and their relations are so bad that mutual life has become impossible, each party can demand from the court to terminate the contract.

Each party can demand termination of the contract if the other party does not perform its obligations.

When terminating the contract, the party which is not responsible for the termination shall be entitled to demand from the other party compensation for the damages it has suffered.

Effect of Changed Circumstances

Article 1034

If after concluding the contract the circumstances have changed so much that its performance has become significantly difficult, the court, upon request of the parties, shall settle their relations again taking the circumstances into consideration

The court can change the right of the support receiver by a money rent for lifetime if it is in the interest of the parties.

Termination of the Contract for Lifetime Support

Article 1035

In case of death of the support giver, his/her obligations shall be transferred to his/her spouse and his/her descendants invoked to inheritance, if they agree.

If they do not agree to continue the contract for lifetime support without justified reason about it, the contract shall be terminated and they have no right to claim compensation for the former given support.

If the spouse and the descendants of the support giver are not able to take over the contract obligations, they shall be entitled to claim compensation from the support receiver for the former given support.

(4) The court will determine this compensation by free estimation taking into consideration the property circumstances of the support receiver and the persons authorised to continue the contract for support for lifetime.

Chapter XXXIII GUARANTEE

Section 1

GENERAL PROVISIONS

Definition

Article 1036

By the contract of guarantee the guarantor shall be bound to the creditor to fulfil the validity and due obligation of the debtor, if the latter does not do it.

Form

Article 1037

The guarantor shall be bound by the contract of guarantee only if he/she has made a written statement of guarantee.

Ability to Guarantee

Article 1038

Only a person with complete business ability can be bound by the contract of guarantee.

Guarantee for a Person without Business Capacity

Article 1039

The person who shall be bound as a guarantor for obligation of some person without business ability, shall be responsible to the creditor in the same manner as the guarantor of a person with business capacity.

Subject of Guarantee

Article 1040

Guarantee can be given for each valid obligation, regardless of its contents.

A guarantee can be given for conditional obligation, as well as for particular future obligation.

The guarantee for future obligation can be revoked before the obligation occurs, if there is no stipulated date in which it should occur.

A guarantee can be also given for obligation of some other guarantor (guarantor's guarantor).

Scope of the Guarantor's Responsibility

Article 1041

The guarantor's obligation can not be greater than the obligation of the principal debtor, and if a greater obligation is agreed it shall be settled to the debtor's obligation.

The guarantor shall be responsible for fulfilment of the complete obligation for which he/she guaranteed, if his/her responsibility is not limited to some part of the guarantee or is subject to easier conditions in other way.

He/she shall be bound to compensate the required costs made by the creditor in order to pay the debt of the main debtor.

The guarantor shall be responsible for each increase of obligation that would occur if the debtor is late or by fault of the debtor, unless otherwise agreed.

He/she shall be responsible only for the agreed interest due after concluding the contract for guarantee.

Transferring the Creditor's Rights to the Guarantor (Subrogation)

Article 1042

The guarantor who has settled a claim of the creditor shall be transferred that claim with all auxiliary rights and guarantees for its fulfilment.

Section 2

RELATION BETWEEN THE CREDITOR AND GUARANTOR

Forms of guarantee

Article 1043

Fulfilment of the obligation can be demanded from the guarantor even after the principal debtor has not fulfilled it within the term fixed in the written invitation (subsidiary guarantee).

The creditor can demand fulfilment from the guarantor, although he/she has not called the main debtor to fulfil the obligation, if it is evident that it is impossible to realise its fulfilment out of the means of the main debtor or if the main debtor is in bankruptcy.

If the guarantor is bound as a guarantor-payer, he/she shall be responsible to the creditor as main debtor for the whole obligation and the creditor can demand its fulfilment by the principal debtor or by the guarantor or by both at the same time (solidary guarantee).

The guarantor shall be bound as a guarantor for an obligation from a trade contract, unless otherwise agreed.

Solidarity of Guarantors

Article 1044

More guarantors of some debt shall solidary liable no matter if they guaranteed together or each of them shall be bound to the creditor separately, unless their obligation is otherwise settled by the contract.

Losing the Right to Time Limit

Article 1045

If the debtor has lost the right to time limit set for fulfilment of his/her obligation, the creditor can not demand fulfilment from the guarantor before expiration of that time limit, unless otherwise agreed.

