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LAW ON CONTRACTS AND TORTS

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

THE LAW

ON CONTRACTS AND TORTS[1]

PART I

GENERAL PART

Chapter I

BASIC PRINCIPLES

Content of the Law

Article 1

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

Parties to Obligation Relations

Article 2

(1) Parties to the obligation relations may be physical and legal persons.

(2) Parties to obligation relations shall be equal in terms of law.

Freedom of Regulating the Obligation Relations

[1] Official Gazette of Montenegro 047/08 as of 7 August 2008, 004/11 as of 18 January 2011, 022/17 as of 3 April 2017, 123/24 as of 23 December 2024, 094/26 as of 2 July 2026

Article 3

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

Good Faith and Honesty

Article 4

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

(2) Principles of good faith and honesty may not be excluded or limited.

Duty to Cooperate

Article 5

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

Prohibition of Misuse of Rights

Article 6

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

Prohibition of Creation and Misuse of a Monopoly Position

Article 7

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

The Principle of Equal Consideration

Article 8

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

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

Prohibition of Causing Damage

Article 9

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

Duty to Perform Obligations

Article 10

(1) Parties to an obligation relationship shall perform their obligations and shall be responsible for their performance.

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

Due Diligence

Article 11

(1) In performing their obligations, parties to an obligation relationship shall act with the care required in legal transactions for the relevant type of obligation relationship (the care of a prudent person or, as appropriate, the care of a prudent businessperson).
(2) In performing obligations arising from their professional activity, parties to an obligation relationship shall act with increased care, in accordance with professional rules and usages (the care of a prudent professional).
(3) In exercising their rights, a party to obligation relations shall refrain from acts which could hinder the performance of the obligation of the other party.

Resolving Disputes in a Peaceful Manner

Article 12

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

Non-Imperative Character of the Provisions of the Present Law

Article 13

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

Applicability of Fair-Trade Custom and Usage

Article 14

(1) Parties to obligation relations shall proceed in engaging in legal transactions in accordance with fair trade custom and mutually developed usage.
(2) Trade practices shall be applicable to obligation relations if the parties to the obligation relations have stipulated such application or if relevant circumstances imply such intent.

Proceeding in Accordance with General Acts

Article 15

(1) In establishing obligation relations legal persons shall proceed in accordance with their general acts.
(2) However, a contract entered into or some other legal action taken, contrary to these acts shall remain effective, unless the other party was aware or should have been aware, of such fact or unless otherwise provided by the present Law.

Applicability of other Special Laws

Article 16

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

Application of Certain Provisions

Article 17

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

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

Applicability of Rules to other Legal Transactions

Article 18

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

Chapter II

ORIGIN OF OBLIGATIONS

SUBTITLE 1

CONTRACT

Section 1

CONCLUDING A CONTRACT

I. CONSENTING MINDS

When a Contract is Concluded

Article 19

Contract shall be concluded when the contracting parties have consented as to the essential constitutive elements of the contract.

Mandatory Conclusion and Mandatory Contents of a Contract

Article 20

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

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

Declaration of Will

Article 21

(1) Will to conclude a contract may be declared by words, usual signs or other conduct, on the grounds of which one may safely conclude of its existence.

(2) Declaration of will must be made freely and seriously.

Permit and Approval

Article 22

(1) Should consent of a third person be required to conclude a contract, such consent may be declared prior to concluding of the contract, as permission or after its conclusion, as approval, unless otherwise provided by law.

(2) Permission or approval must be declared in the form prescribed for contracts whose conclusion depends on permission or approval.

Negotiations

Article 23

(1) Negotiations preceding the concluding of a contract shall not be binding, and each party shall at any moment be free to interrupt them.

(2) However, a party conducting negotiations without intending to conclude a contract shall be liable for damage caused by conducting such negotiations.

(3) Party conducting negotiations with an intention to conclude a contract, but afterwards withdrawing from them without a justified reason, thus causing damage to the other party shall be equally liable for damage.

(4) Unless otherwise agreed, each party shall bear their own expenses relating to preparations for concluding of a contract, while joint expenses shall be shared equally between the parties.

(5) Should, during negotiations, one party provide confidential information or enable access to such information to the other party, such other party may not make such information accessible to third persons or use it for its own interests, regardless of whether the contract was subsequently entered into or not.

(6) Liability for violation of duty referred to in the paragraph 5 of present Article may consist of compensation of damages incurred and restitution to the aggrieved party of the benefit achieved by the tortfeasor by committing such violation.

Time and Place of Entering into Contract

Article 24

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

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

Tender

Article 25

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

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

General Offer

Article 26

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

Display of Merchandise

Article 27

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

Sending Catalogues and Advertisements

Article 28

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

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

Effect of Offer

Article 29

(1) Offeror shall be bound by their offer unless their obligation to honour the offer is excluded or unless such exclusion may be implied from the circumstances of the business transaction involved.

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

Binding Deadline of the Offer

Article 30

(1) Offer with an indication of the time limit for its acceptance shall be binding on the offer or until the expiration of that time limit.

(2) Should the offeror indicate the acceptance time limit by letter or telegram, it shall be held that such time limit has commenced to run from the date indicated in the letter or respectively, from the day of delivering the telegram to the post-office.

(3) In the case of an undated letter, the acceptance time limit for the offer shall run from the day of delivering the letter to the post-office.

(4) Offer made to an absent person, without indication of the acceptance time limit, shall be binding for the offeror in the course of a period usually needed for the offer to reach the person offered, for their considering it, for making their decision, and for the answer confirming the acceptance to reach the offeror.

Form of Offer

Article 31

(1) Offer of a contract falling within special statutory requirements regarding its form, shall be binding on the offeror only if made in such a form.

(2) Rules on form shall also apply to acceptance of the offer.

Offer Made by Unauthorised Person

Article 32

(1) Written offer shall be binding on the offeror even if not signed by the authorised person only in case: if offer is made on paper with printed or imprinted designations of the

offeror, used in their ordinary business; if the offer bears stamp or seal of the offeror and is signed in the ordinary manner; if the offer relates to business regularly conducted by the offeror and does not exceed the normal volume of their business and if the offered was not aware that the offer was signed by an unauthorised person.

(2) Rules on form shall also apply to acceptance of the offer.

Offer Made by Telephone or Telegram

Article 33

(1) Offeror shall confirm the offer made by telephone or telegram to the offeree by registered letter no later than the following working day.

(2) Failure to send the offer in writing shall not affect the validity of the contract concluded by telephone or by sending telegram, but the party who failed to give confirmation shall be responsible to other party for damage incurred.

(3) Provisions of paragraphs 1 and 2 of this Article shall also apply to the acceptance of an offer.

Acceptance of Offer

Article 34

(1) Offer shall be accepted when the offeror receives a statement from the offeree that he accepts the offer.

(2) Offer shall also be accepted when the offeree delivers the thing or pays the price or does anything else which on the grounds of the offer or former practice between the interested parties or usage, may be construed as a statement of acceptance.

(3) Acceptance may be revoked if the offeror acknowledges a statement of revocation prior to the statement of acceptance or simultaneously with it.

Acceptance of a Direct Offer

Article 35

(1) Offer made to a person present shall be considered rejected if not accepted immediately, unless the circumstances of the case indicate that the offeree was entitled to a certain time for considering the offer.

(2) Offer made by telephone or through direct radio communication, shall be considered as offer made to a person who is present.

(3) Offer sent by telefax shall not be considered as offer made to a person who is present.

Acceptance of Offer with a Proposal to Alter it

Article 36

(1) Should the offeree declare their intention to accept the offer, at the same time proposing to modify or supplement it, the offer shall be considered rejected by them, and that they have made their own offer to their former offeror.

(2) Response to the offer, containing acceptance to the offer, but with supplements or modifications, which do not materially alter it, shall mean acceptance, unless the offeror immediately objects to it.

(3) If they fail to act so, the contract shall be concluded in accordance with the content of the alteration contained in the declaration of acceptance.

(4) It shall be considered that the offer is materially altered if the supplements or modifications relate to the price, payment, quality or quantity of the goods, place and time of the delivery, scope of responsibility of one party towards the other.

Silence of the Person Offered

Article 37

(1) Silence of the person offered shall not mean the acceptance of an offer.

(2) Provision in an offer according to which silence of the person offered or other omission on their part (their failure to refuse the offer within the indicated time limit or to restitute within the indicated time limit the delivered thing which is to be subject of the contract offered to be concluded, and the like) can be considered as acceptance, shall not be effective.

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

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

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

Late Acceptance and Late Notification of Acceptance

Article 38

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

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

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

Death or Incapacity of One Party

Article 39

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

Preliminary Contract

Article 40

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

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

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

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

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

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

II. CASE

What Must Be a Subject of Obligation

Article 41

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

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

Subject as a Cause of Void Contract

Article 42

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

Subsequent Possibility

Article 43

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

Unlawful Subject of Obligation

Article 44

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

Definability of the Subject

Article 45

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

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

III. GROUNDS

Permitted Grounds

Article 46

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

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

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

Nullity of Contract Because of Ground

Article 47

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

Motive for Concluding of a Contract

Article 48

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

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

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

IV. CAPACITY

A Contract of a Person without Business Capacity

Article 49

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

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

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

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

Article 50

(1) Party to a contract with a person without business capacity, who was not aware of the fact of business incapacity, may desist from the contract entered into with such person without approval by such person’s legal representative.

(2) Party to a contract with a person without business capacity who was aware of such person’s business incapacity, but was deceived by such person into believing that they had the approval of the legal representative shall also have the right from the paragraph 1 of present Article.

(3) Right referred to in paragraphs 1 and 2 of this Article shall expire 30 days after one contracting party becomes aware of the other party's lack of business capacity or of the absence of approval by the legal representative; it shall also expire earlier if the legal representative approves the contract before that period expires.

Invitation to a Legal Representative to Make a Declaration

Article 51

(1) Party to a contract with a person having no business capacity, who concluded a contract without such person's legal representative's approval, may invite the legal representative to declare the approval of such contract.

(2) Should the legal representative fail to declare, within thirty days of receipt of the invitation, that they approve the contract, their approval shall be deemed refused.

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

Article 52

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

V. DEFICIENCIES OF WILL

Threat or Coercion

Article 53

(1) Should a contracting party or a third person provoke by unlawful threat the justified fear of the other party, so that the latter because of that enters into contract, the other party may request that such contract be avoided.

(2) Fear shall be considered justified if it is evident from the circumstances of the case, that there was a serious danger threatening the life, body or other important value of the contracting party or the third person.

(3) Contract concluded by use of force towards other contractual party shall be null and void.

Substantial Mistake

Article 54

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

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

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

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

Mistake Relating to Motive in Case of Contract without Consideration

Article 55

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

Misunderstanding

Article 56

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

Indirect Declaration

Article 57

Mistake of a person acting as agent in declaring the will of a party, shall be considered a mistake of their principal.

Fraud

Article 58

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

(2) Party who concludes a contract as victim of fraud shall be entitled to claim compensation of damages sustained.

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

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

Apparent Contract

Article 59

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

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

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

VI. FORM OF A CONTRACT

Informality of a Contract

Article 60

(1) Concluding of a contract shall not be subject to any form, unless otherwise specified by law.
(2) Any statutory requirement for the conclusion of contract in a specific form shall apply also to all subsequent alterations and amendments to the contract.
(3) However, subsequent oral amendments regarding incidental matters, not mentioned in the formal contract, shall be valid, unless contrary to the purpose of prescribing the form.
(4) Subsequent oral agreements by which liabilities of one or the other party are reduced or facilitated shall be valid, should the specific form be prescribed only in the interest of contracting parties.

Form of a Contract on Transfer of Real Estate

Article 61

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

Rescission of Formal Contracts

Article 62

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

Form Agreed Upon

Article 63

(1) Contracting parties may agree that a specific form be a condition for validity of their contract.
(2) Contract for the conclusion of which a specific form has been stipulated may be rescinded, amended or altered in some other way by informal agreement.
(3) Should contracting parties prescribe a specific form only to secure evidence of their contract or achieve another purpose, the contract shall be concluded when agreement is reached on its contents, and the contracting parties shall at the same time give the contract the prescribed form.

Sanction for Absence of the Required Form

Article 64

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

Presumption of Completeness of a Document

Article 65

(1) Should a contract be concluded in specific form, either on the ground of law or by intention of the parties, the only valid part shall be the one made in this form.

(2) However, the simultaneous verbal agreements concerning incidental items which are not mentioned in the contract shall also be valid, unless contrary to its contents or the reason for which the form was prescribed.

(3) Simultaneous oral agreements reducing or facilitating the obligations of one or both parties shall also be valid where the special form is prescribed solely in the interests of the contracting parties.

Making a Document

Article 66

(1) Where a document is required for the conclusion of a contract, the contract shall be concluded when the document is signed by all persons assuming obligations under it.

(2) Contracting party who is unable to write shall place a hand mark on the document, certified by two witnesses, a notary, a court or another competent authority.

(3) In concluding a bilateral (synallagmatic) contract it shall be sufficient for both parties to sign one document or for each party to sign a copy of the document intended for the other party.

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

Conclusion of Agreement by Electronic Communication

Article 67

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

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

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

In Case of Performing a Contract Lacking the Form

Article 68

Contract for the conclusion of which written form is required shall be valid even if not concluded in that form where the contracting parties have performed, wholly or substantially, the obligations arising from it, unless the purpose for which the form was prescribed clearly indicates otherwise.

VII. CONDITION AND ORDER

Conditions and their Effect

Article 69

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

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

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

(4) Condition shall be deemed satisfied should its fulfilment, contrary to the principle of good faith and fair dealing, be prevented by the party to whose disadvantage it was stipulated, whereas it shall be deemed not satisfied should its fulfilment, contrary to that principle, be caused by the party to whose advantage it was stipulated.

Prohibited or Impossible Conditions

Article 70

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

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

Securing of a Right Subject to Condition

Article 71

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

Order (Burden)

Article 72

(1) If the no-encumbrance contract was concluded with an order, and the beneficiary does not fulfil the order, the other party may demand the fulfilment of the order or termination of the contract.

(2) Non-performance of an instruction relating to a legal transaction in contemplation of death shall have the effect of fulfilment of a condition subsequent.

VIII. TIME

Computation of Time

Article 73

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

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

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

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

Application of Rules Relating to Condition

Article 74

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

IX. EARNEST AND RESCISSION FEE

1. Earnest

Paying Back and Taking the Earnest in the Account

Article 75

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

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

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

Non-performance of Contract

Article 76

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

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

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

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

In Case of Partial Performance of Obligation

Article 77

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

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

2. Rescission Fee

The Role of a Rescission Fee

Article 78

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

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

(3) Party authorised to repudiate shall pay the rescission fee simultaneously with a declaration of repudiation.

(4) Should contracting parties fail to determine the time limit by which the authorised party may repudiate the contract, such party may take such action until the expiration of the time limit determined for the performance of their obligation.

(5) Right to repudiate the contract shall also expire after the party to whose benefit it was agreed, begins to perform their duties arising from the contract or begins to accept performance by the other party.

Earnest as a Rescission Fee

Article 79

(1) Should the right to repudiate the contract and the earnest be both agreed upon, the earnest shall be considered as a rescission fee, and each party shall be entitled to repudiate the contract.

(2) In such a case, should a party who paid the earnest repudiate, such party shall lose it, while should a party who received the earnest repudiate, such party shall pay back a sum double the amount of the earnest.

Section 2

AGENCY

I. GENERALLY ON AGENCY

Possibility of Agency

Article 80

(1) Contract as well as any other legal transaction may be undertaken through an agent.

(2) Authority for agency shall be based on law, general acts of a legal person, an act of a competent state body or on declaration of will of the person represented (authorisation).

Effects of Agency

Article 81

(1) Contract concluded by an agent on behalf of their principal (the person represented), and within the limits of their authority, shall be directly binding for the person represented, and for the other contracting party.

(2) Under the same conditions, other legal transactions of the agent shall produce legal effect directly for the person represented.

(3) Agent shall inform the other party that they act on behalf of their principal, but even after failing to do that, the contract shall still be legally effective in respect of the

principal, and the other party, should the latter party be aware or was able, on the ground of relevant circumstances, to conclude that the former person has been acting as an agent.

Transferring Authority

Article 82

(1) Agent shall not transfer their authority to another, unless entitled accordingly by law or contract.

(2) As an exception they may do the above if prevented from personally performing the transaction, provided the interests of their principal required an immediate undertaking of the legal transaction.

Exceeding the Limits of Authority

Article 83

(1) Should an agent exceed the limits of authority, their principal shall be bound only if they approve such exceeding.

(2) Should a principal fail to approve the contract within the time limit usually necessary for considering and assessing such kind of contract, the approval shall be considered denied.

(3) Approval specified in the preceding paragraph shall have retroactive effect, unless the parties decide otherwise.

(4) Should the other party not be aware or should not have been aware, of the transgression of authority, they may, immediately after becoming aware of the excess of limits authority, without waiting for the statement of the principal concerning the contract, declare that they do not consider themselves bound by the contract.

(5) Should the principal deny the approval, the agent and the principal shall be jointly and severally liable for loss caused to the other party, provided such party was not aware or should not have been aware, of the excess of authority.

Concluding of a Contract by Unauthorised Person

Article 84

(1) Contract concluded by a person, as agent, on behalf of another and without their authorisation, shall be binding for the principal represented without authority only after their subsequent approval of the contract.

(2) Party to a contract concluded in such a way may request from the principal represented without authority to affirm within an appropriate time limit whether they approve the contract.

(3) Should a principal represented without authority fail to approve the contract even in the indicated time limit, the contract shall be considered as not concluded.

(4) In such case a party to the contract may claim compensation of damages from the person who, as an agent, concluded the contract without proper authorisation, when, at the moment of concluding the contract, that party was not aware or should not have been aware, that such person had no authority to enter into contract.

II. AUTHORISATION

Issuing an Authorisation

Article 85

(1) Authorisation shall be a power of agency issued by the person granting the authority by way of legal transaction, to the authorised person (proxy).

(2) Existence and scope of authorisation shall be independent of any legal relationship serving as a ground for issuing the authorisation.

(3) Legal person may also be authorised to act as a proxy.

Particular Form of Authorisation

Article 86

Form prescribed by law for a contract or some other legal transaction shall apply also to the authorisation for concluding such contract or engaging in such transaction.

The Scope of Authority

Article 87

(1) Authorised person may undertake only those legal transactions which fall within the scope of their authorisation.

(2) Authorised person supplied with general authorisation may undertake only those legal transactions which fall within the sphere of regular business

(3) Transaction not falling within the sphere of regular business may be undertaken by the authorised person only if they are specifically authorised to undertake that transaction or transactions of that kind.

(4) Without special authorisation for each individual case, an authorised person may not assume an obligation under a bill of exchange, conclude a contract of guarantee, settlement or arbitration agreement or waive a right without consideration.

Revocation and Restriction of Authorisation

Article 88

(1) Person granting the authority may freely restrict or revoke the authorisation, even after renouncing such right by contract.

(2) Revocation and restriction of any kind of authorisation may be done by statement without particular form.

(3) Should the revocation or restriction of authorisation constitute a breach of a contract of mandate, a contract for the supply of services or another contract, the authorised person shall be entitled to compensation of damages thereby sustained.

Effect of Termination and Restriction of Authorisation Regarding Third Persons

Article 89

(1) Revocation or restriction of authorisation shall have no effect regarding a third person who has concluded a contract with the authorised person or effected some other legal transaction, and who was not aware or should not have been aware, of the fact that the authorisation has been revoked or restricted.

(2) In such a case a person granting the authority shall be entitled to claim compensation of damages from the proxy, sustained through the above, unless the proxy was not aware or should not have been aware, of the revocation or restriction of the authorisation.

(3) Provisions of paragraphs 1 and 2 of this Article shall also apply in other cases of termination of the authorisation.

Other Cases of Termination of Authorisation

Article 90

(1) Authorisation shall be terminated with the termination of a legal person authorised by it, unless otherwise prescribed by law.

(2) Authorisation shall be terminated in case of death of the authorised person.

(3) Authorisation shall be terminated with the termination of a legal person or death of a person granting it unless a transaction already commenced became impossible to interrupt without damage to legal successors or should the authorisation continue to be valid also in case of death of the person granting it, either according to their intention or due to the nature of the transaction.

III BUSINESS AUTHORISATION

Granting of Authorisation and its Contents

Article 91

(1) Business authorisation may be granted within the limits of law by a business organization or by other legal person, thus authorising the proxy to conclude contracts and engage in other transactions, which are usual in exercising of their business activity.

(2) Business proxy may not alienate or encumber immovable property, assume obligations under a bill of exchange or guarantee obligations, take out a loan or conduct litigation unless granted a special power of attorney for each such transaction.

(3) Business authorisation may be restricted to the specific kind of business transactions or to specified transactions, but these restrictions shall affect a third person only should such person was aware or was supposed to be aware, of them.

Business Authorisation of an Individual Entrepreneur

Article 92

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

(2) Business authorisation shall not be terminated in case of individual entrepreneur's death, nor in case of their losing business capacity.

IV. AUTHORITY OF TRAVELLING SALESPERSON

Article 93

(1) Travelling salesperson of a business organization or individual entrepreneur shall be empowered to undertake only transactions relating to the sale of goods, and those listed in the authorisation granted to them by such business organization.

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

(3) Travelling salesperson authorised to sell goods, shall not be empowered to collect payment or sell on credit, unless having particular authority to sell on credit.

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

V. AUTHORITY OF PERSONS PERFORMING PARTICULAR TASKS

Article 94

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

Section 3

INTERPRETATION OF CONTRACT

Implementation of Terms and Interpretation of Controversial Terms

Article 95

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

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

Intention of the Contracting Parties

Article 96

(1) Common intention of contracting parties shall be established according to what one of the parties actually declared and how other party was supposed to understand it.

(2) Should it be impossible to establish common intention of the contracting parties one should inquire into intention which reasonable persons of same kind would regularly have in the same situation.

(3) Should it be established that one of the parties intended the contract to have a particular meaning, and at the time of the conclusion of the contract the other party could not have been unaware of the first party’s intention, the contract is to be interpreted in the way which is in accordance with the intention of the former party.

Circumstances Relevant for Interpretation

Article 97

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

Unclear Provisions in Particular Cases

Article 98

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

Supplementary Rule

Article 99

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

Out-of-Court Interpretation of Contract

Article 100

(1) Contracting parties may provide that a third person shall interpret the contract in case of disagreement concerning the meaning and scope of terms of contract.

(2) In such a case, unless otherwise specified by contract, the parties may not file an action with the court or other competent agency, prior to obtaining interpretation of the contract, unless the third person should refuse to provide interpretation of the contract.

Section 4

INVALIDITY OF A CONTRACT

I. NULL AND VOID CONTRACTS

Nullity

Article 101

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

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

Consequences of Nullity

Article 102

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

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

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

Partial Nullity

Article 103

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

(2) However, the contract shall remain effective even where the null provision was a requirement or a decisive motive for the contract, where nullity was established precisely so that the contract would be exempted from that provision and remain valid without it.

Conversion

Article 104

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

Subsequent Disappearance of the Cause of Nullity

Article 105

(1) Null and void contract shall not become valid if the prohibition or other cause of nullity subsequently disappeared.

(2) However, nullity shall not be claimed should the prohibition be of minor importance and after the contract has been performed.

Responsibility of Person at Fault for Nullity of Contract

Article 106

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

Claiming Nullity

Article 107

(1) Court shall ex officio take account of potential nullity; nullity may be claimed by every person interested.

(2) State Prosecutor shall also have a right to request the establishment of nullity.

Unlimited Right to Claim Nullity

Article 108

Right to claim nullity shall not become extinguished.

II. VOIDABLE CONTRACTS

Conditions for Voidability of Contract

Article 109

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

Voidance of a Contract

Article 110

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

(2) Contracting partner of the party referred to in paragraph 1 of this Article may require that party to declare, within a specified period of not less than thirty days, whether or not they intend to honour the contract, failing which the contract shall be deemed voided.

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

Consequences of Voidance

Article 111

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

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

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

Article 112

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

Responsibility for Voidance of a Contract

Article 113

Contracting party who caused the voidance of a contract shall be liable to their contracting partner for loss sustained due to the contract being annulled if they were not aware or ought not have been aware of existence of the cause of voidability.

Responsibility of a Person with Limited Business Capacity

Article 114

Person with limited business capacity shall be liable for loss caused by nullifying a contract after persuading their contracting partner, by false misrepresentation, that they were a person with full business capacity.

Termination of Rights

Article 115

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

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

Section 5

BILATERAL CONTRACTS

I. RESPONSIBILITY FOR MATERIAL AND LEGAL DEFECTS OF THING

Article 116

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

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

(3) These obligations of the transferor shall be governed as appropriate by the provisions of this Law on the seller's liability for material and legal defects, unless otherwise provided for a particular case.

II. DEFENCE OF NON-PERFORMANCE OF CONTRACT

Rule of Simultaneous Performance

Article 117

(1) In bilateral reciprocal contracts, neither party shall be required to perform their obligation unless the other party performs or is prepared to perform their obligation simultaneously, unless otherwise agreed or provided by law or unless otherwise implied by the nature of the transaction.

(2) However, should one party claim at court that they are not bound to perform the obligation until the other party performs, the court shall order them to meet their obligation when the other party has met that other party’s obligation.

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

Article 118

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

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

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

III RESCINDING OF A CONTRACT DUE TO NON-PERFORMANCE

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

Article 119

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

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

Article 120

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

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

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

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

Performance within Time Limit as Non-Essential Element of Contract

Article 121

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

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

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

Rescinding of Contract without Leaving a Subsequent Time Limit

Article 122

Creditor may rescind the contract without leaving the debtor a subsequent time limit for performance, should the debtor’s conduct indicate that they will not perform their obligation even in course of subsequent time limit.

Repudiation of Contract prior to Expiration of the Time Limit

Article 123

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

Rescission of a Contract with Consecutive Obligations

Article 124

(1) Where, under a contract with consecutive obligations, one party fails to perform an obligation, the other party may, within a reasonable period, rescind the contract with respect to all future obligations if it is evident from the circumstances that they will not be performed either.

(2) Contracting party may rescind the contract not only in respect of future obligations but also in respect of obligations already performed where performance without the outstanding performance is of no interest to that party.

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

Duty of Notification

Article 125

Creditor rescinding a contract due to non-performance of the debtor's obligation shall notify the debtor without delay.

When Contract may not be Rescinded

Article 126

Contract may not be rescinded due to non-performance of a minor portion of obligation.

Effect of Rescission

Article 127

(1) Upon rescission of a contract, both parties shall be released from their obligations, except the obligation to provide compensation of any resulting damages.

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

(3) Should both parties be entitled to claim restitution of what has been given, mutual restitution shall be effected according to the rules for performance of bilateral (reciprocal) contracts.

(4) Each party shall owe the other compensation for benefits obtained in the meantime from what that party shall restitute or compensate.

(5) Party paying back money shall pay interest on arrears from the day of receiving the payment.

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

Prerequisites for Alteration or Rescission

Article 128

(1) Should after concluding of the contract such circumstances emerge which could not have been predicted and which hinder the performance of the obligation of one party to such extent that the performance of the obligation would be too burdensome or would incur too large loss to such party, the court may, following the claim of such party alter or rescind such contract.

(2) Alteration or rescission may not be claimed if the party setting up the changed circumstances had a duty, at the time of concluding of the contract, to take into account such circumstances or if such party could have avoided or overcome them.

(3) Party claiming alteration or rescission of the contract may not refer to circumstances emerging after the expiration of time limit determined for the performance of that party’s obligation.

(4) Contract shall not be rescinded should the other party offer or accept that the relevant terms of contract be altered in an equitable way.

(5) After pronouncing rescission of contract, the court shall, at the request of the other party, impose a duty against the party claiming it, to compensate to the other party an equitable part of the loss sustained due to rescission.

Duty of Informing

Article 129

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

Circumstances Relevant for Court Decision

Article 130

In deciding on alteration or rescission of contract, the court shall be guided by principles of good faith and honesty, while particularly taking into consideration the purpose of the contract, the normal risk involved with such contracts, effects and duration of extraordinary circumstances as well as the balance of the interests of both parties.

Disclaim by Reason of Hardship

Article 131

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

V. IMPOSSIBILITY OF PERFORMANCE

Impossibility of Performance Not Attributable to either Party

Article 132

(1) Should performance of obligation by one party in a bilateral (reciprocal) contract become impossible due to an event not attributable to either party, the other party's obligation shall be extinguished too, while a party performing part of their obligation

may request restitution according to the rules of restitution in case of acquiring without proper grounds.

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

Impossibility of Performance Attributable to the other Party

Article 133

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

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

(3) Should performance of a reciprocal contract become impossible due to an event attributable to the party required to perform, the other party may, at their choice, claim compensation of damages due to non-performance or repudiate the contract and claim compensation of damages.

VI. EXCESSIVE LOSS

Article 134

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

(2) Right to claim avoidance of contract shall expire one year after its (i.e. the contract's) conclusion.

(3) Waiving such right in advance shall have no legal effect.

(4) Avoidance of a contract may not be claimed if said disproportion exist no more at the time of filing of an action with the court.

(5) Contract shall remain effective if other party offers to supplement the consideration up to a proper value.

(6) Such disproportion shall give no ground for avoiding a business contract, contract relating to games of chance, public auctions, settlement, as well as where a higher price for the thing has been paid out of particular favour.

VII. USURY CONTRACT

Article 135

(1) Contract shall be null and void by which someone, taking advantage of another person's predicament, poor economic situation, inexperience, lack of sound judgment or dependence, stipulates for themselves or in favour of a third person, the benefit which is in obvious disproportion to that what has been given or done or what they have promised to give or do in exchange to such person.

(2) Provisions of the present Law on consequences of nullity and partial nullity of contract shall apply accordingly to the usury contract.

(3) Should a person sustaining damage claim their obligation to be reduced to a fair amount, the court shall meet such claim favourably should this be possible, and in such a case, the contract with the corresponding alteration shall remain in effect.

(4) Person sustaining damage may file a claim for reducing the obligation to a just amount within five years from concluding the contract, and in case of the underlying criminal act, until expiry of right to prosecution.

VIII. ADHESION CONTRACTS (STANDARD FORM CONTRACTS)

The Concept

Article 136

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

Binding Character

Article 137

(1) General terms and conditions shall supplement special agreements as established between contracting parties in the same contract, and by rule have the same binding effect as the former.

(2) General terms and conditions of contract must be published in a usual way.

(3) General terms and conditions shall be binding on a contracting party if they were known or should have been known to such party at the moment of entering into contract.

(4) In case of discrepancy between general terms and conditions and special agreements, the latter shall be valid.

Nullity of Certain Provisions of General Terms and Conditions

Article 138

(1) Provisions of the general terms and conditions shall be null and void if contrary to the very purpose of contract which is concluded or to fair business usage, even after such general terms and conditions containing them have been approved by the competent agency.

(2) Court may deny application of specific provisions of the general terms and conditions precluding the other party from raising objections or of those on the ground of which such party waives rights or time limits for certain performances on the basis of contract or provisions which are otherwise unfair or excessively strict towards such party.

IX. ASSIGNMENT OF CONTRACT

Conditions of Assignment

Article 139

(1) Each party in a bilateral (reciprocal) contract may, after obtaining the other party's consent, assign the contract to a third person who thus becomes a holder of all of their rights and obligations arising from that contract.

(2) By assignment of a contract, the contractual relationship between the assignor and the other party shall be transferred to the assignee and the other party at the moment

of acceptance by the other party of the assignment, and if the other party has extended their consent in advance, at the moment of their being notified about the assignment.

(3) Assent to assignment of the contract shall be valid only after being expressed in the form prescribed by statute for the contract assigned.

(4) Provisions concerning secondary rights connected to the contract of debt assumption shall apply accordingly to the assignment of contracts.

Responsibility of Assignor

Article 140

(1) Assignor shall be liable to the assignee for the validity of the contract assigned.