Bankruptcy of the Main Debtor

Article 1046

In case of bankruptcy of the main debtor, the creditor shall be bound to report to him/her his/her claim in the bankruptcy and to inform the guarantor about it, otherwise he/she shall be responsible to the guarantor for the damage he/she would have because of it.

Decrease of the obligation of the principal debtor in the bankruptcy proceeding or in the proceeding for forced settlement does not mean suitable decrease of the guarantor's obligation, so the guarantor shall be responsible to the creditor for the total amount of his/her obligation, unless otherwise agreed.

Case of Decreased Liability of the Debtor's Heir

Article 1047

The guarantor shall be responsible for the full amount of the obligation for which he/she guaranteed and in case when payment could be demanded from the heir to the debtor only of the part that corresponds to the value of the inherited property.

Objections from the Guarantor

Article 1048

The guarantor can point out all objections of the main debtor against the demand of the creditor, including the objection for set-off, and not the clear personal debtor's objections.

The debtor's cancellation of the objection, as well as his/her recognition of the creditor's claim has no effect on the guarantor.

The guarantor can also point out his/her personal objections against the creditor, for example: void contract of guarantee, superannuated creditor claim towards him, objection for setting-off the mutual claims.

Duty to Inform the Guarantor about the Debtor's Omission

Article 1049

If the debtor does not fulfil his/her obligation, on time, the creditor shall be bound to inform the guarantor about it, otherwise he/she will be responsible for the damage he/she made to the guarantor.

Releasing the Guarantor due to Creditor Postponement

Article 1050

The guarantor shall be released from liability if the creditor, upon his/her appeal after the due date of claim, does not require fulfilment from the main debtor within one month from the date of that appeal.

When the date of fulfilment is not specified, the guarantor shall be released from the liability if the creditor, upon his/her appeal upon expiration of one year from concluding the contract guarantee, does not make within one month from that appeal, the required statement for specifying the date of fulfilment.

Release of the Guarantor due to Abandoning the Guarantees

Article 1051

If the creditor abandons his/her pledge or some other right which provided fulfilment of his/her claim, or loses it by his/her fault and prevents transfer of that right to the guarantor, the latter shall be released from his/her obligation towards the creditor for as much as he/she could receive by exercising that right.

The rule in paragraph (1) of this Article shall apply as in a case when the right occurred before concluding the guarantee contract, as well as in case after that.

Section 3

RELATION BETWEEN THE GUARANTOR AND THE DEBTOR

Right to Claim Compensation from the Debtor

Article 1052

(1) The guarantor who paid his/her claim to the creditor, can claim from the debtor to compensate all he/she has paid for his/her account, as well as the interest from the date of payment.

(2) He shall be entitled to compensation for the costs caused by dispute with the creditor from the moment he/she has informed the debtor about that dispute, as well as of compensation for the damage if there was any damage.

Guarantor's Right to One Solidary Debtor

Article 1053

The guarantor of one or more solidary debtors can claim from any of them to compensate what he has paid to the creditor, as well as the costs.

Guarantor's Right to Previous Security

Article 1054

Even before his/her payment made to the creditor, the guarantor who is bound by knowledge and approval of the debtor, shall be entitled to demand from the debtor to provide the necessary security for his/her eventual demands in the following cases: if the debtor did not fulfil his/her obligation in due date, if the creditor claimed legal payment from the guarantor and if the debtor financial status became significantly bad after concluding the guarantee contract.

Losing the Right to Compensation

Article 1055

The debtor can use against the guarantor, who without his/her knowledge has made payment of the

creditor claim, all legal means by which at the moment of that payment could reject the creditor claim.

The guarantor who has paid the creditor's claim and did not inform the debtor about it, and the latter not knowing about that payment paid the same claim again, cannot demand compensation from the debtor, but has right to demand from the creditor to return what he/she has paid.

Right Refund of the Payment Made

Article 1056

The guarantor who without debtor knowledge made payment of the creditor's claim, which later upon debtor request is annulled or extinguished by setting off, can only claim returning his/her payment from the creditor.

Section 4

RIGHT TO RECOURSE OF THE PAYER TOWARDS THE OTHER GUARANTORS

Article 1057

When there are more guarantors, and one of them paid the due claim, he/she shall have the right to claim each of the other guarantors to compensate the part he/she bears.

Section 5

OBSOLETENESS

Article 1058

(1) The obsolescence of the main debtor obligation shall make the guarantor obligation obsolete. If the obsolescence time limit of the main debtor obligations is more than two years, the guarantor obligation shall become obsolete after expiration of two years from due date of the main debtor obligation, except if the guarantor is solidarity responsible with the debtor.

The termination of claim obsolescence towards the main debtor shall also affect the guarantor only if the termination was caused by some judicial procedure of the creditor against the main debtor.

The standstill in obsolescence of the main debtor's obligation shall have no effect on the guarantor.

Chapter XXXIV ASSIGNMENT

Section 1

DEFINITION OF CONTRACT

Article 1059

By assignment, one person, assignor shall authorise another person, assignor's assignor, to perform for his/her account something for a particular third party, assignee, and he/she shall be authorised to accept that performance on his/her behalf.

Section 2

RELATIONS BETWEEN THE ASSIGNEE AND THE ASSIGNOR'S ASSIGNOR

Acceptance by the Assignor's Assignor

Article 1060

The assignee shall acquire the right to demand fulfilment from the assignor's assignor even when he/she informs him/her that he/she accepts the assignment.

Acceptance of assignment can be revoked.

Objections by the Assignor's Assignor

Article 1061

By acceptance of the assignment between the assignee and the assignor's assignor a debt relation shall occur independent of the relation between the assignor and the assignee.

The assignor's assignor who accepted the assignment can point out to the assignee only the objections referring to the validity of accepting, the objections based on the content of acceptance or on the content of the assignment itself, as well as his/her personal objections.

Transfer of Assignment

Article 1062

The assignee can transfer the assignment to another person before the assignor's assignor acceptance, and the latter can transfer it further, except when it results from the assignment itself or from some special circumstances which make it non-transferable.

If the assignor's assignor declared to the assignee that he/she accepts the assignment, that acceptance shall affect all persons to whom the assignment would be transferred one after another.

If the assignor's assignor declared to the provider, to whom the assignee has transferred the assignment that he/she accepts it, he/she can not point out to the provider his/her personal objections towards the assignee.

Obsolescence

Article 1063

The right of the assignee to demand fulfilment by the assignor's assignor shall become obsolete for one year.

If there is no fixed date for the fulfilment, the obsolescence shall start when the assignor's assignor accepts the assignment, and if he/she accepted it before it was given to the assignee then when it will be given to the latter.

Section 3

RELATION BETWEEN THE ASSIGNEE AND THE ASSIGNOR

In Case the Assignee is Creditor of the Assignor

Article 1064

The creditor shall not be bound to agree with the assignment made to him/her by the debtor due to non-fulfilment of his/her obligation, but he/she shall be bound to inform the debtor immediately about his/her rejection, otherwise he/she will be responsible to him/her for the damage.

The creditor who agreed with the assignment shall be bound to call forth the assignor to perform it.

Assignment shall not be Fulfilment

Article 1065

When the creditor has agreed with the assignment made by his/her debtor for fulfilment of the obligation, that obligation shall not be terminated, unless otherwise agreed, neither by his/her

consent with the assignment, nor by the acceptance from the assignor's assignor, but by the assignor's assignor fulfilment.

The creditor who has agreed about the assignment made by his/her debtor, can demand from the assignor to fulfil what he/she owes to him/her only if he/she has not received the fulfilment by the assignor's assignor at the time set in the assignment.

Obligation of the Assignee to Inform the Assignor

Article 1066

If the assignor's assignor refuses the consent to the assignment or refuses the fulfilment requested by the assignee or if he/she states in advance that he/she does not want to perform it, the assignee shall be bound to inform the assignor immediately about it, otherwise he/she will be responsible to him/her for the damage.

Cancellation of the Accepted Assignment

Article 1067

The assignee who is not a creditor to the assignor and who does not want to use the assignment can cancel it, even if he/she has already stated that he/she accepts it, but shall be bound to inform the assignor about it without delay.

Revoking the Authorisation Given to the Assignee

Article 1068

The assignor can revoke the authorisation he/she has given to the assignee by the assignment, except if he/she has issued the assignment for fulfilment of some debt he/she had to him/her and generally if he/she issued the assignment in his/her interest.