(2) Assignor shall not guarantee that the other party shall perform their obligations under the assigned contract, unless assuming specific duty thereof.

(3) Assignor shall not guarantee to the other party that the assignee shall perform the obligations out of the assigned contract, unless assuming specific duty thereof.

Objections

Article 141

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

Section 6

GENERAL EFFECTS OF CONTRACT

I. CREATION OF OBLIGATIONS FOR CONTRACTING PARTIES

Effects of Contract as between Contracting Parties and their Legal Successors

Article 142

(1) Contract shall create rights and obligations for the contracting parties.

(2) Contract shall also affect universal legal successors of the contracting parties, unless something else is contracted or something else result from the nature of contract.

(3) Right in favour of a third person may be instituted by contract.

II. A CONTRACT IN FAVOUR OF THIRD PERSON

Direct Right of Third Person

Article 143

(1) Should someone stipulate in their own name a claim in favour of a third person, such third person shall acquire their own and direct right towards the debtor, unless something else be stipulated or something else results from circumstances of the transaction.

(2) Contracting party shall be entitled to claim that the debtor performs what is contracted in favour of such third person.

Revocation of Benefit for a Third Person

Article 144

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

Defences of Debtor against a Third Person

Article 145

Debtor may raise against a third person all defences they are otherwise entitled to against a contracting party on the ground of a contract by means of which the benefit for the third person has been stipulated.

Refusal of a Third Person

Article 146

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

Promise of Acting of a Third Person

Article 147

(1) Promise given to other person that a third person shall do or shall refrain from doing something, shall not be binding for the third person, while the promissor shall be liable for potential loss sustained by the other person because the third person is not willing to assume the obligation or take or refrain from a specific action.
(2) Promissor shall not be liable if they promised to the other that they shall only intervene with the third person to make them assume a duty to do or refrain from something, if they are not successful in spite of all efforts on their part.

SUBTITLE 2

CAUSING A TORT

Section 1

GENERAL PRINCIPLES

Grounds of Liability

Article 148

(1) Whoever causes injury or loss to another shall be liable to compensate it, unless they prove that the damage was caused without their fault.
(2) Liability shall ensue regardless of fault for injury or loss caused by item of property (things) or activities generating increased danger for the environment.
(3) Liability for injury or loss regardless of fault shall ensue also in other cases specified by law.

Damage

Article 149

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 1)

Damage shall mean a diminution of a person's assets (actual loss), prevention of their increase (loss of profit), and violation of personality rights (non-material damage).

Claim to Remove a Danger of Injury or Loss

Article 150

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

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

(3) Where damage arises in the performance of an activity of general public interest authorised by the competent authority, only compensation of damages exceeding normal limits may be claimed.

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

Legal Means of Protection

Article 151

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 2)

(1) Civil legal protection of personal rights can be achieved by requests for: prohibition of illegal infringement if it is imminent; determination of illegal violation; termination of illegal infringement if it is in progress; refraining from future illegal violations or removing the consequences of committed illegal violations; compensation of material and non-material damages, as well as other legal means and measures that can be used to protect personal rights.

(2) In order to protect personal rights, the publication of certain information or the delivery of that information to certain persons or authorities, as well as the publication of corrections to published information, court or other decisions of the competent authority, may be specifically requested.

Interim Measures

Article 151a

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 3)

(1) In case of coercion, threat or any form of abuse or harassment, appropriate temporary measures may be required against a specific person to prevent the violation of personal rights.
(2) Temporary measures referred to in paragraph 1 of this Article taken against the tortfeasor may be suspended on grounds of equity.
(3) Applicant on whose request the temporary measures were ordered shall compensate for the damage caused if it is evident that the measures were obtained through an abuse of the right to legal protection of personality rights.

Section 2

LIABILITY ON THE GROUND OF FAULT

Existence of Fault

Article 152

Fault shall exist if a person caused injury or loss intentionally or out of negligence.

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

Non-responsible Persons

Article 153

(1) Person who, due to mental illness or retarded mental development or for some other reason, is incapable to reason, shall not be liable for loss or injury caused to another.
(2) Whoever causes loss or injury to another being in the state of temporary mental incompetence, shall be liable for it, unless being able to prove that they were not to be blamed for coming into such state.
(3) Should they have come into such a state through fault of another, the person who brought them into such state shall be liable for damages.

Liability of Minors

Article 154

(1) Minor of up to seven years of age shall not be liable for loss or injury caused by them.
(2) Minor of from seven to fourteen years of age shall not be liable for loss, unless it is proved that they were capable to reason while causing the damage.
(3) Minor of fourteen years of age shall be liable according to general rules of tort liability.

Justifiable Self-Defence, State of Necessity, Warding-off Danger from Another

Article 155

(1) Whoever in a justifiable self-defence causes loss or injury to an assailant shall not be liable to redress it, except in case of exceeding justifiable defence.
(2) Should someone cause loss or injury in a state of necessity, the person sustaining loss may claim recovery from the person at fault in creating the danger of loss or injury or from persons from whom loss or injury have been removed – but from the latter not more than up to the amount of benefit they have obtained through such removal.

(3) Person who sustains damage while averting a risk of damage from another person shall be entitled to claim from that person compensation of damages to which they reasonably exposed themselves.

Permitted Self-Help

Article 156

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

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

Assent of Person Sustaining Loss or Injury

Article 157

(1) Whoever to their own detriment permits another to take certain action, may not claim from them compensation of damages caused by such action.

(2) Statement of a person sustaining injury or loss by which they have agreed that harm be done to them through an action forbidden by law shall be null and void.

Section 3

LIABILITY FOR ANOTHER

Persons Mentally Ill and Mentally Disabled

Article 158

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

(2) Person referred to in paragraph 1 of the present Article may be exempted from liability if they prove that they exercised due supervision or that the loss or injury would have occurred even if supervision had been exercised diligently.

Liability of Parents

Article 159

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

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

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

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

Joint and several liability

Article 160

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

Liability of another Person for a Minor

Article 161

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

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

Particular Liability of Parents

Article 162

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

(2) Person responsible in such a case for conducting supervision shall be entitled to request that the parents reimburse the amount paid if that person has compensated the person suffering loss or injury.

Liability on the Ground of Fairness

Article 163

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

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

Section 4

LIABILITY OF BUSINESS ORGANIZATIONS AND OTHER LEGAL PERSONS TOWARDS THIRD PARTIES

Liability of a Business Organization or Individual Entrepreneur

Article 164

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

(2) Person sustaining loss shall also be entitled to claim compensation of damages directly from the employee, if they caused the damage intentionally.

(3) Provision specified in paragraph 1 of the present article shall not affect the rules of liability for loss or injury arising from a dangerous object of property or dangerous activity.
(4) Employer who redressed damages to the person who suffered it shall be entitled to claim recovery from the employee of the compensation they gave, should the latter have caused injury or loss intentionally or out of gross negligence.
(5) Right referred to in paragraph 4 of present Article shall expire within six months from the date when the damage was redressed.

Liability of Other Persons

Article 165

(1) Provisions specified in the Article 164 of present Law shall also apply to other employers in relation to liability for loss or injury caused by their employees in the course of work or in relation to work.
(2) Person who compensates the aggrieved party for damage caused by an employee intentionally or through gross negligence shall be entitled to recover from that employee the amount paid.
(3) Right referred to in paragraph 3 of present Article shall expire within six months from the date when the damage was redressed.

Liability of a Legal Person for Damage Caused by its Body

Article 166

(1) Legal person shall be liable for damage caused by its body to a third person in exercising or in connection to exercising of its functions.
(2) Unless otherwise specified by the law for specific cases, a legal person shall be entitled to recover against a person being at fault for injury or loss inflicted intentionally or by gross negligence.
(3) Right referred to in paragraph 2 of present Article shall expire within six months from the date when the damage was redressed.

Section 5

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

I. GENERAL PROVISIONS

Notion of Dangerous Object or Dangerous Activity

Article 167

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

Presumption of Causality

Article 168

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

Who is Liable for Injury or Loss

Article 169

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

Unlawful Deprivation of the Holder of a Dangerous Object

Article 170

Where the holder has been unlawfully deprived of a dangerous object, the holder shall not be liable for damage originating from that object; the person who deprived the holder of the dangerous object shall be liable, unless the holder is responsible for the deprivation.

Handing over of an Object to a Third Person

Article 171

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

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

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

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

Exemption from Liability

Article 172

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

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

(3) Holder shall be exempt from liability only partially if the person sustaining injury or loss partially contributed to the occurrence of injury or loss.

(4) Should injury or loss be partially due to an act of a third person, such person shall be liable to the person suffering injury or loss jointly and severally with the holder of an object, and shall also participate in amount of compensation proportionally to the degree of their fault.

(5) Person being instrumental in holder's use of an object shall not be considered as third person.

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

Liability on the ground of Fault

Article 173

(1) In case of an accident caused by a motor vehicle in motion and provoked entirely through the fault of one holder, the rules of liability on the ground of fault shall apply.

(2) Should both sides be at fault, each holder shall be liable for the entire injury or loss suffered by them in proportion to the degree of their own fault.

(3) Should neither party be at fault, the owners shall share the liability in equal portions, unless reasons of equity call for something else.

(4) Owners of motor vehicles shall be jointly and severally liable for damage inflicted on third persons.

Liability in case of Unauthorised Use of Motor Vehicle

Article 174

(1) Unauthorised user of motor vehicle shall be liable to third persons in the place of owner.

(2) Beside unauthorised user and jointly and severally with them the owner of motor vehicle shall also be liable, if through their fault or through fault of persons which should have taken care of the vehicle, the unauthorised use of vehicle was made possible.

(3) Unauthorised user shall be a person who, at the time of event causing injury or loss, was using a motor vehicle without consent of an owner, and is not employed by such owner in relation to operation of that motor vehicle, nor member of their family household, nor was delivered a vehicle into possession by the owner.

III. LIABILITY OF PRODUCER FOR A DEFECTIVE PRODUCT

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 1)

Producer

Article 175

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 2)

(1) Producer shall be liable for damage caused by a defect in their product.

(2) For purposes of paragraph 1 of this Article, a producer shall be a person who has produced a finished product, raw material or a component part of a product, as well as any person who, by marking the product with their name, trade mark or other distinguishing sign, presents themselves as a producer.

(3) For purposes of paragraph 1 of this Article, a producer shall also be a person who has imported a product for sale, hire, lease or any other form of putting it into circulation in the course of their business.

(4) Should the identity of the producer be impossible to establish, each supplier of the product shall be deemed to be a producer, unless, within a reasonable period, they notify the injured party of the actual producer or of the person who supplied the product to them.

Product

Article 176

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 3)

Product shall be any movable thing, whether separate or incorporated into another movable or immovable thing, including electricity.

Defective Product

Article 177

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 4)

(1) Should a product fail to provide the safety reasonably expected from such product when all circumstances of the case are taken into account, in particular the manner in which the product is presented, the purposes for which it may reasonably be expected to be used and the time when it was put into circulation, it shall be defective.

(2) Product shall not be defective merely because a better product is subsequently put into circulation.

Burden of Proof

Article 178

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 5)

Injured party shall prove the damage sustained, the defect in the product and the causal link between the defect and the damage sustained.

Joint and Several Liability

Article 179

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 6)

Should two or more persons be liable for damage caused by a defect in a product, their liability shall be joint and several.

Exemption from Liability

Article 180

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 7)

(1) Producer shall be exempt from liability provided that they prove that:

- they did not put the product into circulation;
- circumstances of the case indicate that the defect did not exist at the time when they put the product into circulation or that the defect arose thereafter;
- product was not manufactured for sale, lease or any other business purpose, nor was it manufactured or put into circulation in the course of their business;
- the defect is a consequence of compliance with mandatory regulations in force at the time when they put the product into circulation; or

- state of scientific or technical knowledge at the time of putting the product into circulation did not enable detection of the defect.

(2) Producer of a component part shall also be exempt from liability provided that they prove that the defect was caused by the design of the principal product or by instructions received from the producer of the principal product.

(3) Producer shall be partially exempt from liability should the injured party or a person for whom the injured party is liable have partially contributed to the occurrence of damage.

(4) Producer shall not be exempt from liability for damage caused by a defect in a product should the damage have resulted from an act or omission of a third person.

Prohibition of Contractual Exclusion or Restriction of Liability

Article 181

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 8)

Liability of producer for damage caused by a defect in a product may not be excluded or restricted.

Time Limits for Exercising Rights

Article 182

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 094/26 as of 2 July 2026, Article 9)

(1) Claim for compensation of damage caused by a defective product shall become time-barred three years from the date on which the injured party became aware or should have become aware of the damage, the defect and the producer.

(2) Right to compensation of damage caused by a defective product shall cease ten years from the date when the specific product that caused the damage was put into circulation, unless proceedings against the producer are commenced within that period before a court or other competent authority to establish or enforce the claim for compensation of damage referred to in this Section.

Section 6

IV. LIABILITY FOR DAMAGE SUSTAINED FROM ANIMALS

Liability of a Keeper of Animal

Article 183

(1) Keeper of animal shall be liable for injury or loss caused by animal, whether animal was with the keeper, strayed or escaped.

(2) Keeper shall be liable for injury or loss which agitated animal inflicted on the person who voluntarily attempted to catch or keep it.

Animal Given to Other Party

Article 184

(1) Liable for damage caused by animals entrusted for keeping or care to persons or institutions who engage in receiving animals for keeping and care shall be such persons and institutions, under same conditions as keeper of animal would otherwise have been.

(2) Keeper who entrusted animal to another to serve or for keeping or care within the meaning of the paragraph 1 of present Article, shall make such person aware of defects of animal (if any), otherwise they shall be responsible for the damage.

Animal Caught at Inflicting Damage

Article 185

(1) Aggrieved party shall be entitled to catch another person's animal which is causing damage to them and to retain it for securing collection of their claim for compensation of damages.

(2) Aggrieved party shall, without delay, inform the holder of the animal of the damage and retention of the animal and, should they not know who the holder is, inform the competent local government body.

Section 7

V. LIABILITY FOR DAMAGE FROM STRUCTURES

Article 186

(1) Holder of a building or any other structure shall be liable for damage caused by demolition of such building or falling down of some of its parts or in any other manner.

(2) Holder shall be excluded from liability if they prove that damage occurred as a consequence of force majeure or through fault of aggrieved party.

(3) Holder shall be entitled to claim recovery from persons at fault for occurrence of damage.

(4) Provisions of present Article shall also apply to a proprietary possessor.

Section 8

SPECIAL CASES OF LIABILITY

Liability Because of Terrorist Acts, Street Demonstrations or Public Events

Article 187

(1) State whose agencies, in conformity to existing regulations, were bound to prevent injury or loss, shall be liable for loss due to death, bodily injury or damaging or destroying property of an individual due to terrorist acts, as well as in the course of public demonstrations and public events.

(2) Organizers, participants, instigators and aides in terrorist acts, public demonstrations and public events which are aimed at subverting constitutional order shall not be entitled to compensation of damages on this ground.

(3) State shall have the right and duty to claim recovery of the amounts paid, against a person who caused the damage.

(4) That right shall expire due to statute of limitations within the time limits specified by law for the expiration of claims for compensation of damages.

Liability of Organizer of Performances

Article 188

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

Liability due to Refusal to Render Necessary Aid

Article 189

(1) Whoever without exposing themselves to danger refuses to render aid to a person whose life or health are obviously threatened, shall be liable for ensuing loss if, according to the circumstances of the case, they should have foreseen such damage.

(2) Court may, on the ground of equity, exempt such person from duty of compensating for the loss.

Liability Relating to Duty to Conclude a Contract

Article 190

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

Liability Relating to Conducting Affairs of General Interest

Article 191

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

Section 9

INDEMNITY

I. COMPENSATION OF MATERIAL DAMAGES

Restitution to Previous Condition and Indemnity in Form of Money

Article 192

(1) Responsible person shall be liable to re-establish the situation existing prior to the occurrence of damage.

(2) Should restoration of the previous situation fail to remove the damage entirely, the responsible person shall be liable to pay an indemnity in money to cover for the rest of the damage.

(3) Should restoration of the previous condition be impossible or should the court find it unnecessary for the responsible person to do so, the court shall order that person to pay the aggrieved party an adequate amount of money as compensation of damages.

(4) On the claim of the aggrieved party, the court shall award compensation in money to them, unless the circumstances of the specific case justify the restitution to previous condition.

When Duty of Compensation is due

Article 193

compensation of damages shall be due from the moment of the damage taking place.

Indemnity in Case of Loss of Item Being Unlawfully Taken Away

Article 194

After an item of which the owner was unlawfully deprived, is lost due to force majeure, the person responsible shall be liable to provide compensation in money.

Indemnity in the Form of an Annuity

Article 195

(1) In case of death, bodily injury or damage to health, indemnity shall, as a rule, be determined in the form of an annuity, either for the life of the injured person or for a definite period.

(2) Monetary annuity awarded as compensation of damages shall be paid monthly in advance, unless otherwise ordered by the court.

(3) Judgment-creditor shall be entitled to demand necessary guarantees for payment of annuities, unless according to circumstances of the case, this would be not justified.

(4) Should the judgment-debtor fail to supply guarantee ordered by the court, the judgment-creditor shall be entitled to demand payment of a lump sum instead of annuities, of an amount established according to the amount of annuities and probable duration of the judgment-creditor's life, after deducting corresponding interest.

(5) Judgment-creditor may also, in other justified cases, demand, immediately or subsequently, to be paid a lump sum instead of annuities.

II. SCOPE OF COMPENSATION OF MATERIAL DAMAGES

Common Damage and Profit Lost

Article 196

(1) Person sustaining damage shall be entitled both to indemnity of common damage and compensation of profit lost.

(2) Amount of compensation of damages shall be determined according to the prices prevailing at the time the court decision is rendered, unless otherwise provided by law.

(3) In assessing the amount of the profit lost the profit which could have been reasonably expected according to the regular course of events or particular circumstances, and whose realization has been prevented by an act or omission of the tortfeasor shall be taken into account.

(4) Where an object is lost or damaged by a criminal offence committed intentionally, the court may determine the amount of indemnity according to the value the object had for the person sustaining damage.

Complete Indemnity

Article 197

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

Reducing Payment for the Work Done

Article 198

(1) Court may, while taking into account the economic standing of the person sustaining loss order the person liable to pay an indemnity which is lower than the amount of

damages if it was not caused either intentionally or in gross negligence, and if the liable person is in poor economic situation, so that payment of full indemnity would take them into poverty.

(2) If the person causing damage has inflicted damage while doing something to the benefit of the person sustaining loss, the court may order a lower indemnity, while taking into account the degree of care the person causing damage was otherwise applying in their own affairs.

Divided Liability

Article 199

(1) Person sustaining loss who has contributed to the occurrence of loss or to its becoming larger than it would otherwise be, shall only be entitled to a proportionally reduced indemnity.

(2) Should it be impossible to establish which part of damage comes from an act of the person sustaining it, the court shall award the indemnity while taking into account the circumstances of the case.

III. COMPENSATION OF MATERIAL DAMAGES IN THE EVENT OF DEATH, BODILY INJURY OR DAMAGE TO HEALTH

Lost Earning and Expenses of Medical Treatment and Burial

Article 200

(1) Whoever causes another person's death shall be liable to reimburse the usual expenses of that person's burial.

(2) They shall be also liable to reimburse expenses of that person's medical treatment for injuries inflicted, as well as other expenses relating to medical treatment, including the earnings lost due to disability for work.

Right of a Dependent of the Deceased

Article 201

(1) Person who was supported or regularly assisted by the deceased, as well as the one entitled by law to request maintenance from the deceased, shall be entitled to compensation of damages sustained by the loss of support or assistance.

(2) Such loss shall be redressed by paying in annuities the amount which shall be established by taking in consideration all the circumstances of the case, but which shall not be higher than the amount which would have been received by the person sustaining damage from the deceased if they were alive.

Compensation of Damages in the Event of Bodily Injury or Damage to Health

Article 202

(1) One who inflicts to another bodily injury or impairs their health, shall be liable to reimburse their medical expenses, as well as other related necessary expenses, including recovery of the salary lost due to inability to work during medical treatment.

(2) Should the injured person due to total or partial disability lose their salary or should their needs become permanently increased or should possibilities of their further development and advancement be destroyed or reduced, the person liable shall pay to the injured party specific annuities as damages for such loss.

Altering the Indemnity Awarded

Article 203

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

Non-Transferability of Right

Article 204

(1) Right to compensation of damages in the form of annuities, due to death of a close relative or due to bodily injury or harm to health, may not be transferred to another person.

(2) Amounts of damages due may be transferred to another person should the amount of indemnity be determined by written agreement between the parties or by final court decision.

IV. COMPENSATION OF MATERIAL DAMAGES IN THE EVENT OF VIOLATION OF HONOUR OR DISSEMINATION OF FALSE ALLEGATIONS

Article 205

(1) Whoever insults another person's honour or whoever utters or conveys false statements concerning another person's past, knowledge and ability or concerning anything else of the kind, although person spreading allegations is aware or should have been aware, that these are untrue, thus causing material damage to such person, shall be liable for damages.

(2) However, one shall not be liable for the loss caused who makes the false statement concerning another without knowing that it is not true, should they or the one acknowledging the statement have a serious interest in the matter.

V. COMPENSATION OF NON-MATERIAL DAMAGES DUE TO VIOLATION OF PERSONALITY RIGHTS

Right to Protection

Article 206

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 4)

(1) Natural person shall enjoy full protection of their personality.

(2) Legal person shall enjoy the protection of personality rights that do not arise from the natural characteristics of a person as a natural person.

(3) Protection of personal rights prescribed by this law (minimum protection) cannot be limited by a separate law.

Personality Rights

Article 207

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 4)

Personality rights shall include: the right to life, the right to physical (bodily) integrity, the right to psychological (mental) integrity, the right to freedom, the right to honour, the right to reputation, the right to protection of private life, the right to dignity, the right to one's own image, the right to one's own voice, the right to correspondence and personal records, the right to personal identity, the moral component of copyright, as well as other personality rights prescribed by the Constitution, ratified and published international treaties, generally accepted rules of international law and special laws.

The Inalienability of Personality Rights

Article 208

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 4)

No one can renounce personal rights, nor limit these rights contrary to law, public order or morality.

Protection against Unlawful Conduct

Article 209

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 4)

(1) Person to whom a violation of personal rights has been unlawfully caused shall have the right to protection in relation to any person who participated in it.
(2) Violation of personal rights shall be illegal if the limitation of these rights is not based on law.
(3) Anyone shall have the right to request from the court or other competent authority to order the cessation of the violation of their personality rights.

Special Measures in Case of Coercion or Abuse

Article 210

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 4)

(1) In the event of a violation of personality rights resulting from coercion or abuse, the injured party may request the court, under threat of a fine, to prohibit the tortfeasor from engaging in specified conduct (entering specified premises, harassing the injured party by telephone, electronically, by letter or otherwise).
(2) Where the injured party and the tortfeasor live in the same apartment or family house, the injured party may request the court to prohibit the tortfeasor from having any contact with the injured party and, in the event of a repeated serious violation of personality rights, to order the tortfeasor to move out of the apartment or family house.

Monetary Compensation

Article 210a

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 5)

(1) In the event of a violation of personality rights, the court shall award fair monetary compensation, having regard to the seriousness of the violation and the circumstances of the case, independently of compensation of material damages and also in the absence of material damage.
(2) When deciding on a request for fair compensation and its amount, the court shall take into account all the circumstances of the case, especially the type, manner of infliction and lasting consequences of the injury, the age of the injured party, the occupation and general personal situation of the injured party, the fact whether the parties have been insured, about the economic situation of the perpetrator and the injured party, the duration of the unjustified deprivation of liberty, the purpose of the monetary compensation, but also about not favouring aspirations that are not compatible with its nature and social purpose.

Persons Entitled to Monetary Compensation in the Event of Death or Severe Disability

Article 210b

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 5)
(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 1)

(1) In the event of the death of a person as a result of a violation of personality rights, the court may award fair monetary compensation for mental suffering to members of that person's immediate family (spouse or same-sex life partner, children, adoptive parents, parents and adopted children).
(2) Compensation referred to in paragraph 1 of this Article can also be awarded to brothers and sisters if there was a more permanent living community between them and the deceased.
(3) In the event of a particularly severe disability of a person resulting from a violation of personality rights, the court may award fair monetary compensation for mental suffering to their spouse or same-sex life partner, children, adoptive parents, parents and adopted children.
(4) Compensation referred to in paragraphs 1 and 3 of this Article can also be awarded to an extramarital spouse, if between them and the deceased or the injured person there was a community of life for at least three years before the death or injury, and if a common child was born in the extramarital union or it continued with marriage before expiration of three years.
(5) Parents shall have the right to fair monetary compensation in the event of the loss of a conceived and unborn child, which occurred as a result of a violation of personal rights.

Satisfaction in Special Cases

Article 210v

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 5)

Person who, through fraud, coercion or abuse of a relationship of subordination or dependence, has been induced to engage in punishable sexual intercourse or a punishable lewd act, as well as a person against whom another criminal offence against sexual freedom has been committed, shall be entitled to fair monetary compensation for mental suffering.

Compensation of Future Damages

Article 210g

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 5)

(1) At the request of the injured party, the court shall also award compensation for future non-material damage if it is certain that it will continue in the future.

(2) At the request of the injured party, compensation for future non-material damage may be awarded in the form of monetary annuity, if the purpose of the compensation would be achieved fully.

Maturity of the Obligation to Provide Compensation of Non-material Damages

Article 210d

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 5)

Obligation to provide compensation of non-material damages shall fall due on the date on which a written request or claim is submitted, unless the damage arises thereafter.

Inheritance and Assignment of Claims for Compensation of Non-material Damages

Article 211

(1) Claim for compensation of non-material damages shall pass to a successor only if recognised by a final decision or written agreement.

(2) Under the same conditions such claim may be the subject of assignment, set-off and enforced execution.

Divided Liability and Reduction of Indemnity

Article 212

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

Section 10

LIABILITY OF SEVERAL PERSONS FOR THE SAME DAMAGE

Joint and several liability

Article 213

(1) Liability for loss or injury caused by several persons shall be joint and several.

(2) Instigator and an aider, as well as a person who assisted in preventing the persons liable from being identified, shall be jointly and severally liable with them.

(3) Joint and several liability for loss shall also apply to the persons causing it, if acting independently from one another, should their shares in damage caused be impossible to determine.

(4) Should there be no doubt that damage is caused by two or several persons who are in some way interconnected, and should it be impossible to establish who is liable for damage, such persons shall be liable jointly and severally.

Joint and Several Liability of Principal and Contractor for Works

Article 214

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

Recovery of a Payer

Article 215

(1) Judgment-debtor liable jointly and severally who pays off an amount higher than their share of damages may demand from any of the remaining debtors the recovery of what they have paid for them.

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

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

Section 11

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

Article 216

After the right to claim compensation of damages becomes time-barred, the injured party may request the liable person, in accordance with the rules on acquisition without grounds, to transfer to them what that person obtained through the act causing the damage.

SUBTITLE 3

ACQUIRING WITHOUT GROUND

Section 1

GENERAL RULE

Article 217

(1) After part of a person's property is transferred in any kind of way to another, and such transfer has no ground in any legal transaction or in the law, the one who acquires

property in such a way shall restitute it, and should this be impossible – to compensate for the value of benefits gained.
(2) Person who uses another's property on no ground, shall compensate the value of benefits gained.
(3) Duty of restitution or compensation shall also arise if something is received on a ground which did not materialize or which subsequently ceased to exist.

Section 2

THE RULES OF RESTITUTION

Payment prior to Maturity or Prior to Fulfilment of Conditions

Article 218

(1) Payment of the debt prior to maturity shall not constitute a claim for restitution or to deduction of interest due.
(2) Debtor shall be entitled to claim restitution if they reimbursed the conditional debt prior to a fulfilment of a condition, except if the condition became fulfilled in the meantime.

Twofold Payment of a Debt

Article 219

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

Fulfilment of a Natural Obligation or a Moral or Social Duty

Article 220

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

Scope of Restitution

Article 221

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

Compensation of Costs

Article 222

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

When the Received May Be Kept

Article 223

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

Use of an Object for the Benefit of Another

Article 224

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

Expenses Incurred for Another

Article 225

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

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

Article 226

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

SUBTITLE 4

MANAGEMENT OF ANOTHER’S AFFAIRS

Section 1

GENERAL RULE

Article 227

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

(2) Unsolicited management of another’s affairs shall be permitted only if the transaction needs to be carried out without delay because of a possible immediate danger of damage or loss of an obvious benefit.

Section 2

DUTIES AND RIGHTS OF A MANAGER OF ANOTHER’S AFFAIRS

Duties of a Manager without Order

Article 228

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

(2) After completing the business transaction they shall render account thereof and shall hand over everything they have acquired while conducting their affairs to their principal.

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

Due Diligence and Responsibility

Article 229

(1) In managing another's affairs, the manager of another's affairs shall be guided by the actual or probable intentions and needs of the person whose affairs are being managed.

(2) They shall proceed with the care of a good businessperson or of a good master of household.

(3) Court may, having regard to the circumstances of someone's engaging in other person's affairs, reduce their liability or exempt them entirely from liability for negligence.

(4) Liability of a manager without authorisation who is also without business capacity shall be governed by the rules concerning their liability in contracts and torts.

Rights of a Manager without Authorisation

Article 230

(1) Manager of another's affairs who has acted properly in all respects and done what the circumstances required shall be entitled to request that the person whose affairs were managed release them from all obligations assumed on account of those affairs, assume all obligations concluded in that person's name, reimburse all necessary and useful expenditure, and provide compensation of damages sustained, even where the expected result was not achieved.

(2) Person referred to in the paragraph 1 of present Article shall also be entitled to adequate remuneration for their efforts, if they succeeded in removing impending damage from the principal whose affairs they were managing or if they acquired for the principal the benefit which fully corresponds to the principal’s intentions and needs.

Conducting another’s Business in intention to Help a Third Party

Article 231

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

Removal of Benefits

Article 232

Every person acting as a manager without authorisation shall be entitled to take away items which increased the property of another person and for which the expenses incurred were not reimbursed, provided that such additions may be separated from the principal object without damage; however, the person in whose affairs they interfered may keep such additions after reimbursing the manager without authorisation for their current value, but not more than the amount of the expenses incurred.

Section 3

MANAGING OF OTHER PERSON’S AFFAIRS DESPITE PROHIBITION

Article 233

(1) Whoever carries on business of another in spite of a prohibition by the principal shall not have the rights of a manager acting without authorisation, provided they were aware or should have been aware under the circumstances of the prohibition.
(2) Person referred to in paragraph 1 of this Article shall be liable for damage caused by interfering in another person's affairs, even where the damage occurred through no fault of that person.
(3) Where the prohibition on conducting the affairs is contrary to law or morals, particularly where a person has prohibited another from performing a statutory obligation which cannot be postponed, the general rules on management of another's affairs shall apply.

Section 4

UNDUE MANAGING

Article 234

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

Section 5

APPROVAL

Article 235

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

SUBTITLE 5

UNILATERAL DECLARATION OF WILL

Section 1

PUBLIC PROMISE OF AWARD

When is it Binding

Article 236

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

Revocation of Promise

Article 237

(1) Promise may be revoked in the way in which it was made, as well as by individual communication, but the one who had done the act and was not aware or should not have been aware that the promise is revoked, shall be entitled to claim the promised award, while the one incurring necessary expenses prior to revocation in order to carry out the act as set out in the public announcement, shall be entitled to reimbursement, unless the promisor prove that such expenses were not necessary.

(2) Promise of an award shall not be revoked if the time limit is determined in the advertisement for the act to be carried out or for the information on the result achieved or on occurrence of a particular situation.

Who Is Entitled to an Award

Article 238

(1) One who is the first to carry out the act envisaged for the award shall be entitled to the award.