Section 4

RELATION BETWEEN THE ASSIGNOR AND THE ASSIGNOR'S ASSIGNOR

In Case the Assignor's Assignor is a Debtor to the Assignor

Article 1069

The assignor's assignor shall be bound to accept the assignment, even if he/she is debtor to the assignor, unless he/she has promised it.

When the assignment is issued on the basis of a debt of an assignor's assignor to assignor, the assignor's assignor shall be bound to perform it up to the amount of that debt, if it is not more difficult for him/her than the fulfilment of the obligation towards the assignor.

By performing the assignment issued on the basis of a debt of the assignor's assignor to the assignor, the assignor's assignor shall be released to the same extent from his/her debt to the assignor.

Revoking an Authorisation given to the Assignor's Assignor

Article 1070

The assignor can revoke the authorisation he/she has given to the assignor's assignor until the latter declares to the assignee that he/she accepts the assignment or until he/she performs it.

He/she can revoke it even if it is stated in the revoking itself that it is irrevocable, as well as when the revoking would offend some of his/her obligations to the assignee.

Initiation of bankruptcy for the assignor's property according to the law itself shall result in revoking of the assignment, except in case when the assignor's assignor has already accepted the assignment before the adjudication of bankruptcy, as well as when at the moment of accepting he did not know or did not have to know about that bankruptcy.

Section 5

DEATH AND DEPRIVATION OF THE BUSINESS CAPACITY

Article 1071

The death of the assignor, assignee or assignor's assignor, as well as deprivation of the business ability of some of them, shall not affect the assignment.

Section 6

ASSIGNMENT IN THE FORM OF PAPER OF A BEARER

Article 1072

A written assignment can be issued to a bearer.

In that case each paper holder shall be an assignee in relation to the assignor's assignor.

The relations aroused by the assignment between the assignee and the assignor, in this case has aroused only between each individual paper holder and the person that has given up the paper.

Section 7

ASSIGNMENT IN THE FORM OF PAPER BY ORDER

Article 1073

A written assignment made out to money, securities or replacement goods, can be issued by the provision "by order", if the assignor's assignor is a person dealing with trading activity and if that activity includes what he/she should perform.

Chapter XXXV

BANK MONEY DEPOSITS

Section 1

MONEY DEPOSIT

Definition

Article 1074

The contract of money deposit shall be concluded when the bank is bound to receive and the depositor to deposit a certain amount of money in the bank.

By this contract the bank acquires the right to dispose of the deposited money and shall be bound to return the money according to the terms of the contract.

Opening an Account

Article 1075

According to the contract for money deposit, the bank shall open an account for the benefit and on which charge all debits and credits are entered arising from working with the depositor or for his/her account with a third party.

The claims, i.e. credits for which the contracting parties agree to be excluded shall not be entered in the account.

Elimination of Debit Balance

Article 1076

The bank shall be bound to make payments from the account to the extent of the available means. If the bank made one or more payments in and out within the contract of deposit, which makes debit account, it must inform without delay the depositor who shall be bound to take measures immediately to eliminate the debit balance.

Types of Money Deposits

Article 1077

The money deposit can be at sight or a time deposit with notice period and without notice period, with special purpose and without purpose.

Unless otherwise agreed, it shall be assumed that the money deposit is at sight, so the depositor of the account has a right to dispose of a part or the full balance at any moment.

Statement of Account

Article 1078

The bank shall be bound to inform the depositor for each change of the state of his/her account.

The bank shall be bound at the end of each year, and if it is agreed or commonly more often, to send a statement of account (balance).

Place of Payments and Settlement

Article 1079

Unless otherwise agreed between the contracting parties the orders for payments and settlement from the depositor account, shall be sent to the bank head office in which the account is opened.

Existence of More Accounts

Article 1080

If the same person has more accounts in one bank or in more of its business units, each of these accounts shall be independent.

Payment of Interest

Article 1081

The bank shall pay interest to the means deposited in it, unless otherwise defined by law.

The interest amount shall be defined by a contract of depositing assets, and if nothing is provided for with the contract then the lowest interest rate applied in the place of filling up the savings

deposits by sight shall be valid.

Section 2

SAVINGS DEPOSIT

Savings - Book

Article 1082

If the money deposit is received as a savings deposit, the bank, i.e. the savings bank shall issue a savings - book to the depositor.

The savings bank book can be issued only to a specific person or bearer.

Entry in the Savings - Book

All money paid in and out shall be registered in the savings - book.

The registrations in the bank book confirmed by the bank stamp and signature of authorised person shall be proof for money paid in and out in the relations between the bank and the depositor.

The opposite agreement shall be null and void.

Payment of Interest

Article 1084

Interest shall be paid on the savings deposits.

The amount of interest rate shall depend on the type of savings deposit.

Type of Savings Deposits

Article 1085

The savings deposits can be at sight or time deposits, with or without a period of notice.

Chapter XXXVI

DEPOSITING OF SECURITIES

Definition

Article 1086

By the contract for depositing of securities, the bank shall be bound to take over the securities with compensation, for keeping and exercising the requested rights and obligations.

Exercising the Rights

Article 1088

The bank shall be bound to provide keeping of the securities with care demanded from the deposit receiver by compensation and for the account of the depositor, to take over all activities necessary for keeping and realisation of his/her rights of the securities.

Unless otherwise agreed between the contracting parties, the bank shall be bound to pay the due interests, the capital and all amounts at all to which the securities give a right, as soon as they are due for payment.

(3) The bank shall be bound to put the paid amounts at depositor's disposal, and if he/she has an account with money deposit in the bank, to enter them in favour of that account.

Returning the Securities

Article 1089

The bank shall be bound, upon depositor request, to return the securities at any time.

The returning, as a rule, shall be made in the place where the depositing is performed.

The securities shall be subject of returning, unless it was agreed between the contracting parties that returning can be done by payment of a suitable amount.

Returning can be made only to the deponent or to his/her legal successors or to the persons appointed by them, even when it is obvious from the securities themselves that they belong to third parties.

Requests of Third Parties

Article 1090

For each request of third parties in relation to the deposited securities, the bank shall be bound to inform the depositor.

Chapter XXXVII

BANK CURRENT ACCOUNT

Definition

Article 1091

By the contract for bank current account, the bank shall be bound to open its client a separate account to receive payments and to make payments to the extent of their assets and the allowed credit.

Form of the Contract

Article 1092

The contract of opening current accounts must be concluded in writing.

Assets on Current Account

Article 1093

Money assets on current account shall be realised with payments made by the depositor and payments of money amounts made on his/her account.

The bank shall be bound through the current account to make payment for the depositor when there is no cover on the account in the scope provided for under the contract for opening a current account or by special agreement.

This obligation of the bank can be excluded by the contract of opening a current account.

Clearing between Balances of More Accounts

Article 1094

If the depositor has more current accounts in the same bank the credit and debit balance of these accounts shall be mutually cleared, unless otherwise agreed.

Disposing of the Balance

Article 1095

The beneficiary of the current account can dispose of the balance he/she has on his/her current account in his/her favour, at any moment, unless a notice date is agreed.

Application of Rules of Contract for Order

Article 1096

The bank shall be bound for performance of the depositor order according to the rules for the contract of order.

If the order should be executed in the place where the bank has no business unit, the bank can execute it through another bank.

Validity of the Account

Article 1097

If there is no fixed time period in the contract for opening a current account, each party can terminate it within 15 days period of notice.

Commission and Compensation for Damages

Article 1098

The bank shall have the right to calculate commission for the executed services included in the contract of the current account, as well as compensation for the specific costs made in reference to those services.

The bank shall register all these claims in its own favour in the current account, unless otherwise agreed between the contracting parties.

Submission of Statements of Accounts

Article 1099

During each change of the state of the current account, the bank shall be bound to issue a statement indicating the balance and to hand it over to the client in the agreed fixed way.

The statement shall be assumed as approved if it is not denied within contract date or, if there is no contract within 15 days.

After its approval, the statement of an account can be denied due to errors in writing or in the account, because of omission or duplication, but this denial must be taken over no later than one year upon receiving the account for balance liquidation after closing the current account, otherwise the right shall be cancelled.

Chapter XXXVIII

CONTRACT FOR SAFE DEPOSIT BOX

Definition

Article 1100

By the contract of safe deposit box the bank shall be bound to make available for use to the beneficiary a safe deposit box for a fixed time, and the user shall be bound to pay the bank a fixed compensation.