(2) Should several persons carry out the act simultaneously, each shall be entitled to the award equally divided, unless equity requires a different division.

Competition

Article 239

(1) In the case of an open competition, a decision on the award shall be made by the organizer of the open competition or by one or several persons designated by them.

(2) Should the terms of the open competition or other general regulations applicable to specific open competition contain rules for granting the award, each participant in the open competition shall be entitled to request revocation of a decision on the award should the award fail to be granted in conformity with these rules.

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

Termination of Obligation

Article 240

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

Section 2

SECURITIES

I. GENERAL PROVISIONS

The Concept

Article 241

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

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

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

Essential Constitutive Elements

Article 242

(1) Securities must contain the following essential constitutive elements:

1) designation as to the kind of securities;

2) indication of the firm or name and registered office and/or name and domicile of the issuer of securities;

3) indication of the firm or title or name of the person to whom or at whose order, securities are made out or a designation that securities are made out to its bearer;

4) exact designation of the obligation of the issuer resulting from the securities;

5) indication of the place and date of issue of the securities, and in case of securities issued in series, their serial number;

6) signature of the issuer of the securities or the facsimile of signature of the issuer of securities issued in series.

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

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

(4) Securities issued in series which do not contain any of the essential constitutive elements shall have no legal effect.

How can the Securities be Made Out

Article 243

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

Inception of Obligation

Article 244

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

Particular Conditions of Issuing Securities in Series

Article 245

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

II. REALISATION OF RIGHTS

Who Shall Be Entitled to a Right Arising from Securities

Article 246

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

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

(3) Person to whom the securities are made out or one receiving duly transferred securities, shall be lawful possessor of securities made out to name or to order.
(4) Good faith acquirer of securities made out to bearer shall become their lawful possessor and they shall be entitled to the claim inscribed on them even after the securities go out of the control of their issuer or previous possessor without their agreement.

Who Is Entitled to Request Performance

Article 247

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

III TRANSFER OF SECURITIES

Transfer of a Right Arising from Securities Made out to Bearer

Article 248

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

Transfer of a Right Arising from Securities Made out to Name

Article 249

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

Transfer of a Right Arising from Securities Made out to Order

Article 250

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

Types of Endorsement

Article 251

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

(6) Partial endorsement shall be invalid.

Transfer of Authorisation and Transfer for Guarantee

Article 252

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

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

Effect of the Transfer of a Right

Article 253

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

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

(3) Transferor or endorser shall not be liable for non-performance of the obligation by the issuer, unless otherwise provided by law or by a provision to the contrary entered on the security itself.

Effect of Transfer of Authorisation and of Transfer for Guarantee

Article 254

Holder of securities transferred to them as a "transfer of authorisation" or "transfer in pledge" may exercise all rights arising from such securities, but may transfer the securities to another person only by way of a transfer of authorisation.

Proving the Lawfulness of a Transfer

Article 255

(1) Last endorsee shall prove their right arising from securities by an uninterrupted series of endorsements.

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

Prohibition of Transfer

Article 256

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

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

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

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

IV. ALTERATIONS OF SECURITIES

Alterations Effected by Issuer

Article 257

(1) Securities made out to bearer or to order may be altered by the issuer, at the request and at the expense of the possessor of the paper, into securities made out to name.

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

Alterations Effected by Possessor at Transfer

Article 258

(1) Securities made out to order may be transferred by the endorser by means of endorsement to the bearer, unless otherwise provided by particular law.

(2) Securities made out to name may only be transferred by the transferor or endorser, to a specific person.

(3) Securities made out to bearer may also be transferred by endorsement to a specific person.

Compounding and Dividing of Securities

Article 259

(1) Securities issued in a series may, at the request and at the expense of the possessor, be compounded into single or several securities.

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

V. PERFORMANCE OF OBLIGATIONS ORIGINATING FROM SECURITIES

Termination of Obligation

Article 260

(1) Liability from securities ceases by their performance by the issuer of the securities to the lawful possessor.

(2) Claim from securities shall also cease when they come into the issuer's possession unless otherwise provided by particular law.

(3) Bona fide issuer of securities made out to bearer shall be discharged from duty by performing them for the benefit of the bearer, even should such bearer be unlawful possessor of the securities.

Prohibition of Performance

Article 261

(1) Issuer of securities made out to bearer knowing or having a duty to know that the bearer is not lawful possessor of the securities or not authorised thereof by the lawful possessor, shall refuse performance or shall otherwise be liable for ensuing loss.

(2) Performance of liability by an issuer of securities shall not be valid, if this has been prohibited by the competent agency or if they were aware or should have been aware that proceedings for declaring cancellation or annulment of the securities were in progress.

Payment of Interest or other Profits after Payment of the Principal

Article 262

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

Defences to Request for Performance of a Liability

Article 263

(1) Against claims of the securities possessor an issuer of securities may raise only such defences which are related to the issuer of the securities, such as forgery, defences arising from the contents of securities, such as a time limit or conditions, and objections they are entitled to against the possessor of the securities, such as set off, failure to comply with the procedure prescribed by the law for the acquisition of the securities and lack of authorisation.

(2) Issuer may raise defence against claim by the possessor to whom they have assigned the securities, regarding defectiveness of a legal transaction being a ground for the transfer, but such defects may not be used against claim of some subsequent possessor.

(3) However, if the possessor of securities, while receiving the certificate from their predecessor, was aware or should have been aware that the former was handing them over the securities only to avoid a defence which would otherwise be raised against them by the issuer, the issuer may also raise such defence against the possessor of the securities.

(4) Other types of defences may additionally be established by a special law regarding specific kinds of securities.

VI IDENTIFICATION PAPERS AND MARKS

Identification Papers

Article 264

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

Identification Marks

Article 265

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

(2) Issuer of an identification mark shall be discharged of their obligation if they perform it in good faith to the benefit of the bearer, but there shall be no presumption of the latter being a genuine bearer or one authorised to request performance, so that in the case of dispute they shall prove their capacity.

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

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

VII. REMAINING PROVISIONS

Replacement of Damaged Securities

Article 266

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

Declaration of Cancellation of Securities

Article 267

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

(2) At the request of the previous holder and against reimbursement of expenses, the issuer of a security shall transfer to that holder all documents and provide all information required in the cancellation procedure.

Expiration of a Claim out of Securities

Article 268

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

Chapter III

EFFECTS OF OBLIGATION

SUBTITLE 1

CREDITOR'S RIGHTS AND DEBTOR'S OBLIGATIONS

Section 1

RIGHT TO COMPENSATION OF DAMAGES

I. General Rules

Performance of an Obligation and Consequences of Non-performance

Article 269

(1) Creditor in an obligation relationship shall be entitled to claim from a debtor the performance of the liability, while a debtor shall perform it in good faith and entirely as formulated.

(2) After a debtor fails to perform the liabilities or is late in performance, the creditor shall also be entitled to claim compensation of damages sustained as a consequence.

(3) Debtor obtaining from a creditor an adequate time limit for subsequent performance, shall be liable also for loss due to delay in performance.

(4) Debtor shall also be liable for partial or complete impossibility of performance, even without being at fault, if such impossibility took place after their becoming unduly late.

(5) However, the debtor shall be released of liability for loss after proving that the subject stipulated in the liability would have been lost by chance and that they have performed their liability on time.

Release of Debtor from Liability

Article 270

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

Extension of Liability by Contract

Article 271

(1) Liability of a debtor may also be extended by contract for the case which is otherwise not falling within their responsibility.

(2) Performance of contractual liability from the paragraph 1 of the present Article may not be requested if such would be contrary to the principles of good faith and honesty.

Limitation and Exclusion from Liability

Article 272

(1) Liability of the debtor for acting intentionally or with gross negligence may not be excluded in advance by contract.

(2) At the request by an interested contracting party, the court may, however, also avoid the contractual provision on the exemption of liability for simple negligence, should such agreement be the result of the monopoly position of the debtor or, otherwise, of unequal mutual positions of the contracting parties.

(3) Provision of a contract shall be valid by which the highest amount of compensation is determined, unless such amount is in obvious disproportion to the damage and unless the law provides otherwise for the specific case.

(4) In case of limiting the amount of compensation, the creditor shall be entitled to full redress should the impossibility of performance of obligation be caused intentionally or with gross negligence of the debtor.

Scope of Compensation

Article 273

(1) Creditor shall be entitled to compensation for simple damage and profit lost, which at the time of entering into contract should have been foreseen by the debtor as a possible consequence of breach of the contract, having regard to facts known to them at the time or which should have been known to them.

(2) In the event of fraud or intentional non-performance or non-performance due to gross negligence, the creditor shall be entitled to claim from the debtor compensation of all damages resulting from the breach of contract, irrespective of whether the debtor was aware of the special circumstances from which they arose.

(3) Should in course of violation of the obligation, in addition to loss, a gain be realized for the creditor, it shall be taken into account to a reasonable degree in determining the amount of damages.

(4) Party claiming breach of the contract shall take all reasonable steps to reduce the loss caused by such breach, since otherwise the other party may request reduction of damages.
(5) Provisions of this Article shall apply as appropriate to non-performance of obligations not arising from a contract, unless otherwise provided for any of them by this Law.

Fault of a Creditor

Article 274

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

Liability for Failing to Notify

Article 275

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

Application of Provisions on Torts

Article 276

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

II. LIQUIDATED DAMAGES

General Rules

Article 277

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

Method of Determination

Article 278

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

Accessory Character

Article 279

(1) Agreement on liquidated damages shall share the legal destiny of the obligation secured by them.

(2) Agreement shall cease to have legal effect where the non-performance or delay is due to a cause for which the debtor is not liable.

Creditor's Rights

Article 280

(1) Should liquidated damages be stipulated for non-performance of obligation, the creditor may request either the performance of obligation or liquidated damages.

(2) They shall lose the right to claim performance of obligation if they request payment of liquidated damages.

(3) Should liquidated damages be stipulated for non-performance of contract, the debtor shall not be entitled to pay liquidated damages and repudiate the contract, unless this was the intent of the parties at the moment of stipulating the liquidated damages.

(4) Should liquidated damages be stipulated for the debtor's delay in performance, the creditor shall be entitled to demand both the fulfilment of obligation and the liquidated damages.

(5) Creditor shall not demand liquidated damages due to delay after accepting performance of the obligation and failing to notify the debtor immediately that they reserve the right to liquidated damages.

Reducing the Amount of Liquidated Damages

Article 281

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

Liquidated Damages and Compensation of Damages

Article 282

(1) Creditor shall be entitled to request liquidated damages even should their amount exceed that of the loss sustained by them, as well as if they do not sustain any loss at all.

(2) Where the damage sustained by the creditor exceeds the amount of liquidated damages, the creditor shall be entitled to claim the difference up to full compensation of damages.

Compensation Determined by Statute and Liquidated Damages

Article 283

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

III DEFAULT INTEREST

When is it Owed

Article 284

(1) Debtor in delay with the performance of a pecuniary obligation shall owe, in addition to the principal, default interest, at the rate determined by special statute.

(2) Creditor and debtor may, in accordance with the provision of Article 3 of the present Law, stipulate a default interest rate lower or higher than the default interest rate determined by law.

(3) Should the rate of interest stipulated by contract be higher than the rate of default interest, it shall continue to accrue even after the debtor's delay.

Right to Full Redress

Article 285

(1) Creditor shall be entitled to default interest regardless of whether they sustained loss due to the debtor's delay.

(2) Should the loss sustained by the creditor due to the debtor's delay be higher than the amount to be received on the ground of default interest, they shall be entitled to claim the difference up to full compensation of damages.

Compound Interest

Article 286

(1) Default interest shall not accrue on due but unpaid stipulated or default interest or on other periodical payments falling due, unless otherwise determined by law.

(2) Default interest on the amount of unpaid interest may only be claimed from the day of filing claim for such payment with the court.

(3) Default interest on periodical payments falling due shall accrue from the day of filing claim for such payment with the court.

Section 2

CONTESTING OF DEBTOR'S LEGAL ACTS

General Rule

Article 287

(1) Any creditor whose claim is due for fulfilment, regardless of the date of its inception, shall be entitled to challenge a legal act of the debtor undertaken to the detriment of creditors.

(2) Legal act shall be considered to have been taken to the detriment of creditors if due to it the debtor is impoverished to the extent that they remained without sufficient means to satisfy the creditor's claim.

(3) Term legal act shall also include an omission due to which the debtor has forfeited a substantive right of theirs or incurred a material obligation for themselves.

Conditions for Contesting

Article 288

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 2)

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

(2) Where the third person is the debtor's spouse or same-sex life partner, a blood relative in the direct line or a collateral relative up to the fourth degree or a relative by affinity up to the same degree, that person shall be presumed to have known that the debtor's disposal was detrimental to the creditors.

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

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

Impossibility of Contesting

Article 289

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

Manner of Contesting

Article 290

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

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

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

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

Effects of Contesting

Article 291

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

Time Limit for Lodging the Action

Article 292

(1) Action to contest may be lodged within three years.

(2) Time limit set out in paragraph 1 of the present Article shall be computed from the day when the contested legal act was taken or from the day when the omitted act was due to be taken.

(3) Course of the time period referred to in paragraph 1 of the present Article shall be interrupted if the creditor notifies the person against whom the action may be lodged on the creditor‘s intention to claim rescinding of the transaction.

Section 3

THE RIGHT OF RETENTION (IUS RETENTIONIS)

Exercising of the Right of Retention

Article 293

(1) Creditor with a claim due, in possession of the debtor's item of property, shall be entitled to retain it in possession until their claim is paid off.

(2) Should a debtor become unable to effect payment, the creditor may use their right of retention even though their claim is not yet due.

Exceptions

Article 294

(1) Creditor shall have no right of retention if the debtor claims the restitution of the property of which they were deprived against their will or if the debtor claims the restitution of the property entrusted to the creditor for custody or use.

(2) Creditor may not keep an authority obtained from the debtor, nor other certificates, identification papers, correspondence and similar items of the debtor or other items which cannot be put on sale.

Duty of Restitution of Property Prior to Performance of Obligation

Article 295

Creditor shall restitute the property to the debtor if they have supplied them with corresponding guarantee to cover their claim.

Effect of the Right of Retention

Article 296

Creditor in possession of a debtor's item on the basis of a right of retention shall be entitled to recover from its value in the same manner as a pledgee, but shall notify the debtor in due time of the intention to enforce collection before doing so.

SUBTITLE 2

CREDITOR'S RIGHTS IN PARTICULAR CASES

The Case of Obligation Consisting of Giving Objects Specified by Kind

Article 297

Should an obligation consist of giving items (of property) specified by kind , and the debtor delays performance, the creditor may, after notifying the debtor thereof procure at their own choosing the item (of property) of the same kind, and claim from the debtor both the recovery of price and the compensation of damages or the recovery of value of the item owed, and the compensation of damages.

Obligation Consisting in Acting

Article 298

Should an obligation consist in acting, and the debtor fail to perform that obligation on time, the creditor may, after notifying the debtor thereof in advance, perform, at the expense of the debtor, the act which the debtor was obliged to perform, and claim from the debtor compensation of damages caused by delay, as well as compensation of any other damage sustained as a result of such manner of performance.

An Obligation Consisting in Forbearance

Article 299

(1) Should an obligation consist in forbearance, the creditor shall be entitled to compensation of damages by the very fact that the debtor acted contrary to their obligation.

(2) Should something be constructed contrary to an obligation, the creditor may request its removal at the expense of the debtor, and that the debtor redress the loss sustained by them in relation to the construction and the removal.

(3) If the court finds it obviously more useful, while considering both the general interest and the justified interest of the creditor, the court may decide that there shall be no demolition of what has been constructed ordering instead that redress of the creditor's loss be effected in money.

Right to Claim Damages instead of object which Is Awarded

Article 300

(1) Should a debtor fail to perform their obligation within the period determined by a final decision, the creditor may call upon the debtor to perform it within an appropriate additional period and declare that, after the expiry of that period, the creditor will not accept performance but will claim compensation of damages due to non-performance.

(2) After the expiry of the additional period, the creditor may claim only compensation of damages due to non-performance.

Court Penalties

Article 301

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

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

Chapter IV

TERMINATION OF OBLIGATIONS

SUBTITLE 1

General Rule

Article 302

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

(2) Upon termination of the principal obligation, the guarantee, pledge and other accessory rights shall also terminate.

SUBTITLE 2

PERFORMANCE

Section 1

GENERAL RULES OF PERFORMANCE

I. WHO CAN RENDER PERFORMANCE AND EXPENSES OF PERFORMANCE

Performance by Debtor or Third Person

Article 303

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

(2) Creditor shall accept performance by every person having a legal interest in fulfilling the obligation, even should the debtor be opposed to such performance.

(3) Creditor shall accept performance by a third person should the debtor agree, unless according to the contract or the nature of obligation itself, the obligation should be performed by the debtor personally.

(4) Creditor may accept performance by a third person without the debtor's knowledge, and even if the debtor has notified them about their disagreement to the third person's performing the obligation.

(5) Should, however, the debtor offer to immediately perform their obligation themselves the creditor shall not accept performance by the third person.

Performance by a Person without Business Capacity

Article 304

(1) Debtor without business capacity, may also perform an obligation should its existence be certain and after its performance is due.

(2) But performance may be contested should such person pay off an expired debt or a debt deriving from a game or bet.

Expenses of Performance

Article 305

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

II. PERFORMANCE THROUGH SUBROGATION

Contractual Subrogation

Article 306

(1) In the case of performance of another person's obligation each party rendering performance may stipulate with the creditor, prior to the performance or in course of it, that the claim which is performed be transferred to them, together with all or only some, of the accessory rights.

(2) Creditor's rights may be also transferred to the party who rendered performance on the ground of a contract between the debtor and the party rendering performance concluded prior to performance.

(3) Subrogation in the rights of the creditor by the party rendering performance shall take place at the moment of performance.

Statutory Subrogation

Article 307

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

Subrogation in Case of Partial Performance

Article 308

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

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

Evidence and Instruments of Securing

Article 309

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

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

How Much May Be Claimed against a Debtor

Article 310

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

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

Article 311

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

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

III PERSONS TO ACCEPT PERFORMANCE

Authorised Person

Article 312

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

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

Performance to a Creditor without Business Capacity

Article 313

(1) Performance rendered to a creditor without business capacity shall release the debtor only if it was beneficial for the creditor or if the item of performance has remained in their possession.

(2) Creditor without business capacity may approve, after regaining business capacity, of the performance accepted by them at the time of their being without business capacity.

IV. SUBJECT OF PERFORMANCE

Contents of Obligation

Article 314

(1) Performance shall consist of executing that which constitutes the contents of the obligation; so that a debtor may not effect performance by something else or a creditor request something else.

(2) There shall be no valid performance should that which is delivered by the debtor as a matter owed and received by the creditor as such, turn out not to be a matter genuinely owed under contract, wherefore the creditor shall be entitled to return that what has been delivered to them, and to request the subject owed to them.

Substitution of Performance

Article 315

(1) Obligation shall be terminated should the creditor, in agreement with the debtor, accept something else instead of what was owed to them.

(2) In case referred to in the paragraph 1 of this Article the debtor shall be liable as a seller for substantive and legal defects in the object delivered instead of what was owed by them.

(3) Instead of claiming on the ground of the debtor's liability for substantive and legal defects in the object, a creditor may request from the debtor – but not any more from a guarantor – the performance of the original claim and the corresponding compensation of damages.

Delivery for Sale

Article 316

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

Partial Performance

Article 317

(1) Creditor shall not be obliged to accept partial performance, unless the nature of the obligation requires otherwise.

(2) Creditor shall, however, accept partial performance of a monetary obligation, unless the creditor has a particular interest in refusing it.

Obligation to Deliver Objects Specified by Kind

Article 318

(1) Should item be specified only according to their kind, the debtor shall deliver item of average quality.

(2) However, should the purpose of the item be known to them, they shall deliver item of corresponding quality

V. TAKING INTO ACCOUNT OF PERFORMANCES

Sequence of Settlement

Article 319

(1) Where several obligations of the same kind exist between the same persons and the performance rendered by the debtor is insufficient to discharge all of them, then, in the absence of an agreement between the creditor and the debtor, the payment shall be appropriated in the order designated by the debtor no later than at the time of performance.

(2) In the absence of a declaration by the debtor concerning appropriation, the obligations shall be discharged in the order in which they fell due for performance.

(3) Where several obligations fall due at the same time, those with the least security shall be discharged first; where they are equally secured, those which are most burdensome to the debtor shall be discharged first.

(4) Where, in the cases referred to in paragraphs 1, 2 and 3 of this Article, the obligations are equal, they shall be discharged in the order in which they arose; where they arose at the same time, the performance rendered shall be allocated to all obligations in proportion to their amounts.

Counting in Interest and Expenses

Article 320

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

VI. TIME OF PERFORMANCE

Time Limit for Performance

Article 321

(1) Debtor shall perform their obligation within determined time limit.

(2) When a time limit is not determined, if the purpose of the transaction, the nature of obligation and other circumstances do not require certain period of time for performance, the creditor may request immediate performance of the obligation, while the debtor, on their part, may request from the creditor an immediate acceptance of performance.

Monetary Obligation in case of Commercial Law Contracts

Article 322

Where a commercial contract does not specify a period for performance of a monetary obligation, the debtor shall perform that obligation, without being called upon to do so by the creditor, within 30 days beginning on the date:

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

Performance prior to Time Limit

Article 323

(1) Should a time limit be stipulated solely in the interest of the debtor, they shall be entitled to fulfil the obligation even prior to the expiry of the time limit stipulated, but shall notify the creditor on their intentions, while taking care that performance is not rendered in bad time.

(2) In other cases, should a debtor offer performance before the time limit, the creditor may refuse the fulfilment, but may also accept it while retaining their right to claim compensation of damages, after promptly notifying the debtor thereof.

Right of Creditor to Request Performance before Time Limit

Article 324

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

When Determining a Time Limit Is Left to One Party

Article 325

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

Monetary Obligation

Article 326

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

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

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

VII. PLACE OF PERFORMANCE

General Rules

Article 327

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

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

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

Place of Performance of Monetary Obligation

Article 328

(1) Monetary obligation shall be fulfilled at creditor's seat of business or their permanent residence, and should there be no such permanent residence, of their temporary residence.

(2) Should payment be effected by a transfer order, a monetary obligation shall be discharged at the registered office of the performance keeping account of the creditor's monetary funds.

(3) If a creditor has changed the place of their business seat or their domicile at the time of creation of the obligation, so that higher costs relating to performance resulted, such increase shall be to the charge of the creditor.

VIII. RECEIPT

Presumption Relating to Receipt

Article 329

(1) Whoever fulfils an obligation entirely or partially shall be entitled to request that the creditor issues them a receipt at their own expense.

(2) Debtor paying their monetary debt through a bank or a post-office, may request the creditor to issue to them a receipt only after having a specially justified reason.

(3) Should a receipt be issued stating that the principal is entirely paid off, it shall be presumed that interest, court and other expenses, if any, have also been paid.

(4) Likewise, should a debtor of periodical payments, such as rent and other claims accounted for from time to time, like ones resulting from the use of electric power or water or use of telephone, possess a receipt confirming their payment of a later claim, it shall be presumed that they have also paid out the ones previously due.

Refusal to Issue a Receipt

Article 330

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

IX. RESTORING A BOND

Article 331

(1) After entirely fulfilling their obligation, a debtor may, in addition to a receipt, seek that the creditor restores the relevant bond certificate to them.

(2) Should the creditor be unable to restore the bond certificate, the debtor shall be entitled to demand that the creditor issue to them an officially certified document stating that the obligation has been terminated.

(3) If the bond certificate is restored to the debtor it shall be considered that the obligation is fully discharged.

(4) Debtor who performed the obligation only in part shall be entitled to request that such performance be recorded on the bond certificate.

Section 2

DELAY

I. DEBTOR'S DELAY

When a Debtor Is Late with Performance

Article 332

(1) Debtor shall be in delay if they fail to perform the obligation within a time limit specified for performance.

(2) Should the time limit for performance be not specified, the debtor shall be late if requested to perform the obligation by the creditor orally or in written or by means of an out-of court warning or by initiating proceedings with the aim of achieving performance of the obligation.

(3) Debtor shall not be deemed in delay should they be able to prove that their delay with performance was due to Force Major or due to other circumstances for which they are not responsible.

II. CREDITOR'S DELAY

When a Creditor is in Delay

Article 333

(1) Creditor shall be in delay if they refuse without justified ground to accept the performance or if they prevent performance through their conduct.

(2) Creditor shall also be in delay if even though ready to accept performance of the debtor's simultaneous obligation, they fail to offer performance of their due obligation.

(3) Creditor shall not be late if they prove that at the time of offering of the performance or at the time determined for performance, the debtor was unable to fulfil their obligation.

Effects of Creditor's Delay

Article 334

(1) Creditor's delay shall exonerate the debtor from delay, so that the risk of accidental loss of property or of its damage shall pass to the creditor.
(2) Interest shall stop accruing from the day of the creditor's delay.
(3) Creditor in delay shall be liable to redress the debtor for loss caused due to their delay, and to cover expenses of continued custody of the property.
(4) During the period while they are in delay, creditor shall not be entitled to take measures for enforced execution.

Section 3

DEPOSITING AND SALE OF THE OBJECT OWED

Depositing at the Court

Article 335

(1) Should the creditor be in delay with their performance or unknown or should it be uncertain who or where the creditor is or if the creditor is without business capacity and without a representative, the debtor may deposit the object owed at the court for the creditor.
(2) Same right shall pertain to third persons having a legal interest in the performance of the obligation.
(3) Debtor shall notify the creditor of the deposit effected, should the debtor know the identity and domicile of the creditor; otherwise, the debtor shall be liable for the damage sustained by the creditor.

A Court Competent for Depositing

Article 336

(1) Deposit shall be made at the court having subject matter jurisdiction in the place of performance, unless reasons of economy or the nature of the transaction require a deposit to be made at the place where the object is located.
(2) Any other court having the subject matter jurisdiction must accept the object in deposit, while the debtor shall redress the creditor for potential loss sustained due to depositing at another court.

Deposit for Custody to Other Person

Article 337

(1) Should the subject of obligation be an object of property which could not have been left for custody at the court, the debtor may request that the court designate a person to whom they shall leave the object for custody, at the expense and for the account of the creditor.
(2) In case of an obligation arising from commercial law contract, delivering such object to a public warehouse for custody and to the account of creditor, shall produce the effect of depositing at the court.
(3) Debtor shall notify the creditor on effected delivery for custody.

Taking Back a Deposited Item

Article 338

(1) Debtor may take back a deposited object.

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

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

Effect of Deposit

Article 339

(1) By depositing the object owed, the debtor shall be relieved from obligation at the moment of deposit.

(2) If the debtor was in delay with performance, their delay shall terminate.

(3) Risk of accidental loss or damage shall pass to the creditor from the moment of depositing the object

(4) Interest shall cease to accrue from the day of deposit.

(5) Should the debtor take back the object deposited, it shall be held that there was no deposit while their joint debtors and guarantors shall remain liable.

Depositing Expenses

Article 340

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

Sale in Place of Depositing an Object

Article 341

(1) Should an object be unfit for custody or should its keeping and maintenance require expenses not commensurate to its value, the debtor may sell it at public sale at the place designated for performance or at some other place, should this be in the interest of the creditor, while the amount obtained, after deducting sale expenses, shall be deposited by them at the court of that place.

(2) Should the object have a current price or should its value be small in comparison to the public sale expenses, the debtor may sell it privately.

(3) Should the object be perishable, the debtor shall sell it without delay and in the most appropriate way.

(4) In any event the debtor shall notify the creditor of the sale intended whenever possible and, after the sale is effected, of the price obtained and of its deposit at court.

Delivering the Object to Creditor

Article 342

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

Sale to Cover Custody Expenses

Article 343

(1) After failing to pay for custody expenses within a reasonable time limit, at the request of the custodian, the court shall order that the object be sold, while determining also the manner of such sale.

(2) Amount obtained by sale shall cover sale and custody expenses, while the rest shall be deposited at the court for the creditor.

SUBTITLE 3

OTHER METHODS OF TERMINATION OF OBLIGATIONS

Section 1

OFFSETTING (COMPENSATION)

General Conditions

Article 344

Debtor may offset the claim of a creditor against them with their claim against the creditor, should both claims be of a monetary nature or be other exchangeable item of the same kind and quality, should both claims be due.

Statement of Offsetting

Article 345

(1) Offsetting shall not be effected by the very fact of occurrence conditions for it; instead, one party must declare to the other their intention to claim off-set.

(2) When the offset is claimed, offsetting shall be considered to have taken place at the moment of occurrence of the relevant conditions.

Lack of Reciprocity

Article 346

(1) Debtor shall not offset what they owe to the creditor against what is owed by the creditor to their guarantor.

(2) However, the guarantor may offset the debtor's obligation to the creditor against the debtor's claim against the creditor.

(3) If a party has given their own object as a pledge securing another person's obligation, they may request from the creditor the restitution of the object pledged when conditions for the termination of such obligation by offset occur or if the creditor has failed to effect the offsetting through their own fault.

An Expired Claim

Article 347

(1) Debt may be offset against an expired claim only if such claim has not expired at the moment when conditions for the offsetting occurred.

(2) Should conditions for offsetting occur after one of the claims has expired, the offsetting shall not take place if the debtor of the expired claim has raised the defence of expiration due to statute of limitations.

Offset Against Assigned Claim

Article 348

(1) Debtor of an assigned claim may claim offset towards the recipient against those of their claims which, until the notification of assignment, they could have offset towards the assignor.

(2) Debtor may also offset towards recipient such debtor's claims against the assignor, which they had acquired prior to notification of assignment, the performance of which was not due at the moment of their being notified of the assignment, but only should the corresponding time limit fall before the time limit for performance of the assigned claim or coincide with it.

(3) Debtor expressing their intention without reservation, to the recipient to accept the assignment shall not be able to offset any of their claims with them against the assignor.

(4) Should the assigned claim be entered in the public records, the debtor may effect the offset towards the recipient only should their claim be entered together with the assigned claim or should the recipient be notified accordingly about such claim at the time of the assignment.

Cases when Offsetting is Excluded

Article 349

There shall be no termination by way of offset of:

1) a claim impossible to seize;

2) a claim relating to an object or to a value of the object delivered to the debtor for custody or for loan or taken unlawfully by the debtor or kept unlawfully by them;

3) a claim arising from the intentional infliction of damage;

4) a claim for compensation of damages for damage to health or causing death;

5) a claim arising from statutory duty or alimony.

Attachment on Other Party's Claim

Article 350

Debtor shall effect no offset should their claim become due only after a third person has placed an attachment on the creditor's claim against them.

Taking into Account by Way of Offset

Article 351

Where several obligations exist between two persons and may terminate by set-off, the set-off shall be effected in accordance with the rules governing appropriation of performance.

Offsetting through the Court of Law

Article 352

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

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

Section 2

REMISSION OF DEBT

Agreement

Article 353

(1) Obligation shall be terminated if the creditor declares to the debtor that they are not going to claim its fulfilment, and if the debtor agrees accordingly.

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

Waiving of Security Instruments

Article 354

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

Remission of Debt of a Guarantor

Article 355

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

(2) Where there are several guarantors and the creditor releases one of them, the others shall remain liable, but their obligation shall be reduced by the share attributable to the released guarantor.

General Remission of Debts

Article 356

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

Section 3

NOVATION (SUBSTITUTED CONTRACT)

Conditions

Article 357

(1) Obligation shall be terminated if a creditor and a debtor agree to substitute the existing obligation by a new one, and should the new obligation have a different subject or a different legal ground.

(2) Agreement between the creditor and the debtor by which a provision concerning time limit, place or way of performance is added or substituted, a subsequent agreement on interest, on liquidated damages, on guaranteeing performance or concerning any other supplementary provision or agreement on issuing a new document of debt, shall not be considered as substituted contract (novation).