The bank has to take over all the necessary measures in order to provide good condition of the safe

deposit box as well as supervision of it.

Access to the Safe Deposit Box

Article 1101

Access to the safe deposit box can be allowed only to the beneficiary or his/her authorised person. The bank must not have a duplicate of the key or the keys handed over to the beneficiary.

Goods that must not be put in the Safe Deposit Box

Article 1102

The beneficiary must not put in his/her safe deposit box a thing or a product that can jeopardise the security of the bank or the other safe deposit boxes.

If the beneficiary does not observe this obligation, the bank can state that it cancels the contract of safe deposit box.

Rights of the Bank for non Payment

Article 1103

If the beneficiary does not pay the bank at least one instalment of the compensation after it is due for payment, the bank can cancel the contract at expiration of one month period after warning the beneficiary about the payment by a registered letter.

After cancellation of the contract the bank can call the beneficiary to empty the safe deposit box and to hand over the key, and if the beneficiary does not do that, the bank can legally request to open the safe deposit box, to establish its content and to put the found goods in a court deposit or give the bank for keeping.

The bank shall have the right to priority for payment of owed compensation aroused from the contract of safe deposit box, as well as from the price obtained by selling the other values found in the safe deposit box.

Chapter XXXIX

CONTRACT FOR CREDIT

Definition

Article 1104

(1) By the contract of credit the bank shall be bound to make available to the credit beneficiary, a fixed amount of money, for a definite or indefinite time, for some purpose or without any specific purpose, and the beneficiary shall be bound to pay the bank the agreed interest and to return the obtained amount of money at the time and in the way set out in the contract.

(2) The provisions from the contract of loan shall be suitably applied in the contract of credit in which the money obligation is in domestic currency, expressed in foreign currency or defined in such currency in relation to the interest rate.

Form and Content

Article 1105

(1) The contract of credit must be concluded in writing.

(2) The contract of credit shall define the amount, as well as the terms for giving, using and

returning the credit.

Cancellation of the Credit Grantor

Article 1106

- (1) The bank can cancel the contract of credit before expiration of contract date if the credit is used contrary to its purpose.
- (2) The bank can cancel the contract of credit before expiration of contract date and in case of insolvency of the beneficiary, even if it is not determined by court decision, in case of termination of the legal person or death of the beneficiary, if in those cases the credit grantor would be in an essentially more unfavourable position.

Cancellation of Contract and Returning Credit Beforehand

Article 1107

- (1) The credit beneficiary can cancel the contract before he/she starts using the credit.
- (2) The credit beneficiary can return the credit ahead of time fixed for returning, but he/she shall be bound to inform the bank in advance.
- (3) In both cases the credit beneficiary shall be bound to compensate the damage, if the credit grantor has suffered any.
- (4) In case of returning the credit before the fixed period, the bank can not calculate the interest for the period from the date of returning the credit up to the date when it should have been returned according to the contract.

Chapter XL

CONTRACT FOR CREDIT BASED ON PLEDGE OF SECURITIES

Definition Article 1108

By the contract of credit based on pledge of securities, the bank shall grant a credit of a definite amount by providing a pledge of securities belonging to the credit beneficiary or a third party who will agree with it.

Form and Content

Article 1109

The contract of credit based on pledge of securities must be concluded in writing and must include the indication of the securities in pledge, the name, i.e. the company and head office, i.e. the place of residence of securities holder, amount and terms of granted credit, as well as the amount and value of securities taken into consideration for credit approval.

In Case the Bank can sell the Pledged Securities

Article 1110

If the beneficiary does not return the granted credit after the maturity, the bank can sell the pledged securities.

CHAPTER XLI LETTERS OF CREDIT

Obligation of the Bank of Issue and Form of the Letter of Credit

Article 1111

- (1) By accepting the orderer's request for opening letters of credit, the bank of issue shall be bound to pay to the beneficiary of the letter of credit the defined amount of money if the terms stated in the application for opening letter of credit are fulfilled in the fixed time .
- (2) The letter of credit must be made in writing.

In Case of Obligation towards the Beneficiary

Article 1112

- (1) The bank shall be bound towards the beneficiary from the date when he/she has been informed about opening of the letter of credit.
- (2) The orderer shall be bound by the issued application from the moment the bank has received the application.

Independence of the Letter of Credit from another Legal Matter

Article 1113

The letter of credit shall be independent from the contract of sale or other matter for which the letter of credit is opened.

Documentary Letter of Credit

Article 1114

Documentary letter of credit shall exist when the bank is bound to pay to the beneficiary of the letter of credit a specific amount of money provided that documents are submitted according to the terms in the letter of credit.

Obligation of the Bank of Issue

Article 1115

The bank which opens a documentary letter of credit shall be bound to perform the clauses for payment under the terms of the letter of credit.

Types of Documentary Letter of Credit

Article 1116

- (1) The documentary letter of credit can be revocable or irrevocable.
- (2) Unless otherwise explicitly agreed, the letter of credit shall be always revocable, even when opened for a definite time.

Revocable Letter of Credit

Article 1117

The revocable documentary letter of credit does not bound the bank towards the beneficiary, so it can change or revoke it on request of the orderer or by its own initiative at any moment, if it is in the interest of the orderer.

Irrevocable Letter of Credit

Article 1118

- (1) The irrevocable letter of credit shall include independent and direct obligation of the bank towards the beneficiary.
- (2) This obligation can be cancelled or changed only if agreed by all interested parties.
- (3) The irrevocable documentary letter of credit can be confirmed by some other bank, which, besides the opening bank, takes independent and direct obligation towards the beneficiary.
- (4) Notification of the letter of credit of the beneficiary by some other bank shall not mean confirmation of this letter of credit.

Obligations of the bank regarding the documents Article 1119

- (1) The bank shall be bound to investigate if the documents are in conformity with the orderer's requests.
- (2) When the bank receives the documents, it must inform the orderer as soon as possible about it as well as to indicate the confirmed irregularities and faults.

Responsibility Limits of the Bank

Article 1120

- (1) The bank shall take no responsibility if the submitted documents are visually in conformity with the orderer's instructions.
- (2) It shall not take any responsibility regarding goods which is subject of the opened letter of credit.

Transferability and Divisibility of the Letter of Credit

Article 1121

- (1) The documentary letter of credit shall be transferable or divisible only if the bank, which opens a letter of credit in favour of the beneficiary appointed by the orderer, is authorised in the instruction of the first beneficiary to pay in full, or partially to one or more third parties.
- (2) The letter of credit can be transferred, according to stated instructions, only by the bank which opens it only once, unless otherwise agreed.

Chapter XLII

BANK GUARANTEE

Definition

Article 1122

- (1) With the bank guarantee the bank shall be bound towards the guarantee receiver (beneficiary) in case if a third party does not fulfil his/her obligation within maturity date, his/her obligation will be settled if the terms in the guarantee are fulfilled.
- (2) The guarantee must be issued in writing.

Settlement of Obligation of Money Guarantee

Article 1123

The bank shall settle an obligation of money guarantee also if the guarantee provides obligation without money.

Confirmation of Guarantee (Super-Guarantee)

Article 1124

If another bank confirms the obligation of the guarantee, the beneficiary can submit his/her requests of the guarantee whether to the bank that issued the guarantee or to the bank that confirmed the guarantee.

Renunciation of the Rights of Guarantee

Article 1125

The beneficiary can renounce his/her rights of bank guarantee to a third party only by renouncing the claim provided with the guarantee and by transfer of his/her obligations in reference to the provided claim.

Guarantee without Objection

Article 1126

- (1) If the bank guarantee contains a clause "without objection", "at first call", or words with the same meaning, the bank can not point out to the beneficiary the objections which the orderer as a debtor can point out to the beneficiary after the obligation was provided.
- (2) The orderer shall be bound to pay the bank each amount the bank has paid according to the guarantee issued by the clause in paragraph (1) of this Article.
- (3) The beneficiary of the guarantee shall owe the orderer the amount received according to the guarantee to which otherwise he/she would not have a right because of the justified objections of the orderer.

Chapter XLIII

APPLICATION OF THE PROVISIONS FOR BANK OPERATIONS

Article 1127

The provisions in Articles 1074 through 1126 of this law shall be suitably applied to other legal persons, if they are authorised for performing specific bank operations.

Chapter XLIV

SETTLEMENT

Definition

Article 1128

- (1) By the contract of settlement, the persons between whom there is a dispute or uncertainty for some legal relation, shall terminate the dispute by mutual allowances, i.e. eliminate the uncertainty and determine their mutual rights and obligations.
- (2) There shall be uncertainty when the realisation of a definite right is uncertain.