(3) Unless otherwise stipulated, drawing a bill of exchange or check in consequence of an earlier obligation shall not be considered as substituted contract (novation).

Intent to make Substituted Contract

Article 358

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

Effect of Substitution

Article 359

(1) By contract on substitution (novation) a previous obligation shall terminate, while the new one shall come into being.

(2) Together with the previous obligation, a pledge and a guarantee, shall also terminate, unless something else has been stipulated with the pledger or the guarantor.

(3) Same shall apply to other accessory rights attached to the previous obligation.

Defect in Previous Obligation

Article 360

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

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

Effect of Voidance

Article 361

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

Section 4

MERGER (OF RIGHTS AND DUTIES)

Article 362

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

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

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

Section 5

IMPOSSIBILITY OF PERFORMANCE

Termination of Obligation Due to Impossibility of Performance

Article 363

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

(2) Debtor shall be expected to prove the existence of the circumstances exempting them from liability.

If Objects Specified by Kind are the Subject of Obligation

Article 364

(1) Should subject of obligation be item (of property) specified by kind, the obligation shall not terminate even should all of such item, possessed by the debtor, be lost due to circumstances for which they are not to blame.
(2) However, should the subject of obligation relate to item specified by kind which have to be taken out of a specific mass of such item, the obligation shall come to an end should the entire mass be lost.

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

Article 365

Debtor owing a specific object, who is otherwise exempted from their obligation because of impossibility of performance, shall assign to the creditor the right they would otherwise have against a third person as a result of such impossibility.

Section 6

LAPSE OF TIME, NOTICE OF CANCELLATION

Time Limit in a Permanent Debit Relationship

Article 366

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

Cancellation of a Permanent Debit Relationship

Article 367

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

Section 7

DEATH

Article 368

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

SUBTITLE 4

STATUTE OF LIMITATIONS

Section 1

GENERAL PROVISIONS

General Rule

Article 369

(1) As a result of the expiration due to statute of limitations, the right to claim performance of an obligation terminates.

(2) Expiration due to the statute of limitations takes place by lapsing of period specified by statute during which the creditor was entitled to claim performance of the obligation.

(3) Court shall not consider the fact of an obligation being time barred should the debtor fail to invoke it.

When Statute of Limitations Starts to Run

Article 370

(1) Period for expiration due to the statute of limitations shall begin to run on the first day following the day the creditor was entitled to claim performance of the obligation, unless something else is provided by statute for specific cases.

(2) Should an obligation consist in refraining from an act, omitting an act or tolerating something, the period of limitation shall begin to run on the first day following the day on which the debtor acted contrary to their obligation.

Coming to Effect of Statute of Limitations

Article 371

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

Including into Account of Predecessor's Time

Article 372

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

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

Article 373

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

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

Waiving of Expiry due to Statute of Limitations

Article 374

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

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

Article 375

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

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

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

Article 376

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

Creditor with a Guaranteed Claim

Article 377

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

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

Accessory Claims

Article 378

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

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

Article 379

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

Section 2

TIME REQUIRED FOR EXPIRY DUE TO STATUTE OF LIMITATIONS

General Time Limit for Unenforceability due to Statute of Limitations

Article 380

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

Periodical Claims

Article 381

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

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

Expiry of a Right itself due to Statute of Limitations

Article 382

(1) Right from which periodic claims arise shall become time-barred after five years, calculated from the maturity of the oldest unperformed claim after which the debtor made no further performance.

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

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

Mutual Contractual Claims from Commercial Law Contracts

Article 383

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

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

Claiming Rent

Article 384

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

Claim for Compensation of Damages

Article 385

(1) Claim for compensation of damages caused shall expire three years after the party sustaining injury or loss became aware of the injury and loss and of the party inflicting damage.

(2) In any event, such claim shall expire five years after the occurrence of injury or loss.

(3) Claim for compensation of damages caused by breach of a contractual obligation shall lapse within the time specified for expiry due to the statute of limitations of such obligation.

(4) Claim for compensation of damages arising from the sexual abuse of a minor shall become time-barred 15 years after the aggrieved party reaches the age of majority.

Claim for compensation of damages caused by a Criminal Offence

Article 386

(1) Where damage is caused by a criminal offence and a longer limitation period is prescribed for criminal prosecution, a claim for compensation of damages against the liable person shall become time-barred upon expiry of the limitation period prescribed for criminal prosecution.
(2) Interruption of period for expiry of criminal prosecution due to the statute of limitations shall also imply the interruption of the limitation period relating to the claim for compensation of damages.
(3) Same shall apply when the expiry period is suspended.

Claim for compensation of damages caused by Corruption

Article 387

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

Two-Year Limitation Period due to the Statute of Limitations

Article 388

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

Claims Determined by Court or Other Competent Agencies

Article 389

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

Time Limits in Case of Insurance Contracts

Article 390

(1) Claims of a policyholder or of a third party specified in a life insurance contract, shall expire after five years, while those from remaining insurance contracts – after three years, counting from the first day following the calendar year of the origination of the claim.
(2) Should the interested person be successful in proving that until the day specified in the paragraph 1 of present Article they were not aware of the occurrence of the insured event, the expiration period shall begin to run from the day of their becoming aware thereof, while in any event the claim shall expire in case of life insurance after ten years, and in case of the remaining insurance contracts after five years, beginning with the day specified in the paragraph 1 of present Article.
(3) Claims of an insurer on the ground of an insurance contract shall expire due to the statute of limitations after three years.
(4) Should in the event of third party liability insurance a person sustaining damage demand compensation from the insured or should they obtain it from them, the expiration period for the insured person's claim against the insurer shall begin to run on the day the person sustaining damage requested compensation through the court from the insured or on the day of their being compensated by the insured.
(5) Direct demand by a third party sustaining injury or loss from the insurer shall expire due to the statute of limitations after a period otherwise applicable to such expiration of their claim against the insured person liable for damage.
(6) Limitation period of the insurer's claim against the third party liable for the occurrence of the insured event, shall begin to run at the time otherwise applicable to the limitation period for the claims of the insured against such person, and shall be completed within the same time limit.

Section 3

SUSPENSION OF PERIOD OF EXPIRY DUE TO STATUTE OF LIMITATIONS

Claims between Particular Persons

Article 391

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 3)

Period of expiration due to statute of limitations shall not run:

1) between spouses;

1a) between same-sex life partners;

2) between parents and children throughout the duration of period of parental right;

3) between a ward and their guardian, and/or a guardianship organization in the course of the guardianship relationship, and until relevant accounts are settled;

4) between two extramarital partners during the course of such cohabitation.

Claims of Particular Persons

Article 392

Period for expiry due to statute of limitations shall not run:

1) during military callout, in case of imminent danger of war or war relating to claims of absent persons engaged in military duties and;

2) concerning claims of persons employed in another person's household, against the employer or members of their family living with them in the same household – in the course of such employment.

Insurmountable Obstacles

Article 393

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

Effect of the Cause of Suspension of Expiry Period

Article 394

(1) Should the limitation period have been unable to begin to run due to a cause specified by statute, it shall begin to run after that cause has ceased.

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

Claims against Persons without Business Capacity and Their Claims

Article 395

(1) Expiration period shall also run against a minor and other person without business capacity, regardless of whether they have a legal representative.

(2) However, expiry due to time limitation of claims of minors having no representative and other unrepresented persons without business capacity, shall not take place until the expiration of a two year period from their regaining business capacity or obtaining a representative.

(3) Should a period of time shorter than two years for the expiration of a claim be specified, while the creditor is a minor without a representative or other person without business capacity and without a representative, the limitation period relating to such claims shall begin to run after the creditor has gained capacity to engage in business or after obtaining a representative.

Section 4

INTERRUPTION OF PERIOD FOR EXPIRY DUE TO STATUTE OF LIMITATIONS

Acknowledging a Debt

Article 396

(1) Running of the limitation period shall be interrupted when a debtor acknowledges the debt.

(2) Acknowledgment of a debt may be effected not only by a declaration to the creditor, but also in an indirect way, such as by an instalment payment, payment of interest due or providing security.

Commencing of a Civil Action

Article 397

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

Desisting from, Rejecting or Denying of a Civil Action

Article 398

(1) Interruption of a period required for expiry due to statutes of limitation effected by commencing of civil action or by making some other motion by the creditor against debtor before court or other competent agency with an aim of establishing, securing or realizing of the claim shall be deemed not to have taken place should the creditor desist from such action or motion.

(2) It shall also be held that there was no interruption should the creditor's action or claim be rejected or denied or should a measure of execution or securing awarded or taken be cancelled.

Rejection of an Action on the Ground of Lack of Jurisdiction

Article 399

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

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

Giving Notice to a Debtor

Article 400

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

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

Article 401

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

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

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

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

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

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

Expiry of Claim due to Statute of Limitations in Case of Substituted Contract

Article 402

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

Chapter V

VARIOUS KINDS OF OBLIGATIONS

Subtitle 1

MONETARY OBLIGATIONS

Section 1

GENERAL PROVISIONS

Principle of Monetary Nominalism

Article 403

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

Currency of Obligation

Article 404

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

Index Cause

Article 405

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

Sliding Scale

Article 406

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

Payment Ahead of Time

Article 407

(1) Debtor of a monetary obligation may fulfil it ahead of time.

(2) Contractual clause by which a debtor has waived such right shall be null and void.

(3) Should a monetary obligation be fulfilled ahead of time, the debtor shall be entitled to deduct from the amount of debt interest covering a period between the day of payment and the day of maturity of obligation, only after being authorised accordingly by the contract or on the ground of business usage.

Section 2

STIPULATED INTEREST

Rate of Stipulated Interest

Article 408

(1) Rate of interest stipulated between physical persons shall not be higher than the standard deposit savings interest rate in the place of performance.

(2) Provisions of a particular law shall apply to the highest interest rates stipulated between corporate bodies.

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

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

Compound Interest

Article 409

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

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

(3) Provisions of paragraphs 1 and 2 of this Article shall not apply to credit transactions of banks and other banking organisations.

Termination of Accrual of Interest

Article 410

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

Interest in Non-Monetary Obligations

Article 411

Provisions of the present Law relating to interest stipulated shall apply accordingly to other obligations covering item specified in kind.

SUBTITLE 2

MULTI-SUBJECT OBLIGATIONS

Section 1

ALTERNATIVE OBLIGATIONS

Right of Choice

Article 412

Where an obligation has two or more subjects but the debtor is required to deliver only one in order to discharge the obligation, the right of choice, unless otherwise stipulated, shall belong to the debtor, and the obligation shall terminate when the debtor delivers the subject chosen.

Irrevocability and Effect of the Exercised Right of Choice

Article 413

(1) Option shall be considered exercised if a party entitled to an option notifies the other party of their choice, so that from that moment on the choice may not be altered.

(2) After an option is exercised it shall be considered that the obligation was a simple one from the very beginning, and that its subject was the object elected from the beginning.

Duration of Period to Exercise Right of Choice

Article 414

(1) Debtor shall be entitled to choose until, in the enforcement proceedings, one of the items owed has been completely or partially delivered to the creditor at the choice of the debtor.

(2) Should the right of choice pertain to the creditor and they fail to state their choice within the time limit determined for performance, the debtor may give them notice to make their choice, leaving them an adequate time limit, after whose expiration the right of choice shall be transferred to the debtor.

Right of Choice Entrusted to Third Party

Article 415

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

Restriction to the Remaining Subject

Article 416

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

Restriction in Case of Liability of One Party

Article 417

(1) Where one subject of an obligation becomes impossible due to an event for which the debtor is liable, the obligation shall be limited to the remaining subject if the debtor has the right of choice; if the creditor has the right of choice, the creditor may choose to claim the remaining subject or compensation of damages.

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

Section 2

OPTIONAL OBLIGATIONS AND OPTIONAL CLAIMS

I. OPTIONAL OBLIGATIONS

Authority of Debtor in an Optional Obligation

Article 418

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

Authority of a Creditor in an Optional Obligation

Article 419

(1) Creditor in an optional obligation may claim from the debtor only the subject of obligation, and not any other subject by which the debtor may, should they so wish, also fulfil their obligation.

(2) Where the subject of the obligation becomes impossible due to an event for which the debtor is liable, the creditor may claim only compensation of damages, but the debtor may discharge the obligation by providing the subject they are authorised to provide in place of the subject owed.

II. OPTIONAL CLAIMS

Article 420

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

(2) In other respects, the relevant rules governing facultative and alternative obligations shall apply to such facultative claims, in accordance with the intention of the contracting parties and the circumstances of the transaction.

SUBTITLE 3

OBLIGATIONS WITH SEVERAL DEBTORS OR CREDITORS

Section 1

DIVISIBLE OBLIGATIONS

Dividing an Obligation and a Claim

Article 421

(1) Obligation shall be divisible if that what is owed can be divided and performed in parts having same qualities as the whole subject, and should what is divided lose nothing in value; otherwise, the obligation shall be indivisible.

(2) Should several debtors exist in a divisible obligation, such obligation shall be divided between them in equal shares, unless a different kind of division is determined, and each shall be liable for their share of the obligation.

(3) Should several creditors exist in a divisible obligation, the claim shall be divided between them in equal shares, unless something else is determined, and every creditor may request only their share of the claim.

Presumption of Joint and Several Liability

Article 422

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

Section 2

JOINT AND SEVERAL OBLIGATIONS

I. JOINT AND SEVERAL DEBTORS

Contents of the Joint and Several Liability

Article 423

(1) Each debtor of a joint and several liability shall be liable to the creditor for the entire obligation and the creditor may claim its performance from any of them until its complete performance; but should one of the debtors perform the obligation, it shall cease to exist and all debtors shall be released.

(2) From amongst several debtors who are jointly and severally liable, each may owe under a different time limit for performance or under different terms or variations.

Debt Setoff

Article 424

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

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

Dismissing a Debt

Article 425

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

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

Substituted Contract

Article 426

(1) Novation effected by the creditor with one of the joint and several debtors shall also discharge the remaining debtors.

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

Settlement

Article 427

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

Merger

Article 428

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

Creditor's Delay

Article 429

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

Delay of One Debtor and Acknowledging a Debt

Article 430

(1) Delay by one joint and several debtor shall have no effect on the remaining debtors.

(2) Rule from the paragraph 1 of present Article applies to acknowledging a debt declared by one of the joint and several debtors.

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

Article 431

(1) Should a limitation period be suspended or should it be interrupted regarding one debtor, it shall continue to run as to the remaining joint and several debtors, and it may be completed; however, a debtor for whom the obligation has not expired and who has to perform it, shall be entitled to claim from the rest of the debtors to whom the obligation expired, the recovery of value of their respective shares in the obligation.

(2) Waiving the completed expiry period shall have no effect on the rest of the debtors.

Right to Recovery of a Person Performing the Obligation

Article 432

(1) Debtor who performed their obligation shall be entitled to claim against each joint debtor recovery of the part of obligation being at their charge.

(2) Fact that the creditor has exempted one of the debtors or has reduced their debt, shall have no effect on the matter.

(3) Share being at the charge of a debtor unable to provide recovery, shall be distributed commensurately to all the debtors.

Division in Equal Shares and Exception

Article 433

(1) Unless something else is stipulated or otherwise result from legal relations between participants a transaction, the shares of all debtors shall be equal.

(2) However, should a joint and several obligation be stipulated solely in the interest of one debtor, they shall recover the entire amount of obligation to a co-debtor who has satisfied the creditor.

II. JOINT AND SEVERAL CREDITORS

No Presumption of Joint and Several Liability

Article 434

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

Substance of Joint and Several Liability

Article 435

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

(2) Debtor may perform the obligation to a creditor of their own choice until a creditor requests performance.

Debt Setoff

Article 436

(1) Debtor may set off their obligation against their claim from a creditor who demands from them performance of the obligation.

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

Dismissing a Debt and Substituted Contract

Article 437

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

Settlement

Article 438

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

Merger

Article 439

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

Delay

Article 440

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

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

Acknowledging a Debt

Article 441

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

Statute of Limitations

Article 442

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

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

Relations between Creditors after Performance

Article 443

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

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

Section 3

INDIVISIBLE OBLIGATIONS

Article 444

(1) Provisions governing joint and several obligations shall apply as appropriate to indivisible obligations involving several debtors.

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

Chapter VI

SUBSTITUTION OF CREDITOR OR DEBTOR

SUBTITLE 1

ASSIGNING OF CLAIMS BY CONTRACT (CESSION)

Section 1

GENERAL PROVISIONS

Which Claims May Be Assigned by Contract

Article 445

(1) Creditor may cede their claim by a contract entered into with a third person, except such claim whose transfer is not permitted by statute or which is restricted to creditor's person or whose very nature is incompatible with transferring to another.

(2) Contract of assignment (cession) shall have no effect against the debtor if the debtor and the creditor have stipulated that the creditor shall not be able to assign the claim to another person or that the creditor shall not assign it without the consent of the debtor.

Accessory Rights

Article 446

(1) Accessory rights shall pass with the claim to the recipient (assignee), such as the right of priority payment, mortgage, pledge, rights on the ground of contract with a guarantor, rights to interest, to liquidate damages, and the like.

(2) Assignor may deliver the object pledged to the recipient only should the pledger agree; otherwise, it shall remain with the assignor, to be kept by them for the account of the recipient.

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

Notifying a Debtor

Article 447

(1) Consent of debtor shall not be necessary for the assignment of a claim, but the assignor shall notify the debtor of the assignment effected.

(2) Performance effected to the assignor before notification about the assignment shall be valid and shall exempt the debtor from obligation, but only if they were not aware of the assignment; otherwise, the obligation shall remain valid and they shall perform it to the recipient.

Multiple Assignment

Article 448

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

Section 2

RELATIONSHIP BETWEEN ASSIGNEE AND A DEBTOR

Article 449

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

(2) In addition to the defences they have against the assignee (recipient), a debtor may also raise against the assignee those defences which they were able to raise against the assignor until the moment they became aware of the assignment (cession).

Section 3

RELATIONSHIP BETWEEN AN ASSIGNOR AND AN ASSIGNEE

Presenting a Document on Debt

Article 450

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

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

(3) At the assignee's request, the assignor shall issue a certified certificate of assignment.

Guaranteeing the Existence of a Claim

Article 451

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

Guaranteeing Collectability

Article 452

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

(2) Higher degree of liability of a good faith assignor may not be stipulated.

Section 4

PARTICULAR CASES OF ASSIGNMENT OF CLAIMS

Assignment in Lieu of Performance or for Purpose of Collection

Article 453

(1) Should a debtor, in lieu of performance of their obligation, assign to a creditor their claim or a part of it, the debtor's obligation shall be extinguished up to the amount of the assigned claim by the fact of concluding the assignment contract.

(2) However, should a debtor assign their claim to their creditor only in order to effect payment, their obligation shall be extinguished or reduced, only after the creditor has collected the assigned claim.

(3) In the cases referred to in paragraphs 1 and 2 of this Article, the assignee shall hand over to the assignor everything collected in excess of the amount of the assignee's claim against the assignor.

(4) In case of assignment for the purpose of collection, the debtor in the assigned claim may perform their obligation also to the assignor, even after they have been notified of the assignment.

Assignment for the Purpose of Securing

Article 454

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

SUBTITLE 2

SUBSTITUTION OF DEBTOR

Section 1

ASSUMPTION OF DEBT

I. GENERAL PROVISIONS

Contract on Assumption of Debt

Article 455

(1) Assumption of debt shall be effected by a contract between a debtor and a person assuming the debt, upon the creditor’s consent.

(2) Either party may notify the creditor of the contract concluded, and the creditor may communicate consent to the assumption of debt to either of them.

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

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

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

A Case of a Debt Secured by Mortgage

Article 456

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

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

II. EFFECTS OF CONTRACT OF ASSUMPTION OF DEBT

Substitution of Debtor

Article 457

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

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

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

Accessory Rights

Article 458

(1) Accessory rights previously attached to the claim shall remain in effect, but guarantees and pledges provided by third parties shall terminate unless the guarantors and pledgors consent to remain liable for the new debtor.

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

Objections

Article 459

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

(2) Person assuming a debt shall not raise against the creditor defences originating from their legal relationship with the previous debtor, which relationship was the ground for the assumption of debt.

Section 2

JOINING A DEBT

Contract of Joining a Debt

Article 460

By a contract between a creditor and a third party under which the third party undertakes to satisfy the creditor’s claim against the debtor, the third party shall assume the obligation alongside the debtor.

Joining a Debt in Case of Receiving an Estate

Article 461

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

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

Section 3

ASSUMPTION OF PERFORMANCE

Article 462

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

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

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

other matters of interest for Montenegro.

CONTRACTS

Chapter VII

SALE

SUBTITLE 1

General provisions

The Concept

Article 463

(1) By a contract of sale a seller shall assume the obligation to transfer to a buyer the right of ownership of the goods sold and to deliver them to them for that purpose, while the buyer shall assume the obligation to pay the price in money and to take over the goods.

(2) Seller of some other right shall assume the obligation to provide a buyer with the right sold, and should exercise of such right require possession, also to deliver it to them.

Risk

Article 464

(1) Risk of accidental loss or damage to goods until delivery to the buyer shall be borne by the seller, and upon delivery of the goods the risk shall pass to the buyer.

(2) Risk shall not pass to the buyer if they have rescinded the contract due to a defect in the goods delivered or requested replacement of the goods.

Passing of Risk in Case of Buyer's Delay

Article 465

(1) Should delivery of goods not be effected due to the buyer's delay, risk shall pass to the buyer at the moment when they delayed their act.

(2) Should goods specified in kind be the subject of contract, the risk shall pass to the buyer in delay when the seller has singled out items obviously intended for delivery, and when they have notified thereon.

(3) But should goods specified in kind be of such a nature that the seller cannot single out one part of them, it shall suffice that the seller has done everything necessary to enable the buyer to take over the goods and that they have notified the buyer accordingly.

SUBTITLE 2

CONSTITUTIVE ELEMENTS OF THE CONTRACT OF SALE

Section 1

ITEM

General Rule

Article 466

(1) Subject of a contract must be allowed to be subject to trade (tradable), so that a contract of sale of an item not in trade shall be null and void.

(2) For the sale of items whose trade is restricted, special legislation applies.

(3) Sale may also relate to a future item.

If an Object Be Ruined before the Contract

Article 467

(1) Contract of sale shall have no legal effect should at the moment of its conclusion its item be ruined.

(2) Should at the moment of concluding a contract the item be only partially ruined, the buyer may rescind the contract or they may adhere to it after reducing the price proportionately.

(3) However, the contract shall remain valid and the buyer shall only be entitled to reduce the price, should the partial ruin of the item not hinder the purpose of the contract or should such trade custom exist in relation to a particular item.

Sale of Somebody Else's Item

Article 468

Sale of an item belonging to another person shall be binding on the contracting parties, but a buyer who did not know and was not required to know that the item belonged to another person may, should the purpose of the contract be impossible to achieve as a result, rescind the contract and claim compensation of damages.

Sale of a Contested Right

Article 469

(1) Contested right may be a subject of a contract of sale.

(2) But a contract shall be null and void by which a practicing lawyer or any other mandatary buy a contested right whose enforcement was entrusted to them or if they negotiate for themselves a share in the amount awarded to their principal.

Section 2

PRICE

If the Price is not Determined

Article 470

(1) If the price is not determined by a contract of sale, and if the contract itself lacks sufficient information by which the price could be determined, the contract shall have no legal effect.

(2) If the price is not determined by a commercial law contract of sale and should it lack sufficient information by which the price could be determined, the buyer shall pay the price otherwise regularly charged by the seller at the time of entering into contract, and should there be no such price, they shall pay a reasonable price.

(3) Price shall be considered reasonable if it is a current price at the time of entering into contract, and should it be impossible to determine, the court shall determine the price in conformity to the circumstances of the case.

Prescribed Price

Article 471

(1) Should a higher price be determined than the one prescribed by a competent agency for specific kind of goods, the buyer shall owe only the amount of the prescribed price, and when they have already paid the price stipulated, they shall become entitled to demand a refund of the difference.

(2) If a competent agency prior to performance of the contract alters the amount of prescribed price, the buyer shall owe the price applicable at the time of concluding of the contract.

Should Current Price Be Stipulated

Article 472

(1) Should current price be stipulated, the buyer shall owe the price as determined by official records in the market at the seller's place of business and at the time of performance being due.

(2) Should no such records exist, the current price shall be determined on the ground of elements on the basis of which prices are usually determined according to trade practices.

If the Determination of Price Be Left to Third Person

Article 473

Should a third person being entrusted with determining the price refuse of be unable to determine it, and the negotiating partners fail to come to agreement subsequently on determination of price but do not rescind the contract, it will be considered that a reasonable price was stipulated.

If the Determination of Price Be Left to One Contracting Partner

Article 474

Contractual clause by which the determination of price is left entirely to one negotiating partner shall be considered as not agreed at all, so that the buyer in such a case shall owe a current price.

SUBTITLE 3

OBLIGATIONS OF A SELLER

Section 1

DELIVERY OF GOODS

I. GENERALLY ON DELIVERY

Time and Place of Delivery

Article 475

(1) Seller shall deliver the goods to a buyer at a time and in the place as specified by contract.

(2) As a rule, a seller has performed the duty of delivery to the buyer after handing over the goods to them or after delivering a certificate to them by which the goods may be taken over.

(3) In case of commercial law contracts the seller shall be under duty to take all necessary actions, according to the contracts and nature of business, in order to make possible for the buyer to take over the delivery, while the buyer shall be under duty to take actions to make possible for the seller to carry out the delivery.

(4) Seller shall be under duty to preserve the item until time of delivery with care of good head of household or good businessperson.

Subject of Delivery

Article 476

(1) Unless something else is stipulated or unless something else results from the nature of the transaction, the seller shall deliver the goods to the buyer in sound condition, together with corresponding accessories.

(2) Fruit and other benefits deriving from the item shall belong to the buyer from the day of seller's obligation to hand them over to the buyer.

Delivery Being Stipulated within a Certain Period

Article 477

Should it be stipulated that delivery of an object shall be effected within a certain period, and if not determined which party shall be entitled to determine the delivery date within the limits of such period, such right shall belong to the seller, unless circumstances of the case indicate that the determination of delivery date has been left to the buyer.

Delivery Date not Determined

Article 478

Should the date of delivery of goods to the buyer be not determined, the seller shall effect delivery within a reasonable time limit after the conclusion of contract, in conformity with the nature of the goods and other circumstances.

Place of Delivery not Determined by Contract

Article 479

(1) Should the place of delivery not be determined by the contract, the delivery of the object shall be effected at the place of the seller's domicile at the moment of entering into contract or, should there be no such domicile, at the place of seller's residence, and in case the seller has entered into contract while performing their regular business activity, the delivery place shall be their business address.

(2) However, if negotiating partners were aware at the moment of entering into contract of the location of the goods or of where they had to be manufactured – the delivery shall be effected at such place.

Delivery to a Carrier

Article 480

Should it be necessary according to contract to transport the object, and there be no indication in the contract as to the place of performance, the delivery shall be considered effected by handing the object over to the carrier or to a person organizing the dispatching.

Organizing of Transport

Article 481

Where the seller is required to send the item to the buyer, the seller shall conclude, in the customary manner and under customary terms and conditions, the contracts necessary to carry out transport to the specified place.

Costs

Article 482

Expenses of handing over, as well as those preceding it shall be born by the seller, while expenses of carrying away the object and all other expenses after the handing over, shall be born by the buyer, unless something else is stipulated.

II. SIMULTANEOUS DELIVERY OF OBJECT AND PAYMENT OF PRICE

Postponing Delivery until the Payment of Price

Article 483

Unless otherwise stipulated or customary, the seller shall not be obliged to deliver the object should the buyer fail to pay the price simultaneously or not be ready to do so simultaneously, but the buyer shall not be obliged to pay the price before having had an opportunity to inspect the object.

Postponing Delivery in the Case of Transporting the Goods

Article 484

(1) Should delivery of the goods be effected by handing them over to a carrier, the seller may postpone the dispatch of the goods until payment of the price or they may forward them in such a way so as to reserve the right to control them in course of carriage.

(2) After reserving the right to control the goods in the course of carriage, the seller may demand that the goods not be delivered to the buyer at the place of destination until the buyer has paid the price, while the buyer shall not be obliged to pay the price before having had an opportunity to inspect the goods.

(3) However, should it be provided by contract that payment be effected against corresponding documents, the buyer shall not be entitled to refuse payment of the price after being unable to inspect the object.

Preventing Delivery of the Forwarded Goods

Article 485

(1) Should it turn out after the goods are forwarded to the buyer that their material situation raises reasonable doubt as to their ability to pay off the price, the seller may prevent delivery of the goods to the buyer even after the latter is already in possession of the document authorising them to demand delivery of the goods.

(2) However, the seller may not prevent delivery should it be demanded by a third person who is regularly in possession of the document authorising them to demand delivery of the goods, unless the document contains reservations as to the effect of transfer or unless the seller is successful in proving that a person in possession of the document, at the time of acquiring it, had acted intentionally to the detriment of the seller.

Section 2

LIABILITY FOR SUBSTANTIVE DEFECTS

I. GENERALLY ON SUBSTANTIVE DEFECTS

Substantive Defects Being the Responsibility of Seller

Article 486

(1) Seller shall be responsible for substantive defects of the object existing at the moment of transfer of risk to the buyer, regardless of whether they were aware of the fact.

(2) Seller shall also be responsible for those substantive defects which arose after the transfer of risk to the buyer, should they be due to a cause which existed before that.

(3) Insignificant substantive defect shall not be taken into consideration.

When Substantive Defects Exist

Article 487

(1) Defect shall exist:

1) should the object fail to have necessary properties for its regular use of for being marketable;
2) should the object fail to have properties necessary for its specific use being the buyer's reason for acquiring them, which use was known or should have been known, to the seller;
3) should the object fail to have the properties and characteristics which are explicitly or impliedly stipulated or prescribed;
4) if a seller has delivered object which is not in conformity with a sample or model, unless the sample or model was presented to them only for information;
5) if the object has no qualities which are otherwise distinctive of other items of the same kind and which the buyer could reasonably expect according to the nature of the object, particularly taking into account public statements of the seller, manufacturer and their representatives on the qualities of the object (advertising, designation marks etc.);

6) if the object is inadequately mounted under condition that the service of mounting is included in performance of the contract on sale; and

7) if the inadequate mounting is a consequence of defects in the instructions for mounting.

(2) If, on the basis of the statements of the manufacturer or their representative the buyer expected object to have certain qualities, defect shall not be taken into account, if the seller was not aware or should not have been aware of such statements or if such statements were denied by the time of concluding of the contract or were of no consequence for the decision of the buyer to conclude the contract.

Defects beyond Seller's Responsibility

Article 488

(1) Seller shall not be responsible for defects specified in items 1 and 3 of Article 487, if they were known to the buyer at the moment of entering into contract or if it was impossible for them to remain unknown to them.

(2) Defects shall be considered not to have remained unknown to a buyer if they could have been easily noticed by usual inspection of the item by a diligent person as a buyer, having average knowledge and experience characteristic for a person of the same professional and trade line.

(3) However, a seller shall be responsible for defects, which could have been noticed easily by the buyer, if the former declared that the item were free of all defects or that they had specific qualities or characteristics.

Inspection of Objects and Visible Defects

Article 489

(1) Buyer shall inspect item they accept in the usual way or have them inspected as soon as this is possible according to regular course of events, and notify the seller of visible defects, within an eight-day time limit, while in the case of commercial law contracts, without delay, since otherwise they shall lose the right pertaining to them on that ground.

(2) If an inspection is effected in the presence of both parties, the buyer shall report immediately to the seller their remarks regarding visible defects, since otherwise they shall lose the right pertaining to them on that ground.

(3) Should the buyer dispatch the item further without reloading, and if the seller at the moment of entering into contract was aware or should have been aware, of a possibility of such further forwarding, the inspection of item may be postponed until their arrival at the new place of destination, and the buyer in such a case shall notify the seller of defects as soon as they become aware of them through their clients in the regular course of events.

(4) In the case of consumer contracts, a consumer as buyer shall not be under a duty to inspect the object or to have it inspected, but shall notify the seller immediately after becoming aware of visible defects and, in any case, no later than six months from the date of discovering the defect, failing which they shall forfeit the right pertaining to them on that ground.

Hidden Defects

Article 490

(1) Where, after the buyer has taken delivery, the item is found to have a defect that could not have been discovered by the usual inspection upon delivery (a hidden defect), the buyer shall, under penalty of forfeiture of rights, notify the seller of the defect within eight days of its discovery or, in the case of a commercial contract, without delay.
(2) Seller shall not be responsible for defects appearing six months after delivery of the goods, unless a longer time limit has been stipulated.

Time Limits in Case of Repair, Replacement, and the Like

Article 491

Should, due to a defect, item be repaired, other item be delivered, parts replaced, and the like, the time limit specified in Articles 489 and 490 of present Law shall begin to run from the moment of delivery of the repaired item, of delivery of other item, of replacement of spare parts, and the like.

Notifying of Defects

Article 492

(1) Buyer's notification about a defect in item shall include a detailed description of the defect and an invitation addressed to the seller to inspect the object.
(2) Should notification about the defect, otherwise sent to the seller by the buyer on time by registered mail, telegram or in some other reliable way, be late or should it entirely fail to reach the seller, the buyer shall be considered to have fulfilled their duty to notify the seller.

Significance of the Fact that Seller Was Aware of Defect

Article 493

Buyer shall not forfeit the right to claim a defect even after failing to meet their duty to inspect the goods immediately or a duty to notify the seller within a determined time limit, of the existence of a defect, as well as after such defect has appeared six months after delivery of the goods, if such defect was known to the seller or if it could not have remained unknown to them or if the seller recognized existence of a defect.

Contractual Limitation or Exclusion of Seller's Responsibility for Substantive Defects

Article 494

(1) Contracting parties may limit or entirely exclude the seller's responsibility for substantive defects of the object.
(2) Contractual clause limiting or excluding responsibility for defects in item shall be null and void if a defect was known to the seller and if they failed to notify the buyer thereof or if the seller imposed such clause by using their particular monopoly position.
(3) Buyer forfeiting their right to rescind the contract due to a defect in the goods shall keep the remaining rights on the ground of such defect.

Enforced Public Sale

Article 495

Owner whose goods are sold at an enforced public sale shall not be liable for defects in the object.

II. RIGHTS OF A BUYER

Performance, Reduction of the Price, Rescission of the Contract and Compensation of Damages

Article 496

(1) Buyer duly notifying a seller on time of a defect may:

1) demand that the seller eliminates the defect or delivers them other item free of defects (performance of contract);

2) demand a reduction of the price;

3) declare that they rescind the contract.

(2) In all the above cases the buyer shall be entitled to compensation of damages as well.

(3) Seller shall also be liable to compensate the buyer for damage sustained as a result of a defect in the goods causing damage to other property of the buyer, in which case the general rules on liability for damage shall apply.

(4) Expenses of eliminating the defects and delivery of other object without defects shall be borne by the seller.

Non-performance of a Contract within a Reasonable Period

Article 497

Should a buyer fail to obtain the demanded performance of contract within a reasonable time limit, they shall withhold the right to rescind the contract or to reduce the price.

When a Buyer May Rescind the Contract

Article 498

(1) Buyer may rescind the contract only after leaving the seller an additional reasonable time limit to perform the contract.

(2) Buyer may rescind the contract even without leaving a subsequent time limit should the seller, after being notified about defects, inform them that they are not going to fulfil the contract or should circumstances of the specific case indicate without doubt that the seller will not be able to fulfil the contract even in the additionally allowed time limit.

Non-performance of a Contract within an Additional Period

Article 499

Should a seller fail to perform the contract within the subsequent additional time limit, the contract shall be rescinded by operation of law, but the buyer may keep it in effect after immediately declaring to the seller their intention to keep the contract in effect.

Partial Defects

Article 500

(1) If only a part of the delivered item has defects or if only a part of the item is delivered or a lesser quantity than stipulated, the buyer may rescind the contract in terms of Articles 496 to 499 only with respect to the defective portion or only relating to the part or quantity missing.

(2) Buyer may rescind the entire contract only should the stipulated quantity or the object delivered make a whole or should the buyer otherwise have a justified interest in accepting the object or quantity stipulated in their entirety.

Seller Delivering a Larger Quantity to a Buyer

Article 501

(1) Should in the case of a commercial contract of sale a seller of item specified by kind deliver to a buyer a quantity larger than stipulated, and should the buyer fail, within a reasonable time limit, to declare their refusal of the surplus, they shall be considered to have accepted such surplus as well, so that they shall pay the same price for it.

(2) Should the buyer refuse to accept the surplus, the seller shall redress to the buyer the corresponding loss.

One Price Determined for Several Objects

Article 502

(1) Should several item or a collection of item be sold by one contract and at one price, and only some of them are defective, the buyer may rescind the contract only relating to such item and not to the rest.

(2) However, should they make a whole so that their separation would be damaging, the buyer may rescind the entire contract, but if, however, they declare their intention to rescind the contract only relating to defective item, the seller, on their part, may rescind the contract relating to the rest of the item.

Forfeiting the Right to Rescind a Contract due to a Defect

Article 503

(1) Buyer shall forfeit the right to rescind the contract due to defective items should it be impossible for them to restitute the goods or to restore them to the state they were in when delivered to them.

(2) However, the buyer may rescind the contract due to defects in the goods should the item be entirely or partially lost or damaged due to a defect justifying the rescission of contract or due to an event not ensuing from them or from a person under their responsibility.

(3) Same shall apply should the items be entirely or partially lost or damaged in connection with the duty of the buyer to inspect the items or should the buyer, before the defect was discovered, consume or alter part of the items in course of their regular use or should damage or alteration be without significance.

Withholding the Remaining Rights

Article 504

Buyer who has forfeited the right to rescind the contract after becoming unable to return the item or restore it to the condition in which it was received shall retain the remaining rights conferred by law on account of the existence of a defect.

Effects of Rescission due to a Defect

Article 505

(1) Rescission of a contract due to a defect in the item shall have the same effects as rescission of bilateral contracts due to non-performance.

(2) Buyer shall owe to a seller compensation for benefits from the items even if the seller is unable to restore the entire items or the part of them, while the contract was, however, rescinded.

Price Reduction

Article 506

Price reduction shall be effected according to a ratio between the value of items without defects, and the value of the items with defects, at the time of entering into contract.

Gradual Discovery of Defects

Article 507

Buyer obtaining a reduced price due to the existence of a defect may rescind the contract or demand a new reduction in the price should another defect be discovered subsequently.

Forfeiture of Right

Article 508

(1) Rights of a buyer notifying a seller in due time of the existence of a defect shall be forfeited after the expiration of a year, counting from the day of communicating the notification to the seller, unless the buyer was prevented from using them because of seller's deceit.

(2) However, a buyer notifying the seller in due time of the existence of a defect may, after the expiration of that time limit, and if they have not yet paid the price, demand that the price be reduced or loss sustained by them compensated – in the form of a defence against seller's demand that the price be paid to them.

III WARRANTY FOR CORRECT FUNCTIONING OF THE ITEM SOLD

Responsibility of a Seller and a Manufacturer

Article 509

(1) Should a seller of a machine, engine, apparatus of any kind or of similar items of a category of so-called technical goods, hand to a buyer a written warranty from the manufacturer covering proper functioning of the item within a specified period, counting from the moment of its delivery to the buyer, the buyer may, should the item fail to function properly, demand both from the seller and the manufacturer that the item be repaired within a reasonable time limit or, short of this, that it be replaced with one functioning properly.

(2) These rules shall not affect the rules of liability of seller for deficiencies of the item.

(3) Warranty certificate should contain the rights stemming from the guarantee which belong to the buyer and clearly state that guarantee does not affect other rights which belong to the buyer on other legal grounds

(4) Warranty certificate must contain details needed by the buyer for realization of their rights, and in particular the period of validity of the guarantee and area of territory it covers, as well as the name or title and address of person issuing the guarantee.

Demanding Repair or Replacement

Article 510

(1) Because of improper functioning a buyer may demand from the seller or manufacturer, repair or replacement of the item during the warranty period, regardless of the moment the defect in functioning appears.
(2) Buyer shall be entitled to compensation of damages sustained as a result of being deprived of the use of the item from the moment of requesting repair or replacement until the repair or replacement is effected.

Extending Warranty Period

Article 511

(1) In the case of minor repairs, the warranty period shall be extended by the time the buyer was prevented from using the item.
(2) However, should due to improper functioning the item be replaced or thoroughly repaired, the warranty period shall begin to run anew from the day of replacement or restoring the repaired item.
(3) Should only a part of the item be replaced or thoroughly repaired, the warranty period shall begin to run anew only regarding such part.

Rescission of Contract and Reduction of Price

Article 512

Should a seller fail to repair or replace the item within a reasonable time limit, the buyer may rescind the contract or reduce the price and demand compensation of damages.

Expenses and Risk

Article 513

(1) Seller or manufacturer, shall transport at their expense the item to the place of repair or replacement, as well as deliver the repaired or replaced item to the buyer.
(2) Seller or manufacturer shall bear the risk of loss or damage of the item during the above-mentioned time.

Liability of Subcontractors

Article 514

Should several independent manufacturers participate in manufacturing some parts of the item or in executing individual processes, their liability to the finishing stage manufacturer for the improper functioning of the item, caused by these parts or these actions, shall be terminated after the termination of liability of the finishing stage manufacturer to the buyer of the item.

Forfeiture of Right

Article 515

Buyer's rights in relation to manufacturer on the ground of a written warranty shall be forfeited one year after the day of their demand that the seller effect repair or replacement of the item.

Section 3

LIABILITY FOR LEGAL DEFICIENCIES (PROTECTION FROM EVICTION)

Legal Deficiencies

Article 516

(1) Seller shall be liable should the object sold be subject to a third party's right excluding, reducing or restricting a buyer's right, whose existence was not communicated to the buyer, and the buyer did not accept the object subjected to such right.

(2) Seller of some other right shall guarantee its existence and lack of legal obstacles for its realization.

Notifying a Seller

Article 517

Should it turn out that a third party claims a right to an object, the buyer shall notify the seller accordingly, unless the fact be already known to the seller, and they shall demand that they release, in a reasonable time limit, the object from third party's right or claim or, should the subject of contract be item specified by kind, that they deliver to them another object free of legal deficiency.

Sanctions Relating to Legal Deficiencies

Article 518

(1) Should a seller fail to proceed according to buyer's demand and the buyer be deprived of the object, the contract shall be rescinded on the ground of law, and in case of reducing or restricting buyer's right, they may either rescind the contract or claim a proportionate price reduction.

(2) Should a seller fail to meet the request of the buyer to release, within a reasonable time limit, the object from a claim or right of a third party, the buyer may rescind the contract if the purpose of the contract cannot be achieved as a result.

(3) Buyer shall in any case be entitled to compensation of damages.

(4) However, should the buyer, at the moment of entering into contract, be aware of the possibility of being deprived of the object or of reduction or restricting of their right, they shall have no right to compensation of damages after such possibility is realized, but shall still be entitled to demand restoration or reduction of the price.

Failure of a Buyer to Notify a Seller

Article 519

Buyer who, while failing to notify a seller, engages in unsuccessful litigation against a third party, may still invoke seller's liability for legal deficiencies, unless the seller is able to prove that they were in possession of means by which third party's demand could have been refuted.

When Right of a Third Party is Obviously Justified

Article 520

(1) Buyer shall be entitled to invoke seller's liability for legal deficiencies even after, without notifying the seller and without litigation, acknowledging an obviously justified right of a third party.

(2) Should a buyer pay to the third party an amount of money to renounce their obvious right, the seller may be exempted from their liability after compensating the buyer the amount paid and the loss sustained.

Buyer Keeping an Object on Other Ground

Article 521

Buyer shall be entitled to rescind the contract and claim from the seller reimbursement of the price and compensation of damages if they retain the object in their property on a ground other than purchase.

Contractual Limiting or Excluding Seller's Liability

Article 522

(1) Liability of a seller for legal deficiencies may be limited or entirely excluded by contract.

(2) However, if the seller was aware of a deficiency in their right or if it could not have remained unknown to them at the time of entering into contract, the clause in the contract on limiting or excluding liability for legal deficiencies shall be null and void.

Restrictions Stemming from Public-Legal Nature

Article 523

Seller shall be liable for particular restrictions of a public-law nature which were unknown to the buyer if the seller knew of them or knew that they could be expected and failed to notify the buyer thereof.

Forfeiture of Right

Article 524

(1) Right of a buyer on the ground of legal deficiencies shall expire one year after they become aware of the existence of a third party's right.

(2) If a third party initiated a dispute before the expiration of that period, and the buyer invited the seller to intervene in the dispute, the buyer's right shall expire only after the expiration of six months after the dispute has been legally concluded.

SUBTITLE 4

OBLIGATIONS OF THE BUYER

Section 1

PAYMENT OF PRICE

Time and Place of Payment

Article 525

(1) Buyer shall pay the price at the time and in the place specified in the contract.

(2) Should there be no such clause in the contract or no other trade customs in the matter, the payment shall be done at the moment and in the place of delivery of the object.

(3) If the price does not have to be paid at the moment of delivery, the payment shall be made at the domicile or at the business address of the seller.

Interest in Case of a Credit Sale

Article 526

(1) Buyer shall owe the interest on purchase price from the day determined for payment.

(2) Should object sold on credit yield fruit or some other benefit, buyer shall owe interest from the date of delivery of an object, regardless of whether the liability for payment of purchase price has become due.

Payment of Price in Case of Consecutive Deliveries

Article 527

(1) In case of consecutive deliveries a buyer shall pay the price for each delivery at the moment of taking it over, unless something else be stipulated or result from circumstances of the transaction.

(2) When in case of a contract providing for consecutive deliveries the buyer has made an advance payment to the seller, first deliveries, unless something else is stipulated, shall be charged against such advance payment.

Section 2

TAKING OVER OF THE DELIVERY OF OBJECTS

Article 528

(1) Taking over of the delivery of goods shall consist of undertaking necessary action in order to make possible the handing over, including the carrying away of the goods.

(2) Should a buyer refuse without justified reason to take over the delivery of the goods whose delivery is offered to them in due time and as stipulated or to be done in a usual way, the seller may, after having a justified reason to doubt that the buyer will pay the price, declare their intention to rescind the contract.

SUBTITLE 5

DUTY TO TAKE CARE OF GOODS FOR THE ACCOUNT OF A CONTRACTING PARTNER

Cases of Duty of Taking Care

Article 529

(1) Should, due to a buyer's delay, the risk pass to the buyer prior to delivery of the item, the seller shall take care of the object as a good businessperson or good head of household, and take necessary measures to that purpose.

(2) Obligation to take care of items within the meaning of the paragraph 1 of the present Article shall apply to a buyer after the items have been delivered to them, but they intend to restore them back to the seller either due to the rescission of the contract or if they request that they are replaced by other items.

(3) In the cases referred to in paragraphs 1 and 2 of this Article, the contracting party required to take measures to preserve the goods shall be entitled to reimbursement of the expenses necessary for their preservation.

A Buyer Unwilling to Accept Goods Forwarded to Them

Article 530

Buyer unwilling to accept goods forwarded to them at the destination place and placed at their disposal at such place, shall take them for the account of the seller, should the latter be not present at the destination place or fail to have someone else at the place to take them for them, provided that this is possible without paying the price and without too much inconvenience of excessive costs.

Rights of a Party Obliged to Take Care of the Goods

Article 531

Contracting party obliged under provisions of Article 529 and 530 to take measures to care for the goods may, in conformity with the conditions and the consequences specified in the provisions of the present Law relating to depositing at the court and to sale of goods owed, deposit them at the court or hand them over to somebody else for custody or sell them for the account of the other party.

SUBTITLE 6

COMPENSATION OF DAMAGES IN THE EVENT OF RESCISSION OF SALE

General Rule

Article 532

Should a sale be rescinded due to breach of contract by one of the negotiating parties, the other party shall be entitled to compensation of damages according to the general rules of compensation of damages due to breach of contract.

Goods with a Current Price

Article 533

(1) After a sale is rescinded due to breach of contract by one of the negotiating parties, if the goods have a current price, the other party may demand the difference between the price determined by contract and the current price, on the day of rescission of contract, in the market of the place of effecting the transaction as well as redress of all reasonable costs incurred due to non-performance.

(2) Should there be no current price in the market of the place of effecting the transaction, in order to come to the amount of redress, a current price shall be taken into account existing in a market which could replace market of transaction in the given case, but increased by the difference in transportation costs.

Case of Sale or Purchase for Coverage

Article 534

(1) Should the subject of sale be a certain quantity of item specified in kind, and should one party fail to meet the obligation on time, the other party may sell for coverage or purchase with the same purpose, and may demand the difference between the price agreed by contract and the selling price or purchasing price obtained in the transaction for cover as well as redress of all reasonable expenses incurred through non-performance.

(2) Sale or purchase for cover must be done within a reasonable time and in a reasonable way.

(3) Creditor shall notify a debtor of the sale or purchase intended.

Compensation of Other Damages

Article 535

In addition to the right to compensation of damages according to the rules specified in Articles 533 and 534 of the present Law, a party faithful to the contract shall also be entitled to compensation of additional damages if sustained by such party.

SUBTITLE 7

CASES OF PARTICULAR DEAL SALE

Section 1

SALE WITH A RIGHT OF PRE-EMPTION

The Concept

Article 536

On the ground of a contractual clause giving the right of pre-emption, a buyer shall notify a seller of their intention to sell the object to a specific person, as well as on the terms of such sale, and offer them to purchase the object at the same prices.

Time Limits for Effecting a Right and for Payment of Price

Article 537

(1) Seller shall notify a buyer in a reliable way on their decision to use the right of pre-emption within a month, counting from the day of buyer's notification of intended sale to a third party.

(2) Simultaneously with stating that they are buying the object, the seller shall pay off the price agreed upon with the third party or deposit it at the court.

(3) Should a time limit for paying the price be stipulated, the seller may make use of such time limit only after providing a sufficient guarantee.

Possibility of Inheriting and Transferring to Another

Article 538

Right to pre-emption regarding movable property cannot be transferred to another or inherited, unless otherwise provided by law.

Case of Enforced Sale

Article 539

(1) In case of enforced sale a seller shall not invoke their right of pre-emption.

(2) But a seller having their right of pre-emption registered in the public records may demand annulment of an enforced sale if not being explicitly invited to attend.

Duration of the Right of Pre-Emption

Article 540

(1) Right of pre-emption shall be terminated five years after concluding of a contract, unless its earlier termination be stipulated.

(2) Longer time limit stipulated, shall be reduced to the five-year time limit.

Effecting Transfer of Ownership without Notifying a Seller

Article 541

(1) If a buyer has sold the object and transferred the ownership to a third person without notifying a seller, and if the third person was aware or could not have been unaware of the fact that the seller had the right of pre-emption, the seller may demand, within a six month time limit counting from the day of their becoming aware of such transfer, that the transfer be annulled and the object handed over to them under the same conditions.

(2) If the buyer has incorrectly notified the seller on terms and conditions of sale, and if the third party was aware of that or could not have been unaware, such six-month time limit shall begin to run from the day of the seller's becoming aware of the correct terms and conditions of the contract.
(3) Right of pre-emption shall be terminated in any case after the expiration of a five-year period counting from the transfer of ownership to the third person.

Statutory Right of Pre-Emption

Article 542

(1) Right of pre-emption may be established for particular persons by the law.
(2) Duration of statutory right of pre-emption shall not be limited.
(3) Persons entitled on the ground of statute itself to the right of pre-emption must be notified in writing of the sale intended and its relevant terms and conditions; otherwise, they shall be entitled to request annulment of the sale.
(4) Rules of sale with the right of pre-emption shall accordingly apply to statutory right of pre-emption.

Section 2

TRIAL PURCHASE

The Concept

Article 543

(1) Should it be stipulated that a buyer is taking the object on condition that it be tested as to being suitable to their needs, they shall notify the seller as to their honouring the contract within the time limit specified by contract or usage, and should there be no such designation or usage – within a reasonable time left to them by the seller; otherwise, the contract shall be considered renounced.
(2) If an object is handed over to the buyer to be tested by them until a designated time limit, and if they fail to restore it immediately after the expiration of such time limit or fails to state to the seller their renouncing of the contract, they shall be considered to have honoured the contract.

Objective Testing

Article 544

Should trial be stipulated in order to find out whether the object has a specific feature or whether it is suitable for particular use, the existence of a contract shall not be made dependent on the buyer's mind, but on the fact whether the object really has such features or whether it is suitable for particular use.

Risk

Article 545

Risk of accidental loss or damage (i.e. casualty to goods) of the object handed over to a buyer for testing shall be borne by the seller until the buyer states that they honour the contract or until the expiration of the time limit for the buyer to restore the object to the seller.

Purchase after Inspection or with a Reservation of Testing

Article 546

Provisions on trial purchase shall apply accordingly to a purchase after inspection and to purchase with a reservation of testing.

Section 3

SALE BY SAMPLE OR MODEL

Article 547

(1) In the case of a commercial sale by sample or model, where the item delivered by the seller does not conform to the sample or model, the seller shall be liable under the provisions governing liability for material defects in the item and, in other cases, under the provisions governing liability for non-performance of obligations.

(2) There shall be no liability of a seller for lack of conformity if the sample or model was submitted to the buyer only to obtain information and to determine approximately the features of object, without promising conformity.

Section 4

SALE WITH SPECIFICATION

Article 548

(1) Should a right be reserved for the buyer in the contract to determine subsequently the form, measurement or other details concerning the object of sale, and they fail to make this specification by the date agreed upon or until the expiration of a reasonable time limit, counting from the day of a corresponding demand by the seller, the seller may declare rescission of contract or make a specification according to what was known to them concerning the buyer's needs.

(2) Should the seller alone make the specification, they shall notify the buyer of its details and determine for them a reasonable time limit to make a different specification.

(3) Should the buyer fail to take this opportunity, the specification made by the seller shall be binding.

Section 5

SALE WITH RESERVING OF THE OWNERSHIP RIGHT

Conditions

Article 549

(1) Seller of a specific object of movable property may, through special clause in the contract, reserve the right of ownership even after delivering the object to the buyer – until the latter pays the price completely.

(2) Reserving the right of ownership shall affect buyer's creditors only after being made in the form of a certified document, prior to buyer's insolvency or prior to the seizure of their property.

(3) Right of ownership of articles of movable property which are filed in special public records may be reserved only if so provided by regulations covering the system of filing of such records.

Risk

Article 550

Risk of accidental loss or damage of the object shall be borne by the buyer from the moment the object has been handed over to them.

Section 6

SALE BY PAYMENT IN INSTALMENTS

The Concept

Article 551

(1) By a contract of sale of an Article of movable property by payment in instalments, a seller shall assume the obligation to deliver to a buyer the particular Article of movable property before the price is completely paid to them, while the buyer shall assume the obligation to pay its price in instalments, i.e. in designated time intervals.

(2) Provisions of the present section concerning the sale against payment by instalments shall apply only to an individual buyer.

Form of a Contract

Article 552

(1) Contract covering a sale by payment by instalments has to be made out in writing.

(2) Contract which is not made in written form shall be null and void.

Essential Constitutive Elements of Contract

Article 553

(1) In addition to the indication of object and its price in a cash sale, the following has to be noted down in the document witnessing the contract, under threat of nullity, namely: the total amount of all instalments, including the first payment made at the moment of entering into contract, amounts of particular instalments, their number and corresponding time limits.

(2) Document witnessing the contract shall, under penalty of nullity, contain a clause stating that the buyer may repudiate the contract by notifying the seller in writing within seven days of signing the document and that the buyer may not waive that right in advance.

Right of a Buyer to Pay the Price in Full at Once

Article 554

(1) Buyer may at any time pay the entire rest of the price owed.

(2) Such balance shall be paid in net amount, without interest stipulated and without cost.

(3) Clause contrary to the above shall be null and void.

Rescission of Contract and Demand for Full Payment of the Price

Article 555

(1) Seller may rescind the contract should the buyer delay with the initial instalment payment.

(2) After the initial instalment payment is effected, the seller may rescind the contract should the buyer become late with at least two consecutive instalment payments, which amounts to at least one eighth of the price.

(3) As an exception, the seller may rescind the contract should the buyer be late with the payment of only one instalment, if no more than four instalments have been provided for paying the price.

(4) In the cases referred to in paragraphs 2 and 3 of this Article, the seller may, instead of rescinding the contract, demand that the buyer pay the entire outstanding balance of the price, but shall first grant the buyer an additional period of 15 days.

Extending Payment Time Limits by the Court

Article 556

At the buyer's request, the court may, where justified by the circumstances, extend the periods for payment of overdue instalments if the buyer provides security that they will perform their obligations and the seller suffers no damage as a result.

Nullity of Stipulated Liquidated Damages

Article 557

Clause in the contract on liquidated damages in case of rescission of contract shall be null and void, as well as if the buyer is late in paying some of the instalment amounts.

Rescission of Contract

Article 558

(1) Should a contract be rescinded a seller shall restore to the buyer accepted instalment amounts, together with the statutory interest, from the day of their acceptance, and reimburse the necessary expenses of the buyer relating to the goods.

(2) Buyer, on their part, shall restitute the goods to the seller in the state they were in at the moment of delivery to them, and pay for their use until the rescission of contract.

Application of Rules of Sale against Payment by Instalments

Article 559

(1) Rules of sale against payment by instalments shall apply accordingly in case of other deals with similar essential contents, such as, the contract of hire with a clause according to which ownership of the object hired shall pass to the hirer after their completing payment of the rental fee for a definite period.

(2) These rules shall apply also in case of a loan extended to the buyer and intended for purchasing specific goods, should the lender and the seller come to an agreement that the buyer effects instalment payments for the goods sold to them by the seller, to the lender, according to a contract entered into between the buyer and the seller.

Nullity of Clauses not Favourable to Buyer

Article 560

Clauses of contract shall be null and void concerning a sale against payment by instalments which would be more disadvantageous for a buyer than the provisions of the present Title, except provisions on reserving the right of ownership.

Chapter VIII

EXCHANGE

The Concept

Article 561

(1) By a contract of exchange each contracting party shall assume a duty to the other contracting party to transfer the ownership of an object and to deliver it to them for that purpose.

(2) Subject of exchange may also be transferrable rights.

Effects of Contract of Exchange

Article 562

Contract of exchange shall give rise, for each contracting party, to the obligations and rights arising for the seller under a contract of sale.

Chapter IX

ORDER TO SELL

The Concept

Article 563

(1) By a contract of an order to sell a party accepting the order shall assume the obligation to sell specific item delivered to them by the orderer (principal) at a designated price and within a specified time limit or to restitute the goods to the orderer within such time limit.

(2) Order to sell may not be revoked.

Risk of Loss and Damage of the Object

Article 564

Objects delivered to a person accepting an order shall remain the orderer's property, and they shall bear the risk of their accidental loss or damage, but shall not be able to dispose of them until they are restored to them.

When Shall it Be Considered that a Person Accepting an Order Has Purchased the Item

Article 565

(1) Should a person accepting an order fail to sell the goods and to remit the specified price to the orderer within a designated time limit or to restitute the item within that time limit, they shall be considered to have purchased the item.

(2) However, their creditors shall not be able to seize the item until they have paid off the price to the orderer.

Chapter X

LOAN

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 566

By a loan contract the lender shall assume the obligation to transfer ownership to the borrower of a specific amount of money or other interchangeable item, while the borrower shall assume the obligation to restitute after a certain time to them the same amount of money or same quantity of item of the same kind and quality.

Interest

Article 567

(1) Borrower may assume an obligation to owe, in addition to the principal amount, interest as well.

(2) In the case of commercial law contracts, a borrower shall owe interest even if it has not been stipulated.

SUBTITLE 2

OBLIGATIONS OF A LENDER

Delivery of Items Promised

Article 568

(1) Lender shall deliver the designated items at the time stipulated, and should delivery time limit be not specified – at the time indicated in the demand of the borrower.

(2) Right of a borrower to demand delivery of the designated items shall expire due to statute of limitations within three months after the lender's being late with their duty and, in any event, one year after entering into contract.

Poor Material Situation of a Borrower

Article 569

(1) Should it turn out that the material situation of a borrower indicates his incapacity to repay the loan, the lender may refuse to perform his obligation of delivering the items promised, if he was not aware of the fact at the time of entering into contract or if the deterioration of borrower's material situation took place after entering into contract.

(2) Lender shall perform their obligation if the borrower or another person on the borrower's behalf provides sufficient security.

Damage Due to Defects of the Items Loaned

Article 570

(1) Lender shall compensate a borrower for loss which would be sustained by them due to substantive defects in the items lent.

(2) But should a loan be without consideration, they shall pay damages only after defects are known to them or if they could not be unknown to them, if they have failed to notify the borrower accordingly.

SUBTITLE 3

OBLIGATIONS OF A BORROWER

Time Limit for Restituting a Loan

Article 571

(1) Borrower shall restitute, within a stipulated time limit, the same quantity of items of the same kind and quality.

(2) Should negotiating parties fail to determine the time limit for restituting the loan or should it be impossible to determine it according to circumstances of the loan, the borrower shall restitute loan after the expiration of a reasonable time limit, not being shorter than two months, counting from the lender's demand that the loan be restituted to them.

Option at Restituting a Loan

Article 572

(1) Where the loan does not consist of money, but it is stipulated that the borrower shall repay the loan in money, the borrower may, at their option, return the borrowed items or pay an amount of money corresponding to the value of those items at the time and place stipulated for repayment.

(2) Provision referred to in paragraph 1 of the present Article shall apply should it be impossible to restitute the same quantity of items of the same kind and same quality.

Desisting from Contract

Article 573

Borrower may desist from a contract prior to the delivery of items to them by the lender, but should loss for the lender follow from that, they shall redress it.

Restituting a Loan before the Time Limit

Article 574

Borrower may restitute a loan even before the time limit determined for restituting, but shall notify the lender of their intention in advance, and redress loss suffered by them.

SUBTITLE 4

SPECIAL PURPOSE LOAN

Article 575

Should a purpose be determined by contract for which the borrower may use the money lent, if they use it for some other purpose, the lender may declare that they rescind the contract.

Chapter XI

GIFT

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 576

By a contract on gift the donor shall assume the obligation to transfer to the donee without consideration either ownership right or some other right or to grant them some other benefit at the charge of donor’s property.

Form

Article 577

(1) In order for a contract on gift of immovable property to be valid it shall be necessary that it is concluded in written form and certified in accordance with the legislation.

(2) Oral gift of movable items shall be valid if the items have been delivered to the donee.

(3) Should a donee fail to respond within determined time limit or time limit set out by law, either in writing or orally, to a written offer of a gift, that they decline such offer, it shall be deemed that they accepted the offer, except, should an offeror inform them that their silence shall be interpreted as refusal of offer.

(4) When a gift is made by a contract in favour of third party, acceptance by a donee need not be in written form.

Capacity to Grant Gifts

Article 578

(1) Gift may be granted only by person with full business capacity.

(2) Donor who, at the time of entry into contract, for any reason was not capable of understanding the meaning or scope of their actions, as well as their legal successors, may claim the avoidance of the contract on gift within one year from the date when the gift was made.

Capacity to Receive a Gift

Article 579

(1) Gift may be received by a person without business capacity.

(2) Legal representative of a donee without business capacity may rescind a gift received without their consent by declaration to a donor.

Gift Consisting in Periodical Prestations

Article 580

(1) Contract on gift whereby a donor assumed an obligation to periodical prestations shall terminate by death of a donee.

(2) In case of death of a donor the obligations stemming from such contract shall be transferred to their heirs, unless otherwise ensues from a contract.