Composition of Mutual Allowances

Article 1129

- (1) The allowance can consist, inter alia, of partial or full recognition of some request by the other party or cancellation of some own request; of taking some new obligation; of lowering the interest rate; of extending the time period; of consent with partial payments; of giving right to changing one's mind.

- (2) Allowance can be conditional.
- (3) When only one party makes allowance to the other party and will admit the right of the other party, then it is not settlement, so it is not subjected to the rules of settlement.

Capability

Article 1130

For concluding a contract of settlement, capability shall be necessary for the right of disposal which is the subject of the settlement.

Subject Article 1131

- (1) The subject of settlement can be each right of disposal.
- (2) The settlement for property legal consequences of a criminal act shall be valid.
- (3) Disputes concerning statutory relations can not be subject of settlement.

Application of Provisions for Two-Party Contracts

Article 1132

- (1) The general provisions for the two-party contracts shall be valid for the contract of settlement, unless otherwise agreed.
- (2) If under settlement, the contractors make some other operation, the provisions of the law valid for the settlement do not apply to their relations, but those that apply for the really performed operation.

Excessive Damage

Article 1133

Due to excessive damage it shall not be possible to request cancellation of the settlement.

Effect of Settlement on Guarantors and Pledgers

Article 1134

- (1) If innovation of obligation is performed by settlement, the guarantor shall be released from the responsibility for its fulfilment also the pledge given by a third party shall be terminated.
- (2) Otherwise, the guarantor and the third party who have given their object in pledge shall still be obliged, and their responsibility can be decreased by the settlement, but not increased, unless they have agreed by the settlement.
- (3) When the debtor admits the disputed claim by the settlement, the guarantor and the pledger shall keep the right to point out to the creditors the objections which the debtor has renounced by the settlement.

Settlement of an Operation that can be Cancelled

Article 1135

- (1) The settlement for the legal matter whose cancellation is requested by one party shall be valid, if at the moment of concluding the settlement that party knew about that possibility.
- (2) The settlement for void legal matter shall be null and void also when the contractors knew about it and wanted to eliminate it by the settlement.

Nullity of Settlement

Article 1136

- (1) The settlement shall be null and void if it is based on misconception of both contractors that there is a legal relation which actually does not exist, and if without that misconception there would not be neither dispute nor uncertainty between them.
- (2) The same applies when the misconception of the contractors refers to simple facts.
- (3) Renouncing this nullity has no legal effect and what is given for performance of obligations from such settlement can be asked back.

Nullity of One Provision from the Settlement

Article 1137

The provisions of the settlement shall cease as a whole, and if one provision is null and void, the whole settlement shall be null and void, except if it is obvious from the settlement itself that it is composed of independent parts.

Part three

TRANSITIONAL AND FINAL PROVISIONS

Application of this Law

Article 1138

The provisions of this Law will not apply to the obligations aroused before the date of entry into force of this law.

Application of Customs

Article 1139

- (1) The provision of the general or particular usances, which confirms the assumption that the contracting parties agreed for usance application, if not excluded by the contract, will not apply since the date when this Law enters into force.
- (2) The general usances for turnover of goods will not apply from the date when this Law enters into force regarding the issues it regulates.
- (3) If the general or particular usances or other trade or business customs are opposite to the disposition standards of this law, the provision of this Law shall apply, except if the parties explicitly agreed upon usance application, i.e. other trade business customs.

Termination of Validity of other Regulations

Article 1140

With the date of entry into force of this Law the following laws shall cease to be valid: The Law on Obligations (Official Gazette of the SFRJ No.29/78; 39/85 and 57/89); The Law on Trade in Land and Buildings (Official Gazette of the SRM No.36/75, 41/75, 10/79 and Official Gazette of the Republic of Macedonia No.38/91 and 4/93), except Articles 27, 28 and 29 which shall be valid until adoption of the Law on Property and Other Real Rights and the Articles 109 through 126 from the Law on Inheritance (Official Gazette of the Republic of Macedonia No. 35/73 and 27/78).

Entry into Force of this Law

Article 1141

This Law shall enter into force within eight days from the date of its publication in the Official Gazette of the Republic of Macedonia.