SUBTITLE 2

ONEROUS GIFT OR GIFT ENCUMBERED WITH AN ORDER

Article 581

(1) By a contract on gift a donor may reserve for themselves or for another, certain right or order to a donee to perform certain action or to refrain from something or to tolerate something to another.

(2) Should a donee fail to comply with an order even within the subsequent appropriate time limit, donor shall be entitled rescind the contract and claim restitution by the donee of what was received, except if a third party has acquired a right to claim execution of an order.

(3) Heirs of a donor may rescind a contract on gift on the ground of failure to comply with an order only should it be stipulated by contract on gift.

(4) Upon death of a donor execution of an order may be claimed by their heirs, while in case of order related to public interest, execution of order may be claimed by relevant agency.
(5) Should means necessary for execution of an order exceed the value of a gift or should execution of order be hindered through any hardship whatsoever, a donee may be released from duty received by order through restitution of what was received.

Mutual Gifts

Article 582

Should it be agreed that the donee shall reciprocate by a gift, the donation shall be deemed to exist only with respect to such portion of gift which exceeds in value.

Mixed Gifts

Article 583

(1) Should the value of mutual prestations in an onerous transaction be unequal, the difference in value shall be deemed a gift only if the intention to make a gift existed.
(2) Such gift shall not be contested on the ground of excessive loss.

SUBTITLE 3

RESPONSIBILITY OF A DONOR

Responsibility for Non-performance or Delay

Article 584

(1) Donor shall be liable for non-performance of their obligation, as well as for delay with performance, only should they act intentionally or in gross negligence.
(2) In case of delay with performance of monetary gift, donor shall owe statutory interest from the moment of filing of the complaint.

Responsibility for Material and Legal Defects

Article 585

(1) Donor shall not be liable for material defects or legal deficiencies of donated item.
(2) Donee shall be entitled to claim compensation of damages sustained as a consequence of some of such defects of which donor was aware or could not have been unaware but failed to duly inform the donee thereon.
(3) Exceptionally the gift for services rendered as well as onerous gift or gift with an encumbrance of an order, shall in relation to such defects, be considered as an onerous transaction, and donor shall be liable for material defects and legal deficiencies of the donated item, but only should the value of services rendered or value of encumbrance or order exceed the value of the donated item.

SUBTITLE 4

REVOKING OF A GIFT

Revoking of a Gift due to Ingratitude

Article 586

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 4)

(1) Donor shall be entitled to rescind the contract or revoke a gift made should a donee by their behaviour towards the donor or towards person close to donor demonstrate grave ingratitude.

(2) Grave ingratitude shall exist in particular where the donee commits a criminal offence against the donor or a person close to the donor (spouse or same-sex life partner, parent or child), seriously violates a statutory obligation towards them or intentionally causes substantial damage to their property.

(3) Gift may not be revoked for ingratitude which was forgiven to a donee by the donor.

(4) Right to revoke a gift for ingratitude shall be transferred to heirs.

(5) Right of revoking shall terminate upon expiry of a period of one year computing from the date when the donor became aware of the ingratitude of the donee, but at latest upon expiry of ten years after the demonstration of ingratitude.

(6) Where a gift is revoked on grounds of ingratitude, the donee shall return everything received as a gift.

Form of Revoking

Article 587

Gift shall be revoked by a written declaration addressed to the donee, which in case of real estate must contain signature certified in accordance with legislation.

Termination of Right to Revoke a Gift

Article 588

Right to revoke a gift shall terminate by expiry of one year from the day when a person entitled to revocation has become aware of grounds for revocation, unless otherwise determined for specific cases by present or special law.

Effect of Revocation

Article 589

In case of revocation of a gift, the donee shall restitute the gift or its value according to the rules of the present Law on acquisition without proper grounds.

Revocation of Gift due to Insufficient Means of Sustenance

Article 590

(1) Donor who lacks sufficient means of subsistence or means to support a person whom they are required by law to support may rescind the contract and, where the item has already been delivered to the donee, may revoke the gift and request that the donee return what remains in the donee's assets from the gift received.

(2) Donee shall be entitled to avoid revoking should they assume an obligation to provide a donor to a certain extent with the lacking livelihood.

(3) Donor may not revoke a gift and claim its restitution if they themselves caused their poor economic situation by intentional or reckless behaviour or if a period of ten years expired from the time of delivery of a gift for immovable property or five years for movable items.

Waiving the Right to Revoke a Gift

Article 591

Waving the right to revoke a gift in advance shall not be legally valid.

Gifts which may not be Revoked

Article 592

Common presents for the occasion, gifts received as awards, as well as gifts made out of gratitude may not be revoked.

Agreed Restitution of a Gift

Article 593

Stipulated provision on restitution of gift to a donor shall be valid, should a donee die before donor.

SUBTITLE 5

DONATIO MORTIS CAUSA

Article 594

(1) Contract on gift providing that the item shall be delivered to a donee upon the death of the donor, must be created in the form of public document.

(2) Donor shall be entitled to rescind at their discretion a contract on donatio mortis causa, while the disposal of items covered by such contract, either by means of legal transaction inter vivos or legal transaction mortis causa, shall be considered as a rescission of contract in respect of item being disposed of.

Chapter XII

LEASE

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 595

(1) By a contract of lease a lessor shall assume the obligation to deliver a specific item to a lessee for use, while the latter shall assume the obligation to pay them in return a specified amount of rent.

(2) Use shall also include enjoying items (collecting yields), unless otherwise provided by contract or by trade usage.

Implementation of Special Legislation

Article 596

Provisions of the present Title shall not apply to leases regulated by special legislation.

SUBTITLE 2

OBLIGATIONS OF A LESSOR

Delivery of Items

Article 597

(1) Lessor shall deliver to the lessee the item rented in good condition together with its accessories.

(2) Item shall be considered as being in good condition if it is in the form determined by contract, and should there be no contract, in a condition suitable to serve the purpose for entering into the relevant contract.

Maintenance of the Item

Article 598

(1) Lessor shall maintain the item in good condition in course of the lease, which shall include a duty to make necessary repairs.

(2) They shall reimburse the lessee for expenses incurred by them for maintenance of the item, which would otherwise be at their own charge.

(3) Expenses for minor repairs incurred by regular use of the item, as well as those involved in the actual use, shall be borne by the lessee.

(4) Lessee shall notify the lessor of necessary repairs.

Rescission of Contract and Reducing Rent Because of Repair

Article 599

(1) Should necessary repairs of the item rented hinder its use to a considerable degree and for an extended time, the lessee may rescind the contract.

(2) They shall be entitled to a reduction of rent in proportion to the restriction of use of the item because of such repairs.

Alterations of Rented Item

Article 600

(1) Lessor shall not make alterations of the rented item in course of the lease without the lessee’s consent, should this hinder the use of the item.

(2) Should, through alterations of the item, its use by the lessee be reduced to a certain degree, the rent shall be reduced accordingly.

Liability for Substantive Defects

Article 601

(1) Lessor shall be liable to the lessee for all defects in the item rented which hinder its stipulated or regular use, regardless of whether they were aware of them or not, and for defects in the features or characteristics specified expressly or implicitly by contract.

(2) Defects of minor importance shall not be taken in consideration.

Defects not Included in Lessor's Liability

Article 602

(1) Lessor shall not be liable for those defects in the item rented which were known to the lease-holder at the moment of entering into contract or which could not have been unknown to them.

(2) However, the lessor shall be liable for defects in the item rented which remain unknown to the lessee due to their gross negligence, it they were aware of such defects and wilfully failed to notify the lessee thereof.

Extending Liability for Substantive Defects

Article 603

Lessor shall be liable for all defects in the item leased if they purported that it had no defects at all.

Exemption or Limitation of Liability by Contract

Article 604

(1) Liability for substantive defects in the item leased may be excluded or limited by contract.

(2) Contractual clause excluding or limiting such liability shall be null and void if the lessor was aware of defects and intentionally failed to notify the lessee thereof or if a defect was of such a nature as to prevent the use of the item leased or if the lessor has imposed such a clause while taking advantage of their monopoly position.

Notifying a Lessor of Defects and Dangers

Article 605

(1) Lessee shall notify a lessor without unnecessary delay on any defects in the item leased which appear during the lease, unless the lessor was aware of the defects.

(2) They shall also notify the lessor of any unexpected danger which threatens the item leased in the course of the lease, so that they can take necessary measures.

(3) Lessee failing to notify a lessor of a defect that has appeared or a danger that has arisen, which was otherwise unknown to the lessor, shall forfeit the right to compensation of damages eventually sustained due to the existence of the defect or the danger to the item leased, but shall be liable to compensate the loss sustained by the lessor as a result.

Rights of Lessee in Case of a Defective Item

Article 606

(1) If, at the moment of delivery, the leased item has a defect which cannot be eliminated, the lessee may, at their own choice, rescind the contract or demand a reduction of rent.

(2) Should the item have a defect which may be eliminated without too much inconvenience for the lessee, if delivery within a specific time limit be not an essential element of the contract, the lessee may demand that the lessor either eliminate the defect within a reasonable time limit or lower the rent.

(3) Should the lessor fail to eliminate the defect within a reasonable time limit determined subsequently by the lessee, the lessee may rescind the contract or demand reduction of the rent.

(4) Lessee shall in any case be entitled to compensation of damages.

Occurrence of a Defect in Course of Lease and in the Case of an Item without a Stipulated or Usual Feature

Article 607

Provisions of the Article 606 of the present Law shall also apply in the case of a defect in item occurring in the course of a lease and in case of item leased having no feature it should have according to contract or usage or in the case of such feature being lost in course of the lease.

Liability of a Lessor for Legal Defects

Article 608

(1) Should a third party claim to have a right regarding the item leased or a part of such right, and if such party addresses the lessee accordingly or if they arbitrarily deprive the lessee of the item, the latter shall notify the lessor thereof, unless they were already aware of the fact; otherwise, the lessee shall be liable for loss.

(2) Should it be established that a third party has a right which entirely excludes the lessee's right to use the item, the lease contract shall be rescinded on the ground of law, while the lessor shall redress the loss to the lessee.

(3) Should the third party's right only restrict the lessee's right, the latter may, at their own choice, rescind the contract or demand reduction of the rent and, in any case, request compensation of damages.

SUBTITLE 3

OBLIGATIONS OF A LESSEE

Use of Item According to Contract

Article 609

(1) Lessee shall use the item as a good businessperson or as a good head of household.

(2) Lessee may use it only in the way stipulated in the contract or in accordance with the purpose of the item.

(3) Lessee shall be liable for damage occurring in course of the use of the item contrary to contract or contrary to its purpose, regardless of who has been using the item, whether themselves or a person acting under their order, holder of a sub-lease or another person being put in a position to use the item by them.

Cancellation of Contract due to Use Contrary to Contract

Article 610

Should a lessee, even after the lessor's warning, continue to use the item contrary to contract or to its purpose or neglect its maintenance, causing danger of considerable loss to the lessor, the latter may cancel the contract without a period of notice.

Payment of Rent

Article 611

(1) Lessee shall pay the rent within time limits specified by contract or by law, and should there be no contract or law, in the way practiced in the place of delivery of the item to the leaseholder.

(2) Unless otherwise stipulated or practiced in the place of delivering the item, the rent shall be paid every six months in case of an item leased for one or several years, and should it be leased for a shorter period – after the expiration of that period.

Cancellation Because of an Unpaid Rent

Article 612

(1) Lessor may cancel the contract of lease if a lessee fails to pay the rent even in the fifteen-day time limit after lessor's demanding the payment from them.

(2) But the contract shall remain valid should the lessee pay off the amount of the rent owed before being notified on the cancellation.

Restoring a Leased Item

Article 613

(1) Lessee shall take care of the item leased and shall restore it undamaged after the termination of the lease.

(2) Item shall be restored in the place of its delivery to the lessee.

(3) Lessee shall not be liable for wear and tear of the item resulting from its regular use or for damage due to wear and tear.

(4) After effecting alterations to the item in course of the lease, the lessee shall be liable to restitute it to the state it was in when delivered to them for lease.

(5) They may take away additions to the item realized by them, should it be possible to detach them from the item without damaging it, but the lessor may keep them after reimbursing the lessee for their value at the time of restitution.

SUBTITLE 4

SUBLEASE

When Item May Be Subleased

Article 614

(1) Unless otherwise stipulated, a lessee may lease the item leased to another (sublease) or they may give it to the use of another on some other ground, but only after making sure that this shall cause no loss to the lessor.

(2) Lessee shall guarantee to the lessor that the sub-lessee shall use the item according to the lease contract.

When Lessor May Decline Permission

Article 615

Should permission by the lessor be necessary to sublease a leased item, the latter may decline it only on justified grounds.

Cancellation Due to Grant of a Sublease without Permission

Article 616

Lessor may cancel the lease contract should the item leased be subleased without their permission, if such permission was required according to law or the contract.

Direct Demand by a Lessor

Article 617

In order to collect payment of their claims from the lessee on the ground of a lease, a lessor may directly demand from the sub-lessee the payment of the amount due by the latter to the lessee by the sublease.

Termination of Sublease on the Ground of Law

Article 618

Sublease shall be terminated in any event after the termination of the head-lease.

SUBTITLE 5

ALIENATION OF THE OBJECT LEASED

Alienation after Delivering for Lease

Article 619

(1) In case of alienation of an item previously delivered in lease to another, an acquirer of the item shall take the place of the lessor, so that subsequently the rights and duties out of the lease shall take place between them and the lessee.

(2) Acquirer shall not demand that the lessee deliver to them the item prior to the expiration of the leasing time, and should that time be not determined by contract or by law, then, prior to the expiration of the period of notice.

(3) Transferor shall be liable as a solidary guarantor for the acquirer's obligations to the lessee under the lease.

Right to Rent

Article 620

(1) Unless otherwise stipulated, acquirer of the item leased shall be entitled to the rent beginning from the first following time limit after the acquisition of item, and the person effecting transfer receiving such rent in advance shall assign it to them.

(2) From the moment of notification of alienation of the item leased, the lessee may pay the rent only to the acquirer.

Alienation of the Item Leased Prior to Delivery to the Lessee

Article 621

(1) Should an item in relation to which a lease contract was concluded be delivered to an acquirer and not to a lessee, the acquirer shall take the place of the lessor, assuming their obligations to the lease-holder, if they were aware, at the moment of entering into contract of alienation of the existence of the lease contract.

(2) Acquirer who, at the time of entering into the contract of alienation, was not aware of the existence of the lease contract shall not be obliged to deliver the item to the lessee, while the lessee may claim only compensation of damages from the lessor.

(3) Transferor shall be liable as a solidary guarantor for the acquirer's obligations to the lessee under the lease.

Cancellation of Contract Because of Alienation of Item

Article 622

Where, due to alienation of the leased item, the rights and obligations of the lessor pass to the acquirer, the lessee may terminate the contract in any event, subject to the statutory notice periods.

SUBTITLE 6

TERMINATION OF LEASE

Expiration of Time Specified

Article 623

Lease contract entered into for a definite period shall be terminated by the expiration of the time covered by the contract or specified by law.

Implicit Renewal of Lease

Article 624

(1) Should after the expiration of time covered by contract of lease, the lessee continue to use the item without the lessor's objection, a new lease contract shall be considered to have been concluded for an indefinite period, and under the same terms and conditions as the previous one.

(2) Performance pledges of third persons for the first lease shall be terminated after the expiration of that lease period.

Termination by Notice

Article 625

(1) Lease contract whose duration period is not determined or which can not be determined on the ground of circumstances of the case or of local trade practice, shall be terminated by notice, which may be given by each party, while honouring an agreed period of notice.

(2) Should the extent of the period of notice not be determined either by contract or by law or by local trade practice, it shall amount to eight days, provided the notice shall not be given at a bad time.

(3) Should the leased item be dangerous to health, the lessee may cancel the contract without extending the period of notice, even if they were aware of the fact at the moment of entering into contract.

(4) Lessee may not renounce their right specified in paragraph 3 of the present Article.

Loss of Item due to Force Majeure

Article 626

(1) Lease shall be terminated should the item leased be lost accidentally due to Force Majeure.

(2) Should the item leased be partially destroyed or only damaged, the lessee may either repudiate the contract or uphold the lease and demand an adequate reduction of rent.

Death

Article 627

In the case of death of a lessee or a lessor, the lease shall be continued by their successors, unless otherwise provided by contract.

Chapter XIII

LEASE OF AN APARTMENT

The Concept

Article 628

By lease of an apartment the lessor shall assume an obligation to grant the apartment to a lessee for use, while the lessee shall assume an obligation to pay them a specified amount of rent in consideration thereof.

Form of a Contract

Article 629

(1) Contract on lease of an apartment shall be concluded in written form and certified in accordance with legislation.

(2) Contract on lease concluded contrary to the paragraph 1 of the present Article shall be null and void.

(3) Mutual relations regarding management of the building shall also be regulated by contract on lease of the apartment.

Application of General Rules on Lease

Article 630

Provisions of the present Law regulating the contract on lease shall apply accordingly to relations arising on the ground of lease of apartment.

Cancellation of Contract due to Failure to Pay Rent

Article 631

(1) Lessor may cancel contract on lease of an apartment without giving notice should the lessee fail to pay rent within two consecutive time limits.

(2) Exceptionally, the lease contract shall remain in effect should the lessee pay the amount of rent due, prior to receiving the notice or should they at such time have claims against lessor meeting the conditions for set off.

Cancellation of Contract due to Grant of a Sublease without Permission

Article 632

Lessor may cancel the lease contract without notice should an apartment be sub-leased without their permission.

Contract termination

Article 633

Contract on lease of apartment shall terminate:

1) by mutual agreement;
2) by expiry of period for which it was concluded;
3) by destruction of an apartment;
4) should the building or part of the building be pulled down on the ground of valid ruling of a competent agency;
5) should, in accordance with the regulations, the purpose of the building or apartment be altered;
6) by notice of termination;
7) in other cases established by law.

Termination by Notice

Article 634

(1) Contract on lease of apartment the duration of which was not defined or definable, shall terminate by notice given by any of the parties to another, honouring the determined period of notice.

(2) Should the duration of period of notice not be stipulated by contract, it shall amount to three months.

Lease from Successors

Article 635

(1) In case of death of lessor or lessee, the lease shall be continued with their successors, unless otherwise stipulated by contract.

(2) In case of death of a lessee, their successors shall be entitled to, prior to expiry of the stipulated period of lease, terminate the contract within six months from their death, taking account of period of notice.

Occupying without Legal Ground

Article 636

(1) Should a person occupy separate or common parts of residential building without legal grounds or should such grounds terminate, any person having legal interest shall be entitled to claim from the bodies of local administration such person's eviction.

(2) Eviction shall be effected under emergency procedure.

Chapter XIV

LEASE OF BUSINESS PREMISES

SUBTITLE 1

Notion and Contents

Article 637

By a contract of lease of business premises a lessor shall assume the obligation to deliver specified business premises to a lessee for use, while the latter shall assume the obligation to pay them in return a specified amount of rent.

Application of General Rules on Lease

Article 638

General provisions on contract on lease set out by present Law shall be applied accordingly to relations arising on the ground of the lease of business premises.

SUBTITLE 2

ESTABLISHING THE LEASE

Form of a Contract

Article 639

(1) Contract on lease of business premises must be concluded in written form and certified by competent body.

(2) Contract on lease concluded contrary to the paragraph 1 of the present Article shall be null and void.

Right of Priority

Article 640

Where two or more lessees separately conclude contracts for the lease of the same business premises, the lessee who concluded the contract first shall have the right to lease the premises.

SUBTITLE 3

RIGHTS AND OBLIGATIONS OF CONTRACTING PARTIES

Rights of a Lessee

Article 641

(1) Should a lessor fail to deliver to lessee business premises in condition determined by contract or present Law, lessee shall be entitled to rescind the contract on lease or claim proportionate reduction of rent or bring business premises into required condition by themselves at the expense of lessor, should lessor fail to do it after lessee invited them to do so and left them an appropriate period of time.

(2) In case referred to in paragraph 1 of the present Article, lessee shall be entitled to compensation of damages.

(3) It shall be deemed that an appropriate period is a period of time during which specific works may be executed taking into account preparatory works, location and circumstances in which works have to be carried out.

Repair of Business Premises

Article 642

(1) Where, during the lease of business premises, repairs at the lessor's expense become necessary to maintain the premises in the condition in which the lessor is required to keep them, the lessee shall notify the lessor thereof in writing without delay and allow an appropriate period for the repairs.

(2) Should the lessor fail to carry out the required repairs within an appropriate period, the lessee shall be entitled to carry out the repairs at the lessor's expense or rescind the lease contract.

(3) Should a lessee execute repairs themselves without previously informing a lessor in written on the need for repairs, leaving them an appropriate period of time for such purpose, they shall be liable towards lessor for damage sustained by the latter due to such omission, except in case of urgent repairs.

Rent during Repair

Article 643

(1) During repairs carried out at the expense of the lessor in order to maintain the business premises in the condition in which the lessor is obliged to maintain them, and because of which the lessee was unable to use the business premises, the lessee shall not be obliged to pay rent.

(2) Should in case referred to in paragraph 1 of the present Article exercising of business activity be only partially limited, lessee shall pay proportionate amount of rent.

(3) Provisions of paragraphs 1 and 2 of this Article shall not apply to cases of insignificant interference.

(4) In the cases referred to in paragraphs 1 and 2 of this Article, the lessee shall be entitled to compensation of damages.

Works of a Lessor

Article 644

(1) During period of lease a lessor shall be entitled to execute works for the purpose of arranging of space or with an aim of reducing expenses of respective energy consumption or for maintenance.

(2) Lessor shall notify a lessee in writing three months prior to commencing of the works on the kind, time of commencement and scope of works, duration of works and on subsequent amount of rent.

(3) Lessee shall be entitled to rescind the contract on lease within two months from the date of receipt of notification referred to in paragraph 2 of the present Article, by sending notification to the lessor thereon within same time limit.

(4) In case of abuse of the right referred to in paragraph 1 of the present Article, lessor shall be liable towards lessee for sustained loss.

Special Rights of Lessee

Article 645

(1) Should the lessee, due to the works referred to in Article 644 of the present Law, decide not to rescind the lease contract, they shall pay the amount of rent payable during the repair of the business premises, while the lessor shall not be entitled to compensation of damages for loss of profit.

(2) Lessee shall be entitled to redress of loss of profit should the lessor fail to complete the works within predefined time limit as set out by Article 644 of the present Law, unless works were not completed due to circumstances which are not within lessor's responsibility.

Substantial Reconstruction

Article 646

(1) Lessee shall not, without consent of a lessor, execute reconstructions of business premises, which would substantially alter construction, spacing, area, purpose or external features of business premises.

(2) It shall be deemed that the lessor has extended their consent for reconstructions from paragraph 1 of the present Article if, after being notified in writing of the intention to execute such works, they fail to object to it in writing within 30 days from the date of receipt of notification.

(3) Should lessee carry out reconstructions or continue execution of works, without consent of a lessor or despite their opposition, lessor shall be entitled to rescind the contract.

(4) In case referred to in paragraph 3 of the present Article, lessor shall be entitled to compensation of damages.

Compensation for Expenses for Common Facilities

Article 647

(1) Lessee shall pay compensation of expenses for use of common facilities and provision of common services in the building where business premises are located, when due, unless otherwise stipulated by contract.

(2) It shall be deemed that the compensation for expenses referred to in paragraph 1 of the present Article is not included in the amount of rent, unless it is explicitly stipulated so by contract.

Expenses for current Maintenance

Article 648

(1) Lessee shall bear costs for current maintenance of business premises, unless otherwise stipulated by contract.

(2) Cleaning, painting of walls, minor repairs on installations and the like shall be deemed current maintenance.

(3) Lessee shall, at their own expense, repair any damage to the business premises caused by the lessee or by persons using the lessee's business premises.

(4) Lessee shall not be liable for deterioration of condition of business premises, facilities and equipment, due to regular wear and tear.

Sub-lease

Article 649

(1) Lessee shall not be entitled to sublease business premises or part of business premises, unless otherwise stipulated by contract.

(2) Provisions of the present Law relating to lease of business premises shall apply accordingly to contract on sub-lease of business premises.

Built-in Facilities

Article 650

Lessee shall be entitled to bring along facilities which they built in the business premises, should that not cause damage to business premises.

SUBTITLE 4

TERMINATION OF LEASE CONCLUDED FOR AN INDEFINITE PERIOD OF TIME

Termination by Notice

Article 651

Contract on lease of business premises concluded for an indefinite period of time shall not terminate by notice prior to expiry of six months from the date of concluding of the contract, unless otherwise stipulated.

Period of Notice

Article 652

(1) Contract on lease of business premises concluded for an indefinite period of time shall terminate by notice on the day of expiry of period of notice stipulated by contract.

(2) Period of notice shall be the time between the day of delivery of notice on termination to other party and the day of termination of lease.

(3) Should the period of notice not be stipulated by contract, it shall amount to three months.

(4) Should a contract not provide otherwise, notice may be given only on first or fifteenth day of the month.

Form of Notice

Article 653

Contract on lease concluded for an indefinite period of time shall be terminated by written notice delivered either by registered mail or personally.

Termination of Contract by Notice by Lessor

Article 654

Lessor shall be entitled to terminate contract on lease by notice at any time, regardless of contractual stipulations or provisions of the law on duration of lease, if:

1) the lessee, even after receiving a written warning from the lessor, uses the business premises contrary to the contract or causes substantial damage to them by using them without due care;
2) lessee fails to pay rent due within fifteen days from date of delivery of written warning by the lessor;
3) it becomes impossible for a lessor, due to reasons for which they are not responsible, to use business premises in which they exercised their own business activity, wherefore they intend to continue using premises held by the lessee.

Termination of Contract by Notice by Lessee

Article 655

Lessee shall be entitled to terminate a contract on lease of business premises by notice at any time, regardless of contractual stipulations or provisions of the law on duration of lease, should the lessor fail to bring business premises in condition in which lessor was under a duty to deliver them or to maintain them, although allowed appropriate period of time to such purpose by the lessee.

Chapter XV

LOAN FOR USE

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 656

By a contract on loan for use the lender shall assume the obligation to deliver specified item to a borrower to use it without consideration for a certain period of time, while the borrower shall assume the obligation to restore the same item undamaged.

Duration of a Loan for Use

Article 657

(1) Where the duration of a loan for use is not determined by contract and the item was delivered for use for a specified purpose, the loan for use shall be deemed to have been agreed for the period normally required to achieve that purpose.

(2) Should a duration of a loan for use be neither defined nor definable, a contract on loan for use shall terminate at such time when the lender requests that the item is restored to them.

Death of Borrower or Lender

Article 658

(1) After the death of the borrower or lender under loan for use, the obligations arising from a contract on loan for use shall pass to their heirs.

(2) Should a contract be concluded considering a fact that a particular person is a borrower, it shall terminate on death of such person.

SUBTITLE 2

OBLIGATIONS OF A LENDER OF ITEM FOR USE

Delivery of Items

Article 659

Lender of an item for use shall deliver an item to a borrower at a specified time.

Liability for Damages from Material Defects

Article 660

(1) Lender of an item for use shall inform the holder on material defects of an item, of which they were aware or could not have been unaware or shall otherwise be liable for damages sustained by the borrower due to such defects.

(2) Provision referred to in paragraph 1 of the present Article shall not apply, should a defect be known by a borrower or if it could not have been unknown to them.

SUBTITLE 3

OBLIGATIONS OF A BORROWER OF OBJECT FOR USE

Care and Use of Item

Article 661

(1) Party borrowing an item for use shall keep and use an item with the diligence of a good head of a household or a good businessperson.

(2) Borrower of an item for use may use an item only as stipulated by contract, and in case if nothing is stipulated in that regard, then in accordance with the nature and purpose of the item attributed to it by a lender or shall otherwise be liable for occasioned accidental perishing or damage of an item.

(3) Borrower of an item for use shall not be liable for usual wear and tear of an item, which results from its permitted use.

Expenses Related to Item

Article 662

(1) Borrower of an item for use shall bear expenses related to regular maintenance, keeping and use of the item.

(2) Other expenses shall be covered according to the provisions on management of another’s affairs.

Rescuing from Danger

Article 663

In case of danger, which simultaneously threatens both items borrowed for use and their own assets, a borrower shall first attend to rescuing of borrowed items or shall otherwise be liable for its perishing or damage.

Rescinding of a Contract Due to Breach of Obligation

Article 664

Should a borrower of an item for use fail to properly keep or maintain an item or fail to use it as stipulated by contract or in the manner corresponding to nature or purpose of an item or should they hand it over to another for use without obtaining consent, a lender shall be entitled to rescind a contract and claim an item to be restored to them immediately.

Restoring of Item

Article 665

(1) Upon termination of loan of for use, borrower shall restore borrowed item undamaged.

(2) Should a borrower have handed an item over for use to a third party, a lender shall be entitled to claim an item to be restored directly from such third party.

Restoring of Item Prior to Expiry of Time Limit

Article 666

(1) Lender shall accept the lent item back even prior to the expiry of the time limit stipulated for the loan for use, except where the time limit for return was stipulated in the interest of both contracting parties and, in general, where return of the item prior to the expiry of that time limit would cause any inconvenience to the lender.

(2) Lender of item for use shall be entitled to claim an item to be restored to them ahead of time, should it unexpectedly become urgently necessary to them.

SUBTITLE 4

RISK OF ACCIDENTAL PERISHING

Article 667

(1) Risk of accidental perish or damaging of item shall be borne by lender of an item for use.

(2) Should a borrower of an item use such item contrary to a contract or its nature or purpose or hand it over to a third party for use, they shall be liable for perishing or damage to the item occasioned by operation of force majeure.

(3) Should, while staying with the party who borrowed it for use, an item be lost and if borrower has compensated its value, they shall not be entitled, should an item be found, to keep it should a party who lent it for use be prepared to restitute what was received in exchange for item.

Expiry of Mutual Claims due to Statute of Limitations

Article 668

Claims of the lender for compensation of damages resulting from alteration or deterioration of the item, as well as claims of the borrower for reimbursement of expenses and compensation of damages arising from defects in the item, shall become time-barred six months after the date on which the item was returned.

Chapter XVI

CONTRACT FOR THE SUPPLY OF SERVICES

SUBTITLE 1

General provisions

The Concept

Article 669

By a contract for the supply of services the person working (contractor) shall assume the obligation to perform a particular job (manufacturing or repair of certain item or execution of certain physical or intellectual work and similar), while the purchaser of the services shall assume the obligation to pay them monetary consideration in return.

Relationship to a Contract of Sale

Article 670

(1) Contract by which one party assumes an obligation to manufacture a specific item from their own material shall be considered, in case of doubt, as a contract of sale.

(2) Contract shall remain a contract for the supply of services where the purchaser has undertaken to provide an essential part of the material required to make the item.

(3) Contract shall be deemed a contract for the supply of services where the contracting parties had primarily the work of the supplier in mind.

Quality of Supplier's Material

Article 671

(1) Should it be stipulated that the supplier manufacture the item from their own material, and the quality is not determined, the supplier shall provide material of an average quality.

(2) They shall be liable to the purchaser for the quality of the material used in the way the seller is.

SUBTITLE 2

Supervision

Article 672

Purchaser shall be entitled to effect supervision over the performance of the job and to give instructions when appropriate as to the nature of the job, while the supplier shall make that possible to them.

SUBTITLE 3

CONCLUDING A CONTRACT BY BIDDING

Invitation to Bid for the Price of Works

Article 673

(1) Invitation addressed to a specified or unspecified number of persons to compete for the performance of specific works, under specified terms and conditions, and with specific guarantees, shall bind the inviter to make a contract for such works with the

one offering the lowest price, unless such obligation was excluded in the invitation to tender.

(2) In the case of excluding the obligation to make a contract, the invitation to tender shall be considered as an invitation to interested parties to submit their own offers of contract under terms and conditions published.

Invitation to Tender for Artistic or Technical Proposals of Works Intended

Article 674

Invitation addressed to a specified or unspecified number of persons to tender for an artistic or technical proposal of intended works shall bind the inviter to make, under the terms in the invitation to tender, a contract with the participant in the tender whose proposal is accepted by a commission, the composition of which was disclosed in advance, unless such obligation was excluded in the invitation to tender.

SUBTITLE 4

OBLIGATIONS OF A SUPPLIER

Defective Material

Article 675

(1) Supplier shall draw the purchaser's attention to defects in the material delivered to them by the purchaser which were noticed or should have been noticed by them; otherwise, they shall be liable for damages.

(2) Should the purchaser demand that the item be manufactured from the material whose defects were indicated to them by the supplier, the supplier shall act according to their demand, unless it becomes obvious that the material is not suitable for the work ordered or that manufacturing from the requested material would harm the reputation of the supplier, in which case they may rescind the contract.

(3) Supplier shall warn the purchaser about defects in their order, and about other circumstances they are aware of or should have been aware of, which may be of importance for the work ordered or for its performance on time, otherwise they shall be liable for damages.

Obligation to Execute the Work

Article 676

(1) Supplier shall carry out the work as stipulated and under the rules of the corresponding line of business.

(2) Supplier shall execute it in the time specified and should such time be not specified, in the time reasonably necessary for such kind of work.

(3) Supplier shall not be liable for delay caused by the purchaser's failure to deliver the material to them on time, the purchaser's demand for alterations or by the purchaser's failure to pay to them the advance due and, in general, for delay caused by the conduct of the purchaser.

Rescinding a Contract due to Breach of Terms Stipulated

Article 677

(1) Should it become apparent in the course of performing the work that the supplier is not complying with the terms of the contract or is not working properly, so that the

completed work will be defective, the purchaser may warn the supplier and give them an appropriate period within which to bring their work into conformity with their obligations.

(2) Should the supplier fail to act according to the purchaser's demand within the above time limit, the purchaser may rescind the contract and claim compensation of damages.

Repudiation of Contract prior to Expiration of the Time Limit

Article 678

(1) Should the time limit be an essential constituent element of the contract, and supplier's delay in commencing or completing the job indicates without doubt that they will not complete it within the time limit; the purchaser may rescind the contract and claim compensation of damages.

(2) They shall also have the right to rescind the contract should the time limit not be an essential constituent element of contract, if due to such delay the purchaser would obviously have no interest in fulfilling the contract.

Entrusting Performance of Job to a Third Party

Article 679

(1) Unless otherwise resulting from the contract or the nature of the job, the supplier shall not be obliged to perform the job personally.

(2) Supplier shall still be responsible to the purchaser for the execution of the work, even without performing it personally.

Liability for Associates

Article 680

Supplier shall be liable for persons taking part in the performance of work under their order, as if they themselves had performed the job assumed.

Direct Claim by Supplier's Associates against the Purchaser

Article 681

Supplier's associates may address the purchaser directly for payment of their claims against the former, and demand from the latter such payment at the charge of the amount due at the moment to the supplier, should such claims be recognized.

Delivery of a Manufactured Item to the Purchaser

Article 682

(1) Supplier shall deliver to the purchaser the item manufactured or repaired.

(2) Supplier shall be discharged from this obligation should the item manufactured be lost for reasons for which they are not to blame.

SUBTITLE 5

LIABILITY FOR DEFECTS

Inspection of the Work Executed and Notifying the Supplier

Article 683

(1) Purchaser shall inspect the work done, as soon as this became possible in the regular course of events, and notify the supplier without delay about defects found.
(2) Should the purchaser, after being invited by the operator to inspect and accept the work executed, fail to act accordingly without justified ground, the work shall be considered as accepted.
(3) After the inspection and acceptance of the work performed, the supplier shall not be liable for defects, which could have been noticed by usual inspection, unless they were aware of them, and did not notify the purchaser.

Hidden Defects

Article 684

(1) Should a defect arise at a later point of time which could not have been discovered by usual inspection, the purchaser shall still be entitled to claim it, but only if they immediately notify the supplier thereof or within one month after such discovery at the latest.
(2) Purchaser shall not be entitled to claim further defects two years after accepting the work performed.

Termination of Rights

Article 685

(1) Purchaser notifying the supplier of defects in the work performed on time may not enforce their right at court after the expiration of one year from the notification.
(2) After the expiry of the period referred to in paragraph 1 of this Article, where the purchaser notified the supplier of the defects in due time, the purchaser may invoke, as a defence against the supplier's claim for payment of remuneration, the right to a reduction of remuneration and to compensation of damages.

Forfeiting of Right to Invoke the Preceding Articles

Article 686

Supplier may not refer to provision of Articles 683 to 685 of the present Law should a defect relate to facts which were known to them or could have been known, and which were not communicated by them to the purchaser.

Right to Demand Elimination of Defects

Article 687

(1) Purchaser who duly informs the supplier that the work performed is in some respect defective, shall be entitled to demand the elimination of the defect, and to determine corresponding and reasonable time limit.
(2) Purchaser shall also be entitled to compensation of damages sustained as a result of the defects.
(3) Should elimination of the deficiency involve excessive expenses, the supplier may refuse to carry it out, but in such a case the purchaser shall be entitled to choose between reducing the payment due or rescission of the contract, including compensation of damages.

Rescission of Contract in a Particular Case

Article 688

Should a job executed be defective to such an extent as to become useless or should it be executed contrary to express terms and conditions of the contract, the purchaser may, without demanding preliminary elimination of the deficiency, rescind the contract and claim compensation of damages.

Right of Purchaser in Case of Other Defects of the Work Executed

Article 689

(1) Should the work executed have a defect not making the creation useless or if the work was not performed contrary to the express terms and conditions of the contract, the purchaser shall permit the supplier to eliminate the defect.

(2) Purchaser may give the supplier a reasonable time limit for the elimination of the defect.

(3) Should the supplier fail to eliminate the defect by the expiration of such time limit, the purchaser may, at their own choice, eliminate the deficiency at the expense of the supplier or reduce the payment due for the work done or rescind the contract.

(4) In case of a minor defect, the purchaser shall not make use of their right to rescind the contract.

(5) Purchaser shall in any case be entitled to claim compensation of damages.

Reducing Payment for the Work Done

Article 690

Reducing the payment for the work done shall be effected proportionally to the value of the work done without a defect at the time of entering into contract, and the value which the work had with the defect at the time.

SUBTITLE 6

OBLIGATIONS OF A PURCHASER

Obligation to Accept the Job Done

Article 691

Purchaser shall accept the work done according to the terms and conditions of the contract and to the rules of the line of corresponding business.

Agreement and Payment for the Work Done

Article 692

(1) Payment for the work done shall be agreed by contract, unless it is determined by a binding tariff or some other mandatory act.

(2) In case of payment not being agreed, it shall be specified by the court according to the time normally needed for such kind of work, and according to usual payment for such kind of work.

(3) Purchaser shall not be obliged to pay the consideration prior to inspecting and approving the work performed, unless otherwise stipulated.

(4) Specifying and payment of the fee in a manner set out by paragraphs 1, 2 and 3 of the present Article shall apply if the supply of goods and services has to be effected, according to contract, in parts.

Estimate with an Express Guarantee

Article 693

(1) Should remuneration be stipulated on the ground of an estimate backed by an express guarantee of the supplier regarding its accuracy, they shall not claim increased remuneration even after investing more labour in the job and after performing it with expenses higher than foreseen, whereby the application of rules on rescission and modification of contract due to changed circumstances (hardship) shall not be excluded.

(2) Should remuneration be stipulated on the ground of an estimate without express guarantee by the supplier regarding its accuracy, and should it turn out that, in the course of work, an overstepping of the estimate becomes inevitable, the operator shall notify the purchaser immediately thereof, otherwise they shall lose every claim concerning the increased expenses.

SUBTITLE 7

RISK

In the Case of Supplier Supplying Material

Article 694

(1) Should a supplier supply the material for manufacturing the goods, and the items became damaged or lost, regardless of cause, prior to being delivered to the purchaser, the risk shall be borne by the supplier, so that they shall not be entitled to remuneration for the material supplied, nor to remuneration for their work.

(2) After the purchaser has inspected the work performed and has approved it, the items shall be considered as delivered to them, and that they remain with the supplier to be looked after by them.

(3) Should the purchaser be late in accepting the items offered to them, the risk of accidental loss of the goods or of their damage shall pass to them.

In the Case of a Purchaser Supplying Material

Article 695

(1) Risk of accidental loss of items or of their damaging shall be borne by the purchaser should they supply the material for the manufacture.

(2) In case referred to in paragraph 1 of the present Article, the supplier shall be entitled to remuneration for the job only if the items are lost or damaged after the purchaser delayed their obligation or if the purchaser fails to answer their invitation to inspect the items.

Risk in Case of Delivery in Parts

Article 696

Should it be stipulated that the purchaser inspect and accept the delivery of individual parts in the course of their manufacture, the supplier shall be entitled to remuneration covering the manufacture of those parts inspected and approved by the purchaser, even if they subsequently perish at the supplier's place without their fault.

SUBTITLE 8

Right of Lien

Article 697

To secure payment of claims for remuneration for work and reimbursement of the cost of materials used, as well as other claims arising from a contract for the supply of services, the supplier shall have a right of pledge over the items made or repaired and other items handed over to them by the purchaser in connection with the work, for as long as the supplier possesses them and does not voluntarily relinquish possession.

SUBTITLE 9

TERMINATION OF CONTRACT

Breach of Contract by Purchaser's Intent

Article 698

Before the work ordered is completed, the purchaser may rescind the contract whenever they want, but in such a case they shall pay to the supplier the remuneration stipulated, reduced by the amount of costs not incurred by the latter which would otherwise be at their charge were the contract not rescinded, together with the amount of earnings realized by the latter doing other jobs or which are intentionally missed by them.

Chapter XVII

CONTRACT OF CONSTRUCTION

SUBTITLE 1

General provisions

The Concept

Article 699

(1) Construction contract shall be a contract for the supply of services under which a contractor shall construct, in accordance with a specified design and within the stipulated period, a specified structure on specified land or carry out other construction works on such land or an existing structure, and the purchaser shall pay the stipulated price.

(2) Contract of construction must be concluded in written form.

Structure

Article 700

In this Chapter, the term structure shall include buildings, dams, bridges, tunnels, water supply installations, sewerage systems, roads, railroad tracks, wells and other construction facilities the construction of which requires large and more complex works.

Supervision of the Works and Quality Control of Materials

Article 701

Contractor shall enable the purchaser to effect permanent supervision over the works and the control of quantity and quality of the material used.

Variation from a Construction Plan

Article 702

(1) Every variation from a construction design or stipulated works, effected by the contractor shall need written approval from the purchaser.
(2) Contractor may not claim increase of price stipulated for works done by them without such approval.

Urgent and Unforeseen Works

Article 703

(1) Unforeseen works may be done by a contractor even without previous approval by the purchaser if, due to their urgency, they were not able to obtain such approval.
(2) Unforeseen works shall be works the undertaking of which was necessary to ensure the stability of the structure, prevent danger to human life and health, the environment, nature, other structures and items or prevent the occurrence of damage, and which were caused by unexpectedly difficult ground conditions, the unexpected occurrence of water or other extraordinary and unexpected events.
(3) Contractor shall notify the purchaser without delay about such phenomena and of measures taken.
(4) Contractor shall be entitled to fair remuneration for the unforeseen works which had to be done.
(5) Purchaser may rescind the contract where the stipulated price would have to be increased substantially due to those works, in which case the purchaser shall notify the contractor without delay.
(6) In case of rescission of contract, the purchaser shall pay to the contractor a corresponding part of the price for works already carried out, as well as fair remuneration covering their necessary expenses.

Price of Works

Article 704

Price of works may be determined according to a measurement unit (unit price) of works subject to contract or as a total amount for the entire facility (stipulated aggregate price).

Change of Price

Article 705

(1) Unless otherwise provided by contract concerning a change of price, a contractor fulfilling their obligation within a specified time limit may demand an increased price for the works done, if in the period between concluding the contract and its performance, the prices of elements on the basis of which the price of works was agreed have been raised to such extent that it would be necessary that such price should be increased by more than two percent.
(2) Should a contractor through their fault fail to perform stipulated works on time they may demand a price increase of works if, in the period between entering into contract and the day on which works had to be completed according to contract, the prices of elements on the ground of which the price of works was determined have been raised, so that it would be necessary that the price, as compared to new prices, be higher by more than five percent.
(3) In the cases referred to in paragraphs 1 and 2 of this Article, the contractor may claim only the difference in the price of the works exceeding 2% or 5%, respectively.

(4) Contractor shall not refer to the increased prices of elements on the ground of which the price of works was determined if such price increase took place after their delayed fulfilling their obligations.

Invariability of Prices

Article 706

(1) Should it be stipulated that the price of works shall not be changed if after entering into contract prices of elements on the ground of which it was agreed be raised, the contractor may, in spite of such contractual clause, demand a change of price of the works, if prices of the elements be raised to such a degree that it would be necessary for the price of works to be higher by more than ten percent.

(2) However, in that case the contractor may demand only a difference in price exceeding ten percent, unless the increase in prices took place after they became late in fulfilling their obligations.

Rescission of Contract due to an Increase of Prices

Article 707

(1) If, in the cases specified in Articles 705 and 706 of the present Law, the stipulated price would have to be increased considerably, the purchaser may rescind the contract.

(2) In case of rescission of contract, the purchaser shall pay to the contractor a corresponding part of the price stipulated for the works completed up to that time, as well as fair remuneration covering necessary expenses incurred by them.

Right of a Purchaser to Demand Reduction of Stipulated Price

Article 708

(1) If in the period between entering into contract and fulfilling of the contractor's obligation, the prices of elements serving as a ground for determining the price of works have been reduced by more than two percent, and if the works were completed within the time limit specified by contract, the purchaser shall be entitled to demand a corresponding reduction of price of the works stipulated above such percentage.

(2) If it was stipulated that the price of works shall not be changed, if the works were completed within the time specified by contract, the purchaser shall be entitled to a reduction of the price stipulated, if the prices of elements serving as a ground for determining the price were lowered to such a degree that the price would have been more than ten percent lower, which reduction shall amount to the difference in price over ten percent.

(3) In case of a contractor being late with the works, the purchaser shall be entitled to a proportionate reduction of the price of works for every reduction of price of elements serving as a ground for determining the price of works.

SUBTITLE 2

Contract of Construction with a Particular Clause

Article 709

(1) Should a "turn-key contract" clause or a similar clause be included in a contract of construction, the contractor shall independently assume an obligation to perform all works necessary for the construction and use of a specific complete structure.

(2) In the case referred to in paragraph 1 of the present Article the price stipulated shall also include the value of all unforeseen works and surplus works, while smaller volume of works shall not influence the price stipulated.
(3) Should several contractors participate as the contracting party in a turn-key contract, their liability to the purchaser shall be joint and several.

SUBTITLE 3

LIABILITY FOR DEFECTS

Application of Rules Governing the Contract for the Supply of Services

Article 710

Unless otherwise provided in this Chapter, the relevant provisions governing the contract for the supply of services shall apply to liability for defects in a structure.

Transfer of a Right Arising from Liability for Defects

Article 711

Rights of purchaser against a contractor arising on the ground of defects in a building shall pass to all subsequent acquirers of the building or its part, but subsequent acquirers shall have no new time limits for notification and instituting legal proceedings, so that the time limit of the predecessors shall be accounted to them.

SUBTITLE 4

RESPONSIBILITY OF CONTRACTOR AND PROJECT DESIGNER FOR THE SOUNDNESS OF STRUCTURE

Content of Defects

Article 712

(1) Contractor shall be liable for defects in the construction of structure relating to its soundness, should such defect appear within a ten-year period from the delivery and acceptance of the works.
(2) Contractor shall also be liable for defects of the land on which the structure was built, which should appear within a ten year period from the delivery and acceptance of the works, unless a specialized organization has supplied an expert opinion as to the suitability of the land for construction, and in the building process itself there were no visible defects which would raise doubt as to the reliability of the expert opinion.
(3) Same shall apply to a project designer should a defect in the building be caused by a defect in the construction plan.
(4) Contractor and designer shall be liable towards purchaser and any other acquirer of the structure and their liability may not be excluded or limited by contract.

Duty of Notification and Forfeit of Right

Article 713

(1) Purchaser or other acquirer shall notify the contractor and the project engineer of defects within a six month time limit after discovering a defect, otherwise they shall lose the right to claim the defect.
(2) Right of the purchaser or other acquirer against the contractor or a project engineer, on the ground of their liability for defect shall expire after a year, counting from the day

of the purchaser's or acquirer's notifying the project engineer or contractor, of the defect.

Reduction and Exclusion of Liability

Article 714

(1) Contractor shall not be exempted from liability if damage was caused through their proceeding with specific works according to the purchaser's request.

(2) However, if they warned the purchaser, prior to executing requested specific works, that there was a danger of damage, their liability shall be reduced and, according to circumstances of the case, may even be excluded.

Recourses

Article 715

(1) Should a contractor or a project designer be liable for damage, the liability of each one of them shall be determined commensurately to the scope of their respective fault.

(2) Project designer who produced project design of the structure and who was entrusted with supervision over execution of planned works, shall also be liable for defects in the completed works which were caused through the fault of the contractor, if the project designer could have noticed them by normal and reasonable supervision of works, but they shall be entitled to claim corresponding recovery against the contractor.

(3) Should a contractor redress a loss due to defects in the works completed, they shall be entitled to claim recovery from the project designer to the extent to which the defects of the completed works originated from defects in the project design of the structure.

(4) Should a responsible person entrusted by the contractor to carry out part of the works be liable for defects, the contractor, while intending to claim damages from them, must notify them of the existence of the defect within a two-month time limit, counting from the day of their own obtaining information from the purchaser concerning the same defect.

Chapter XVIII

CONTRACT ON PARTNERSHIP

SUBTITLE 1

The Concept

Article 716

(1) By a contract of partnership two or more persons shall assume the obligation to invest their services or assets with an aim of achieving common goal.

(2) Partnership shall be an association of persons and property which shall not have a capacity of a legal person.

Composition of Property

Article 717

(1) Property of partnership shall be composed from contributions of partners (principal property) and property acquired through business venture of partnership.

(2) Property of partnership shall include compensations for destroyed, damaged or divested items which belong to the property of partnership.

(3) Property of the partnership shall be joint property of the partners.

(4) Property of partnership shall belong to partners.

Contribution

Article 718

(1) Contribution may consist of items, rights, money, services and other goods.

(2) Should entire property be contributed, it shall be deemed to include only existing assets but should the contract cover future property, it shall be deemed to include only acquired, and not inherited assets, unless both are expressly stipulated.

(3) Contract related to investment of only existing or only future property shall not be valid should it not contain inventory and description of pats included thereby.

(4) Partner who assumed an obligation to invest only their services shall be entitled to a share in profit, but not to a share in principal property of partnership, unless monetary assessment of the value of their services is included in principal assets.

Size of Contribution

Article 719

(1) Unless otherwise stipulated by contract, partners shall invest equal contributions.

(2) Partner shall not be obliged subsequently to increase the stipulated contribution; however, should the common goal become impossible to achieve due to changed circumstances without an increase in the contributions, a partner who does not consent to the increase may withdraw from the partnership or may be excluded from it.

(3) As a rule, all partners shall participate equally in achieving the common objective, regardless of the type and size of their contributions.

Contributing to Partnership's Assets

Article 720

(1) Objects and rights constituting a contribution shall become assets of partnership on the basis of the contract on partnership and in the manner prescribed for acquisition of particular property rights.

(2) Partner shall be liable for material and legal deficiencies of their contribution.

(3) With regard to bearing the risks for accidental perishing or damage to items and liability for defects of items, provisions of the present Law on lease shall apply accordingly should an item be granted for use, while provisions related to sale shall accordingly apply in case of investment of ownership right on an item.

(4) Should money and items whose value is estimated in money be invested, in the case of doubt, it shall be deemed that all are given to be owned.

(5) Partner may not dispose of their interest in partnership or of individual items and rights from common assets or claim division of assets.

(6) Partner shall be entitled to dispose of the right to compensation of expenses incurred in carrying out business affairs of the partnership, should they fall due prior to termination of partnership; of the right to interest accrued to money they advanced; and of the payment of what shall be distributed to them upon termination of partnership.

SUBTITLE 2

MANAGEMENT AND REPRESENTING

Joint management

Article 721

(1) Right to manage business affairs of partnership shall belong jointly to all partners.

(2) Provisions regulating management of co-owned item shall be applied to adoption of the decisions related to management of business affairs of partnership.

(3) Partner investing only their services, which are not accounted for in principal property, shall participate in adopting of decisions, but shall have no voting right.

Transfer of Management, Representing, Prohibiting of Competition

Article 722

(1) Should by a contract on partnership the authorisation to manage affairs be transferred to one or several partners, such partners shall be considered empowered representatives.

(2) Should authorisation to manage business affairs be transferred to several partners, provisions of Article 721 of the present Law shall apply accordingly; however, should contract on partnership provide that each of them is entitled to conclude transactions, each of the remaining partners authorised to manage affairs may contest undertaking of a certain transaction, in which case intended transaction shall not be undertaken.

(3) Provisions of the present Law regulating contract of order shall apply accordingly to rights and obligations of partners to whom the authorisation to manage affairs is transferred, unless otherwise determined by contract on partnership.

(4) No partner shall be entitled to entrust management of partnership's business to a third party or receive third party in the partnership or undertake a transaction to that partner's own particular benefit, but which would endanger achievement of the common goal or inflict damage on partnership.

Rendering Account

Article 723

(1) Partners entrusted with management of business shall keep business books accurately and render account on the condition of common assets and on all revenues and expenditures.

(2) Rendering of the final accounts and distribution of profit and losses may not be claimed prior to completion of business, but should partnership concern long-term business engagement yielding annual income, partners shall be entitled to claim rendering of the accounts and distribution of profit upon expiry of each business year.

(3) Partner who agreed that only final accounts be rendered or who waived the claim for rendering of the accounts shall be entitled, should they prove dishonest management of business, to claim rendering of the accounts for already completed and commenced business transactions.

(4) Remaining partners shall reimburse the partner managing the business for expenses incurred and provide compensation of damages sustained as a result of risks directly connected with the management of the business.

(5) Partner shall be entitled to an interest payment on money advanced from the day when advance payment was made until repayment.

(6) Partner managing business of the partnership shall not be entitled to special remuneration for efforts put into conducting of business, unless otherwise stipulated by partners.

Right of Supervision

Article 724

(1) Partners who entrusted management to one or several other partners shall reserve the right of personal supervision over business of partnership including the right to claim report on business operation of the partnership as well as right to access business books and other pertaining documents.

(2) Exclusion or limitation of the rights of partners referred to in the paragraph 1 of the present Article shall be ineffective should there be reasonable ground to doubt that business of partnership was not duly conducted, unless otherwise stipulated by partners.

Revoking of Authorisation and Withdrawal from Entrusted Management

Article 725

(1) Authorisation to conduct business transferred to one or several partners, unless otherwise stipulated by contract on partnership, may be revoked by unanimous decision of remaining partners on the ground of severe violation of entrusted duty, inability to successfully conduct business or for other important reasons.

(2) Partner shall be entitled to withdraw from entrusted management for justified reasons.

(3) In case of withdrawal provisions of the present Law related to contract of order regulating termination by notice by the person assuming an order shall apply accordingly.

SUBTITLE 3

RELATION TO THIRD PARTIES

Concluding of Legal Transactions

Article 726

(1) Partner may not validly bind partnership on the ground of legal transaction with third party, without express or tacit consent of other partners or their proxies.

(2) Partner who participates in partnership only with a part of their property, while independently engaging in legal transactions with remaining part, shall also be in the position of a third party.

Claims and Debts of Partnership

Article 727

(1) Unless otherwise stipulated by contract on partnership, claims of partnership shall belong to all partners jointly.

(2) Partner shall be entitled to claim from a debtor to fulfil the liability to all partners jointly, while they shall be entitled to claim fulfilment to them only should they be authorised by all remaining partners to receive performance.

(3) Debtor shall be entitled to fulfil their obligation towards partnership to a partner of their choice, until such time when all partners or some of them claim fulfilment.

(4) Unless otherwise stipulated with the creditor, partners shall be jointly and severally liable for obligations of the partnership.

(5) Third party as debtor of a partnership may not set off a claim against any partner against a claim belonging to the partnership.

(6) Defence that a claim belongs to assets of partnership may not be raised against a debtor who was not aware or could not have been aware of that.

SUBTITLE 4

LIABILITY FOR DAMAGES

Liability for Damages and Prohibited Setoffs

Article 728

(1) Partner shall be liable for damages caused to the partnership, unless they prove that they are not at fault for occurrence of loss.

(2) It is not permitted to set off damages against benefit which partner otherwise acquired for the partnership, except in cases when damages and benefit originate from the same, independently assumed legal transaction.

SUBTITLE 5

PROFIT AND LOSS

The Concept

Article 729

(1) Profit shall be such part of partnership's property which remains after deduction of the value of contributions, common debts and expenses.

(2) Loss shall occur when value of partnership's property falls below value of contributions.

Shares in Profit and Loss

Article 730

(1) Should shares of partners in profit and loss not be determined by contract on partnership each partner shall be entitled to equal share in profit and loss, regardless of type and size of contribution.

(2) Should only a share in profit be determined or only a share in loss, in the case of doubt such provision shall apply to both profit and loss.

SUBTITLE 6

TERMINATION OF PARTNERSHIP BY NOTICE AND EXCLUSION OF A PARTNER

Termination of Partnership by Notice

Article 731

(1) Partner shall be entitled to terminate by giving notice the contract on partnership concluded for an indefinite period at any time, except in bad time or to the detriment of remaining partners.

(2) Provision referred to in paragraph 1 of the present Article shall also apply should partnership, upon expiry of certain period of time, be tacitly continued, as well as to a partnership set up to last for the lifetime of a partner.

(3) Contract on partnership concluded for a specified period may be terminated by notice prior to expiry of such time only for justified reasons, especially: due to breach of material obligation from the contract on partnership by another partner made

intentionally or in gross negligence; due to impossibility to perform such obligation; death or termination of partnership of a partner on whose participation exercise of partnership's business was particularly dependent.

(4) Partner terminating partnership by notice in the way contrary to provisions from paragraphs 1 and 2 of the present Article shall be liable to other partners for damage thereby incurred.

(5) Creditor who was awarded seizure of share in partner's assets shall be entitled to terminate partnership without adhering to period of notice.

(6) During validity period of partnership, creditor may not exercise the rights of partner originating from the contract on partnership, except right to share in profit.

(7) Provision of the contract on partnership excluding or limiting the right of a partner to terminate by notice such partnership shall be null and void.

Exclusion of a Partner

Article 732

(1) Partner may be excluded from partnership on justified grounds, especially due to breach of material obligation from partnership contract, bankruptcy, and complete or partial deprivation of business capacity or loss of trust due to commission of criminal act.

(2) Decision on exclusion from partnership shall be passed by remaining partners unanimously, unless otherwise stipulated by contract.

Effect of Termination by Notice and Exclusion

Article 733

(1) Termination by notice or exclusion shall become effective on the day of giving notice of termination or on the day of communicating the decision on exclusion, even should they be contested, and later confirmed as valid.

(2) Partner terminating partnership by notice or excluded from partnership shall be entitled to share the profit and loss realized until the date of termination or exclusion respectively.

(3) Partner shall also share profit and loss resulting from such transactions that were not yet completed at the time of their exit from partnership and which other partners are authorised to bring to an end in a manner most beneficial for them.

(4) Partner terminating partnership by notice shall be entitled at the end of each business year to demand account of transactions brought to an end in the meanwhile, of payments attributable to them on such grounds and of condition of business affairs which were not yet completed.

(5) Share of a partner referred to in paragraph 1 of the present Article in the property of partnership shall be attributed to remaining partners, while such partners shall restore them items which they contributed to partnership for use, release them from common liabilities or provide them with appropriate security, should such liabilities not yet be due and pay them what they would receive from common property as if the partnership had terminated at the time of their exclusion or exit.

(6) Should common property not suffice to cover common liabilities and contributions, partner terminating partnership shall compensate remaining partners for loss in proportion to their share in partnership.

(7) Other rights and obligations of partners referred to in paragraph 1 of the present Article shall be determined according to the provisions on distribution of common property of partnership in case of its termination.

SUBTITLE 7

TERMINATION OF PARTNERSHIP

Reasons for Termination

Article 734

Partnership shall terminate:

1) by achievement of the objectives of partnership or if such achievement should become impossible;
2) by expiry of the period of time for which partnership contract was concluded;
3) by perish of common assets;
4) by mutual agreement of partners;
5) by death, ceasing of existence, exit and exclusion of a partner, should partnership consist of two partners;
6) by decision of the court in case of termination of partnership for justified grounds.

Succession in Rights and Obligations of Partners

Article 735

(1) Rights and obligations of a partner shall, by rule not pass to their successors.

(2) Heirs of a partner shall notify remaining partners immediately on the fact of death of such partner and take measures for protection of their interest, while other partners shall resume affairs entrusted to a deceased partner without delay.

(3) Heirs of a partner, should partnership not continue with them, shall be entitled to claim rendering of the accounts and their settlement until day of deceased partner's death, but shall also settle what a deceased partner owed to partnership.

(4) Should a partnership contract expressly include heirs of the partners, they shall be bound, should they accept inheritance, to continue a partnership; however, such obligation shall not relate to heirs of the heirs.

(5) Should an heir be unable to fulfil obligations of an heir towards partnership, a proportionate part shall be deducted from their share in inheritance.

SUBTITLE 8

DISTRIBUTION OF COMMON PROPERTY

Restitution of Items

Article 736

(1) Distribution of common property shall be carried out upon termination of partnership.

(2) Objects given to partnership to use and benefit from, shall be restituted to them and they shall not be entitled to a compensation in case of accidental perishing or damage of items or for its deterioration due to regular use.

Order of Priority in Distribution of Common Property

Article 737

(1) Out of common property debts of partnership shall be settled first, and should they not be due or be contested, than sufficient amount shall be allocated for their settlement.
(2) Upon payment of common debts, the contributions shall be returned, whereby in case of in-kind contributions, excluding those consisting of services or placing items at disposal for use, their value at the time of investment shall be compensated.
(3) Should it be necessary common property shall be liquidated for the purpose of payment of debts and returning of contributions.
(4) After payment of debts and returning of contributions, remainder of common property shall be distributed to partners according to their shares in profit.
(5) Should it be necessary for division of property, it shall be deemed that partnership continues for the purpose of completing business affairs which are in course, concluding new transactions necessary for ending such business affairs, as well as for the purpose of maintenance and management of common property.
(6) Unless otherwise should ensue from the partnership contract, termination of partnership shall also result in termination of authorisation of a partner to manage partnership's business affairs, while all partners together shall continue to conduct transactions referred to in paragraph 5 of the present Article.

Covering of Deficit

Article 738

Should common property be insufficient to settle common debts and return contributions, partners shall make supplementary payments to cover a deficit according to proportion of covering the loss, but should it be impossible to collect corresponding share from any of partners, remaining partners shall cover it in equal shares.

Application of Provision on Termination of Co-ownership

Article 739

Matters relating to the division of common property not regulated by Articles 736 to 738 of this Law shall be governed, as appropriate, by the provisions on the termination of co-ownership.

Chapter XIX

CARRIAGE

SUBTITLE 1

General provisions

The Concept

Article 740

(1) By a contract of carriage a carrier shall assume the obligation to transport to a determined place a person or an item, while the passenger or sender, shall assume the obligation to pay them an adequate carriage charge in return.
(2) In terms of the present Law the carrier shall mean both a person dealing with carriage as their regular business activity, and any other person assuming an obligation by contract to perform transport for remuneration.

Obligations of the Carrier in Scheduled Transport

Article 741

(1) Carrier performing transport along a specified line (line carriage) shall have a duty to maintain a scheduled line service regularly and orderly.
(2) Carrier shall accept for transport any person and any item meeting requirements determined in the announced general terms and conditions.
(3) Should a number of regular transportation vehicles of a carrier be insufficient to meet all requests for transport, the priority shall be extended to persons and items, as prescribed by particular regulations, and further priority shall be determined according to the order of requests, while priority between simultaneous requests shall be determined according to longer distance of transport.

Desisting from Contract

Article 742

(1) Sender or a passenger, may desist from contract prior to commencement of its performance, but they shall be liable to compensate loss potentially sustained by the carrier due to that.
(2) Should a carrier delay commencement of the transport to a degree that the other party becomes no longer interested for the stipulated transport or if the carrier is unwilling or unable to perform such transport, the other party may desist from the contract and demand restitution of the carriage charge paid.

Amount of Carriage Charge

Article 743

(1) Should the amount of carriage charge be determined by a tariff or other announced compulsory act, a higher carriage charge shall not be stipulated.
(2) Should the amount of carriage charge not be determined either by tariff or other announced compulsory act or by contract, the carrier shall be entitled to a usual carriage charge otherwise practiced in such line of transportation.
(3) In other cases, the provisions on remuneration contained in the Chapter of this Law governing the contract for the supply of services shall apply as appropriate.

Restrictive Application of Provisions of the Present Title

Article 744

Provisions of the present Chapter shall apply to all kinds of transport, unless otherwise determined by law for particular kinds of transport.

SUBTITLE 2

Contract on Transport of Items

Section 1

GENERAL PROVISIONS

Delivery of Items

Article 745

Carrier shall deliver the item accepted for transport, at a designated place to a sender or to a designated person (consignee).

Obligations of a Sender to Inform a Carrier

Article 746

(1) Sender shall notify a carrier of the kind of shipment and of its contents and quantity, and inform them about the place of destination of shipment, the name and address of the consignee, their own name and address, as well as anything else necessary for the carrier to fulfil their obligation without delay and difficulties.

(2) Should the shipment contain valuables, securities or other expensive items, the sender shall notify the carrier accordingly at the moment of their delivery for transport, including information as to their value.

(3) In case of transporting a dangerous item or an item requiring particular treatment in transport, the sender shall notify the carrier thereof on time, so that the latter will be able to take corresponding special measures.

(4) Should the sender fail to supply the carrier with data specified in paragraphs 1 and 3 of the present Article or should they relate to them erroneous information, they shall be liable for ensuing loss.

Bills of Lading

Article 747

(1) Contracting parties may agree that a bill of lading be issued concerning the shipment delivered for transport.

(2) Bill of lading should contain the following indications: name and address of sender and of carrier, kind, contents and quantity of shipment, as well as the value of valuables and other expensive items, place of destination, the amount of carriage charge or a note that such charge is paid in advance, the provision about the amount being the charge of the shipment, and place and day of issuing the bill of lading.

(3) Other clauses of the contract of carriage may also be introduced into the bill of lading.

(4) Bill of lading must be signed by both contracting parties.

(5) Bill of lading may contain a clause "by order" or it may be made out to bearer.

Contract of Carriage and Bill of Lading

Article 748

Existence and validity of a contract of carriage shall be independent of the existence of a bill of lading and of its accuracy.

Carriage Receiving Note

Article 749

Should a bill of lading not be issued, a sender may demand that a carrier issue to them a receiving note for the shipment delivered to them for transport, containing data which should otherwise make a bill of lading.

Section 2

RELATIONSHIP BETWEEN A SENDER AND A CARRIER

Packaging

Article 750

(1) Sender shall pack the item in a prescribed or usual way in order to prevent eventual damage or danger for safety of people and property.

(2) Carrier shall draw the attention of the sender to noticeable deficiencies in packaging; otherwise, the carrier shall be liable for resulting damage to the shipment.

(3) However, the carrier shall not be liable for damage to the shipment should the sender, after being notified of deficiencies in packaging, request the carrier to accept the shipment for transport with those deficiencies.

(4) Carrier shall refuse the shipment if deficiencies are of such a nature as to potentially endanger the safety of people and property or be prone to cause damage.

(5) Carrier shall be liable for damage sustained by third parties due to deficiencies in packaging while the goods are still in their possession, and they shall be entitled to claim recovery from the sender.

Carriage Charge and Expenses Connected with Transport

Article 751

(1) Sender shall pay to the carrier a carriage charge and cover expenses connected with the transport.

(2) Should there be no indication in the bill of lading that the sender is to pay the carriage charge and to cover other expenses relating to transport, it shall be presumed that the sender has directed the carrier to collect them from the consignee.

Disposing of Shipment

Article 752

(1) Sender may dispose of the shipment and change the orders indicated in the contract, and order the carrier to suspend further transportation of the shipment, to return the shipment to them, to deliver it to another consignee or to forward it to another destination.

(2) Right of a sender to change the orders shall expire when the shipment arrives at the point of destination and the carrier hands over the bill of lading to the consignee or when the carrier has invited the consignee to accept the shipment or if the consignee themselves has demanded its delivery to them.

(3) Should the bill of lading be issued with a clause "by order" or "to bearer", the rights of a sender specified in the preceding paragraph shall belong exclusively to the party in possession of the bill of lading.

(4) Authorised person using the right to give new orders to a carrier shall redress ensuing loss and damage and cover relevant expenses incurred by them, as well as to supply them, at their request, with a guarantee to cover the payment of damages and expenses.

Direction of Transport

Article 753

(1) Carrier shall perform the transportation by a stipulated route.

(2) Should there be no stipulation as to the transport route, the carrier shall perform it by the route which best suits the sender's interests.

Hindrances in Performing Transport

Article 754

(1) Carrier shall notify a sender regularly of all circumstances relevant for the performance of transport, and they shall act according to instructions they have received from them.

(2) Carrier shall not be obliged to comply with instructions of the sender where compliance with them could endanger the safety of persons or property.
(3) In a case not permitting any delay in waiting for sender's instruction, the carrier shall proceed as a good businessperson or a good head of household would in the same situation; they shall accordingly notify the sender while requesting further instructions.
(4) Carrier shall be entitled to reimbursement of expenses incurred by them due to hindrances occurring without their fault.

Carriage Charge in Case of Interruption of Transport

Article 755

(1) Where carriage is interrupted for a reason for which the carrier is liable, the carrier shall be entitled to a proportionate part of the carriage charge for the carriage performed, but shall compensate the other party for damage caused by the interruption.
(2) Should transport be interrupted for a reason not within the responsibility of any person interested in the matter, the carrier shall be entitled to the difference between the carriage charge stipulated and carriage expenses from the place of interruption of transport to the destination place.
(3) Carrier shall not be entitled to even part of the carriage charge should the shipment be lost in course of transport due to Force Majeure.

Impossibility of Delivery

Article 756

(1) Should it be impossible to notify a consignee of the arrival of a shipment or should they refuse to accept it and should it generally be impossible to deliver the shipment or should the consignee fail to pay to the carrier the carriage charge due and the remaining shipment charges, the carrier shall notify the sender thereof, request instructions from them and take measures necessary for preserving the goods on their behalf.
(2) Should an authorised person fail, within reasonable time, to take any measures relating to shipment, the carrier shall be entitled to sell it according to rules of the sale of goods owed in case of a creditor's delay, to collect their claim from the proceeds of sale, and to deposit the rest at the court for the authorised person.

Liability of Carrier to a Sender

Article 757

If a carrier delivers the shipment to a consignee, but does not collect from them the shipment charges, they shall pay such amount to the sender, but shall be entitled to claim redress against the consignee.

Section 3

RELATIONSHIP BETWEEN A CARRIER AND A CONSIGNEE

Notifying a Consignee on Arrival of Shipment

Article 758

(1) Carrier shall notify a consignee without delay that the shipment has arrived, place it at their disposal as stipulated, and submit to them the bill of lading, if issued.

(2) Should the bill of lading contain the clauses "by order" or "to bearer", they shall proceed according to the preceding paragraph only if there is an indication in the bill as to a person at the point of destination who must be notified of the arrival of shipment.

Delivery of Shipment after Issuing a Duplicate of a Waybill

Article 759

Carrier may refuse delivery of a shipment if they are not simultaneously presented with a duplicate of the bill of lading bearing the consignee's confirmation that the shipment has been delivered to them.

Right of Consignee to Request Delivery of Shipment

Article 760

(1) Consignee may exercise rights arising from the contract of carriage against a carrier and require the carrier to deliver the bill of lading and the shipment only when the shipment has arrived at its destination.

(2) At the consignee's request the carrier shall deliver to them the shipment prior to its arrival to the destination point only if authorised accordingly by the sender.

(3) Consignee may realize the rights out of the contract of carriage, and request from the carrier delivery of the shipment only if they meet terms and conditions specified in the contract of carriage.

Establishing Identity and Condition of Shipment

Article 761

(1) Authorised person shall be entitled to demand that the identity of a shipment be established and recorded, and should the shipment be damaged, that the fact of damage be entered.

(2) After establishing that a shipment is not the one delivered to the carrier or that damage is more serious than stated by the carrier, the expenses of establishing the condition of the shipment shall be born by the carrier.

Duty of a Consignee to Pay the Carriage Charge

Article 762

(1) By accepting delivery of shipment and the bill of lading if issued, a consignee shall assume a duty to pay to a carrier the carriage charge, unless otherwise stipulated in the contract of carriage or bill, and to pay to them the shipment charges.

(2) Should the consignee consider that they are not obliged to pay to the carrier the amount required by them, they may realize the rights out of contract only after depositing at the court the contested amount.

Section 4

LIABILITY OF A CARRIER FOR LOSS, DAMAGE, AND DELAY IN SHIPMENT

Loss of or Damage to a Shipment

Article 763

(1) Carrier shall be liable for loss of or damage to the shipment occurring from the moment of its acceptance for transportation until its delivery, unless caused by an act of the

authorised person, the inherent characteristics of the shipment or external causes which could not have been foreseen, avoided or eliminated.

(2) Carrier shall be liable for damage up to the amount set out by law or international treaty.

(3) Clauses in the contract of carriage, general terms and conditions of carriage, in tariffs or any other general act, shall be null and void if they seek to reduce liability.

(4) But a clause by which highest amount of compensation of damages is determined in advance shall be valid, on condition that it not be in obvious disproportion to the damage.

(5) Such limit of the amount of compensation of damages shall not apply should the damage be caused by the carrier through their intentional misconduct or gross negligence.

(6) Unless otherwise specified by contract, the amount of compensation of damages shall be determined according to the market price of the shipment at the time and in the place of its delivery for transport.

Loss of or Damage to a Shipment of Valuable Items

Article 764

(1) In the case of loss of or damage to a shipment containing valuables, securities or other valuable items, the carrier shall compensate the resulting damage only if, at the time the items were handed over for carriage, the carrier was informed of their nature and value or if the carrier caused the damage intentionally or through gross negligence.

(2) Should other goods be placed together in the shipment with the items mentioned in the paragraph 1 of the present Article, liability for their loss or damage shall be the carrier's according to the general rules of carrier's liability.

Restitution of Carriage Charge Paid

Article 765

In the event of total loss of the consignment, the carrier shall, in addition to providing compensation of damages, refund the carriage charge to the sender if it has been paid.

A Case of a Consignee Accepting the Shipment without Objections

Article 766

(1) If a consignee accepts a shipment without objections and pays the carrier the amount of their claim, the liability of the carrier shall be terminated, unless the damage has been established by way of record prior to taking over of the shipment.

(2) Carrier shall remain liable for damage to the shipment which could not have been noticed at the moment of delivery, if the consignee notifies them of such damage immediately after discovering it, but not later than eight days after delivery.

(3) Carrier shall not invoke the provisions of the preceding paragraphs if they have caused the damage through intentional misconduct or gross negligence.

Liability of Carrier for Delay

Article 767

Carrier shall be liable for loss or damage caused by delay, unless the delay was caused by a fact which excluded their liability for loss or damage of the item.

Liability for Assistants

Article 768

Carrier shall be liable for persons being engaged at their order in performing the transportation.

Section 5

PARTICIPATION OF SEVERAL CARRIERS IN TRANSPORTING A SHIPMENT

Cases of Their Joint Liability

Article 769

(1) Carrier entrusting complete or partial performance of the transport of shipment they have accepted for transportation to another carrier, shall still remain liable for its transportation from the moment of its acceptance until its delivery, but shall be entitled to be paid the carriage charge by the carrier to whom they have entrusted the shipment.

(2) Should the second carrier take over the bill of lading from the first carrier together with the shipment, they shall become a contracting party in the contract of carriage, with rights and duties of a joint debtor and joint creditor, proportionate to their participation in the transport.

(3) Provision referred to in paragraph 2 of the present Article shall apply in the case of a contract for transportation of a shipment by several carriers performing the transportation one after another.

(4) Each of the several carriers shall be entitled to request that condition of shipment be established at the moment of their accepting it for transport in order to perform their part of the transportation.

(5) Joint and several carriers shall participate in covering loss in proportion to their shares in the transportation, except one being successful in proving that the damage did not occur while they were transporting the shipment.

(6) Objections raised against a subsequent carrier shall also be effective against all previous cases.

Divided Liability of Carriers

Article 770

Should performance of transportation of the same shipment be effected by several carriers one after the other, as designated by the sender, each one shall be liable only for their part of the transportation.

Section 6

RIGHT OF LIEN

Right of Pledge Pertaining to Carrier

Article 771

(1) In order to secure payment of carriage charge and of necessary expenses incurred by them in connection with transport, the carrier shall have the right of lien over the items delivered to them for transport, and in relation to the transport, the lien shall be effective while these items are in their possession or while they hold the document enabling them to dispose of them.

(2) After several consecutive carriers have participated in performing the transport, their claims in relation to such transport shall be also secured by such lien, and the last of the carriers, unless the bill of lading states otherwise, shall effect collection of all claims on the grounds of the bill of lading.

(3) Claims of an earlier carrier, as well as the right of lien, shall be transferred, by law, to the subsequent carrier who pays to them such claims.

(4) Same shall apply if the carrier has paid the forwarder's claims.

Colliding Rights of Lien

Article 772

(1) Should, besides the right of lien of a carrier, the same item be charged with simultaneous rights of lien of a commission agent, forwarder and storekeeper, the priority in payment shall be with the claims of any of these creditors arising from forwarding or transport, and in the order opposite to their origination.

(2) Remaining claims of the commission agent and the storekeeper, as well as claims of the forwarder and the carrier, created by advance payments, shall be collected only after paying the claims specified in the preceding paragraph, and in the order of their origination.

SUBTITLE 3

CONTRACT OF TRANSPORTATION OF PASSENGERS

General provisions

Article 773

Carrier shall perform the transportation of passengers safely in a transportation vehicle designated by the contract of transportation, and provide such conditions of comfort and hygiene, which are considered necessary according to the kind of the relevant vehicle and the length of the journey.

Right of Passenger to Specific Seat

Article 774

Carrier shall be liable to provide the passenger with such seat and in such transportation vehicle as stipulated.

Liability of Carrier for Delay

Article 775

(1) Carrier shall be liable to transport the passenger to the specified place on time.

(2) They shall be liable for losses sustained by the passenger due to delay, unless delay was due to a cause impossible to be eliminated by them even after applying expert care.

Responsibility of Carrier for Safety of Passengers

Article 776

(1) Carrier shall be responsible for the safety of passengers from the commencement of transportation to its end, both in case of paid transportation and of free transportation, so that they shall compensate loss occurring through harm to health, injury or death of

a passenger, unless these are caused by the action of the passenger or by an unforeseeable external cause which can not be avoided or eliminated.

(2) Clauses of a contract as well as those of general terms and conditions of transport, tariffs or other general act, by which such liability is reduced shall be null and void.

Responsibility for Luggage Handed over for Transportation and for other Objects

Article 777

(1) Carrier shall transport the luggage handed over to them and at the same time as the passenger, and they shall present it to them when the transportation is over.

(2) Carrier shall be liable for loss or damage to luggage handed over by a passenger to them according to the provisions relating to the carriage of items.

(3) Carrier shall be liable for damage to items carried by a passenger according to the general rules of liability.

Chapter XX

LICENSING AGREEMENT

SUBTITLE 1

General provisions

The Concept

Article 778

By a licensing agreement a licensor shall assume the obligation to assign to a licensee, entirely or partially, the right of use of an invention, technical know-how and experience, trade-mark, sample or model, while the licensee shall assume the obligation to pay a specified fee in return.

Form

Article 779

(1) Licensing agreement must be concluded in written form.

(2) Agreement which is not concluded in written form shall be null and void.

License Period

Article 780

License for the use of a patented invention, sample or model, shall not be concluded for a period longer than the one covered by statutory protection of such rights.

Exclusive License

Article 781

(1) Licensee shall acquire by licensing agreement an exclusive right of use of the subject of license only after this has been expressly stipulated (exclusive license).

(2) Other means of using the subject of license shall be reserved by the licensor.

(3) Should there be no indication in the licensing agreement as to the kind of license, it shall be considered that a non-exclusive license has been granted to them.

Area Limit of the Right of Use

Article 782

(1) Right to use the subject of license may be limited to certain area only if this is not contrary to freedom of market economy.

(2) Should there be no area limit in the licensing agreement of the right to use the subject of license, license shall be considered as not restricted in terms of area.

SUBTITLE 2

OBLIGATIONS OF LICENSOR

Delivery of the Subject of License

Article 783

(1) Licensor shall deliver to a licensee the subject of the license within the designated time limit.

(2) Licensor shall also deliver to a licensee the technical documentation necessary for practical implementation of the subject of license.

Providing Instructions and Information

Article 784

Licensor shall provide a licensee with all instructions and information necessary for the successful use of the subject of license.

Duty of Guarantee

Article 785

Licensor shall guarantee to the licensee the technical feasibility and technical fitness of the subject of license.

Guarantee

Article 786

(1) Licensor shall guarantee that the right of use which is the subject of the agreement belongs to them, that there is no lien on it and that it is not restricted in favour of a third person.

(2) Should the subject of agreement be an exclusive license, the licensor shall guarantee that they have not assigned the right of use to another, either entirely or partially.

(3) Licensor shall protect and defend the right, which they have assigned to the licensee against all third parties' requests.

Duty of a Licensor of an Exclusive License

Article 787

Should an exclusive license be stipulated, the licensor shall not in any way use the subject of license alone or some of its parts, nor shall they entrust that to another within the limits of territorial validity of license.

SUBTITLE 3

Obligations of the Licensee

Use of the Subject of License

Article 788

Licensee shall use the subject of license in the way, within the scope, and in the limits stipulated.

Use of Subsequent Improvements

Article 789

Unless otherwise determined by law or by contract, a licensee shall not be authorised to use subsequent improvements in the subject of license.

Keeping Secret the Subject of License

Article 790

Should the subject of license be a non-patented invention or secret technical know-how, the licensee shall keep it confidential.

Quality

Article 791

(1) Should a manufacturing license be assigned together with a license concerning the use of a trade-mark, the licensee shall be entitled to put goods with such trademark on the market only if its quality is the same as the quality of goods otherwise manufactured by the licensor.

(2) Contrary agreement shall have no legal effect.

Marking

Article 792

Licensee shall put a designation on the goods that they are manufactured according to license.

Remuneration

Article 793

Licensee shall pay to a licensor the fee stipulated, at the time and in the way provided for by the agreement.

Submitting a Report

Article 794

Should a fee be agreed in relation to the scope of use of the subject of license, the licensee shall submit to the licensor a report on the scope of use and make an annual fee account, unless a shorter time limit is stipulated in the matter.

Changing a Stipulated Fee

Article 795

Should the stipulated fee be obviously inadequate in relation to the revenue generated by the licensee through the use of the subject of license, the interested party may request a change in the stipulated fee.

SUBTITLE 4

SUBLICENSE

When Can it Be Granted

Article 796

(1) Licensee of an exclusive license may issue to another the right of use of the subject of license (sublicense).

(2) Contract can provide that a licensee be precluded from granting a sublicense to another or from granting it without the licensor's permission.

When a Licensor May Refuse Permission

Article 797

Should permission by licensor be needed for granting a sublicense, they may only refuse it to the licensee of an exclusive license for serious reasons.

Cancellation due to a Prohibited Sublicense

Article 798

Licensor may cancel the licensing agreement without extending a period of notice if a sublicense has been granted without their permission, should permission be necessary on the ground of law or contract.

Direct Request by a Licensor

Article 799

(1) Sublicensing agreement shall create no particular legal relationship as between the sub-licensee and the licensor, even if the licensor granted the necessary permission to make the sublicensing agreement possible.

(2) But in order to collect their claims against the licensee on the ground of license, the licensor may request the payment of the amount owed to the sub-licensor on the ground of sublicense directly from the sub-licensee.

SUBTITLE 5

TERMINATION OF CONTRACT

Expiration of Time Specified

Article 800

Licensing agreement for a definite period shall be terminated on expiration of the period stipulated, so that there shall be no need for cancellation.

Implicit Renewal of a License

Article 801

(1) Should after the expiration of a definite period specified in the licensing agreement the licensee continue to use the subject of license, but the licensor fail to item, a new agreement shall be considered to have been made for the license covering an indefinite period, and under the same terms and conditions as the previous one.

(2) Security instruments supplied by third parties regarding the first license shall be terminated with the expiration of the validity period of that license.

Termination by Notice

Article 802

(1) Licensing agreement whose validity period is not determined shall be terminated by cancellation which may be given by either party, after honouring a determined period of notice.

(2) Should the period of notice not be stipulated by agreement, it shall be six months, but the licensor may not cancel the agreement during the first year of its validity.

Death, Insolvency and Liquidation

Article 803

(1) In the case of death of a licensor, the license shall continue to be effective for their successors, unless otherwise stipulated by the agreement.

(2) In the case of death of a licensee, the license shall continue to be effective for their successors continuing their activity.

(3) In the case of a bankruptcy or liquidation of a licensee, a licensor may rescind the agreement.

Chapter XXI

PROBATE PROCEEDINGS

SUBTITLE 1

ON PROBATE PROCEEDINGS IN GENERAL

Section 1

GENERAL PROVISIONS

The Concept

Article 804

(1) By a contract of deposit (of items of property) the depositary shall assume the obligation to accept an item from the depositor, to store it and to restore it at their request.

(2) Only movables may be the subject of deposit of items.

Deposit of Another Person's Item

Article 805

(1) Contract of deposit of items may be validly entered into also by a person, in their own behalf, who is not the owner of the item, and the depositary shall restore the item to them, unless they discover that the item was stolen.

(2) Should a third party claim at the court the item from the depositary as an owner, the depositary shall inform the court of the name of person from whom the item was accepted, and at the same time notify the depositor on the action filed with the court.

Section 2

OBLIGATIONS OF A DEPOSITARY

Duty of Storing and Informing

Article 806

(1) Depositary shall store the item as their own, and should the deposit be for a fee – as a good businessperson or good head of household.
(2) Should the place or manner of storing the item be stipulated, the depositary may change them only if this is required by changed circumstances; they shall otherwise be liable for accidental loss or accidental damage to the item.
(3) Depositary shall notify a depositor about all changes noticed in the item, and about dangers threatening damage of any kind to it.

Delivering an Item to Another for Storing

Article 807

Depositary may not, without the depositor's consent or without necessity, deliver the item to another for storing; they shall otherwise be liable for its accidental loss or damage.

Using the Item

Article 808

(1) Depositary shall not be entitled to use the item entrusted to them for storage.
(2) In case of unpermitted use of the item, the depositary shall owe to the depositor corresponding compensation, and shall be liable for accidental loss or damage of the item which occurs.
(3) Should a durable item be deposited with the depositary, coupled with their right to use it, the relations between the contracting parties shall be governed by the rules of contract of loan for use, while only the questions of time and place of restoring the item shall be regulated by the rules of contract of deposit, unless contracting parties have agreed otherwise.

Using and Delivering the Item to Another

Article 809

Depositary who, without the depositor's consent and without necessity, contrary to contract, use the item, changes the place or manner of storage or delivers the item to another for storage, shall not be liable for accidental loss or damage of the item, which would ensue anyway in spite of their proceeding according to the contract.

Restoring of Item

Article 810

(1) Depositary shall restore the item immediately upon a corresponding request by the depositor, including all yields and other benefits arising from the item.
(2) Should a time limit be determined for restoring the item, the depositor may request that the item be restored to them even prior to the expiration of such time limit, unless the time limit was stipulated entirely in the interest of the depositor.
(3) Restoration shall be effected at the place of delivery of the item to the depositary, unless another place be stipulated for the purpose, and in such case the depositary shall be entitled to reimbursement of expenses of transporting the item.

Section 3

RIGHTS OF A DEPOSITARY

Reimbursement of Expenses and Compensation of Damages

Article 811

Depositary shall be entitled to request reimbursement from the depositor for expenses incurred justifiably by them in order to store the item, and to redress loss sustained due to such storing.

Remuneration

Article 812

Depositary shall not be entitled to compensation for their efforts, unless compensation is agreed, and if the depositary is engaged in the business of storing or if compensation was expected due to circumstances of the transaction.

Restoring the Item in Case of Depositing Free of Charge

Article 813

(1) Depositary assuming an obligation to store the item free of charge for a definite period, may restore it to the depositor prior to the expiration of the stipulated time limit, if the item would be exposed to danger of loss or damage or if further storing would cause damage to them.

(2) Where no period has been agreed, the depositary referred to in paragraph 1 of this Article may rescind the contract at any time, but shall give the depositor a reasonable period within which to take over the item.

Section 4

PARTICULAR CASES OF DEPOSIT

A Non Genuine Deposit

Article 814

Should replaceable items be entrusted for deposit with the right of the depositary to consume them and with a duty to restore the same quantity of items of the same kind, their 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 item shall be governed by rules of deposit, unless the contracting parties have stipulated otherwise in that respect.

Deposit in Case of Emergency

Article 815

One to whom an item is entrusted in case of an emergency, such as fire, earthquake or flood, shall keep it with increased care.

SUBTITLE 2

INNKEEPER'S DEPOSIT

Innkeeper as a Depositary

Article 816

(1) Innkeeper shall be considered as a depositary regarding items brought in by guests, and shall be liable for their disappearance or damage up to a maximum amount to be determined by particular regulations.

(2) There shall be no such liability if the items have perished or were damaged due to circumstances which were impossible to avoid or eliminate, due to a cause inherent to the item itself, if they were lost or damaged due to the conduct of the guest themselves or due to the conduct of persons accompanying them or of those visiting them as guests.

(3) Innkeeper shall be liable for total loss if the guest entrusted the item to them for storing or if damage occurred through their fault or the fault of persons under their responsibility.

Items Brought in by a Guest

Article 817

(1) Following shall be considered as items brought in by a guest to a facility pertaining to hospitality industry:

1) items kept in the hospitality facility for the entire duration of guest's accommodation therein;

2) items kept outside hospitality facility, in place designated or kept under supervision by the innkeeper or supervision of person under their responsibility, for the entire duration guests accommodation;

3) items for which innkeeper or person under their responsibility assumes duty of supervision inside or outside of the hospitality facility within reasonable time prior to or after the period of accommodation.

(2) Provisions on liability for things brought by guest shall not apply to vehicles, items and animals kept in vehicles, unless otherwise stipulated by contract.

Obligations of the Innkeeper to Accept Items for Safekeeping

Article 818

(1) Innkeeper shall accept for storing the items brought in by the guests for such purpose, unless they have no adequate space for keeping them or if such storage exceeds their resources in some other way.

(2) Innkeeper who unjustifiably refuses to accept an item for safekeeping shall provide full compensation of damages sustained by the guest as a result.

Duty of Guest to Report Damage

Article 819

Guest shall report loss or damage of the item as soon as they become aware of it; they shall otherwise be entitled to compensation of damages only after proving that the damage was caused by the innkeeper's fault or by the fault of persons under their responsibility.

Notices on Excluding Liability

Article 820

Notices displayed in the premises of the innkeeper by which their liability concerning items brought in by the guests is excluded, limited or made dependent, shall have no legal effect.

Right of Retention (Lien)

Article 821

Innkeeper accepting guests for overnight accommodation shall be entitled to keep the items brought in by the guests until complete payment of the claim covering the accommodation and other services.

Extending the Application of Provisions on Innkeeper's Deposit

Article 822

Provisions on innkeeper's deposit shall apply accordingly to hospitals, public garages, railway sleeping cars organized camping sites, and the like.

Chapter XXII

WAREHOUSING

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 823

(1) By a contract of warehousing the warehouse keeper shall assume the obligation to accept and store specified merchandise and to take necessary or stipulated measures in order to preserve it in the agreed condition, as well as to deliver it at the depositor's request or at the request of other authorised person, while the depositor shall assume the obligation to pay to them in return an agreed fee.

(2) In delivering the merchandise the depositor shall provide all necessary information on the merchandise, and state its value.

Exclusion of Liability and Certain Obligations of a Warehouse Keeper

Article 824

(1) Warehouse keeper shall be liable for damage to the merchandise, unless they prove that the damage was caused by circumstances which could not have been avoided or eliminated or that it was caused by fault of the depositor, by shortcomings or natural properties of the merchandise or by inadequate packaging.

(2) Warehouse keeper shall warn the depositor about the defects or natural properties of the merchandise or about the inadequate packaging, due to which damage to merchandise may ensue, and they shall do that as soon as they become aware of such deficiencies or as soon as they should have become aware of them.

(3) Where goods undergo unavoidable changes creating a risk that they may deteriorate or perish, the warehouse keeper shall sell the goods without delay in the most appropriate manner if the depositor, after being called upon to do so, is unable to sell them in time.

(4) Warehouse keeper shall take action in order to preserve the rights of the depositor in relation to the carrier delivering the merchandise to them for the account of the depositor, if the merchandise is damaged or is defective.

Duty to Insure

Article 825

(1) Warehouse keeper shall insure the merchandise accepted for storage only should this be stipulated.

(2) Should there be no stipulation regarding the kind of risk to be covered by insurance, the warehouse keeper shall insure the merchandise against usual risks.

Limitation of Compensation of Damages

Article 826

Compensation of damages payable by a warehouse keeper for the destruction, reduction or damage of goods between their receipt and delivery may not exceed the actual value of the goods, unless the warehouse keeper caused the damage intentionally or through gross negligence.

Mixing of Replaceable Objects

Article 827

(1) Warehouse keeper shall not mix the accepted replaceable items with items of the same kind and same quality, unless a depositor has agreed accordingly or unless it becomes obvious that items are of such a nature that there would be no danger to the depositor from mixing them.

(2) Should the items be 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 items the part belonging to them.

Inspection of Merchandise and Taking of Samples

Article 828

Warehouse keeper shall permit an authorised person to inspect the merchandise and take corresponding samples.

Warehouse Keeper's Claim and the Right of Lien

Article 829

(1) In addition to the storage fee, the warehouse keeper shall be entitled to reimbursement of expenses which were necessary for keeping the merchandise.

(2) Warehouse keeper shall have the right of lien over the merchandise, to cover their contractual claims of warehousing, and for other claims relating to the storage of merchandise.

Collecting of Merchandise and Sale of Uncollected Merchandise

Article 830

(1) Depositor shall be entitled to collect the merchandise even prior to the stipulated time limit.

(2) Should a depositor of merchandise fail to collect the merchandise after the expiration of the stipulated time limit or after one year – should a time limit for storage be not stipulated – the warehouse keeper may sell the merchandise for their account at a public sale, but shall notify them beforehand of their intention, and shall leave to them a subsequent minimum eight day time limit to collect merchandise.

Defects at the Acceptance of Merchandise

Article 831

(1) Consignee shall inspect the merchandise at the moment of taking the delivery.

(2) After noticing defects on taking delivery, the consignee shall warn the warehouse keeper thereof immediately, otherwise the merchandise shall be considered to have been accepted in a regular way.
(3) Consignee shall notify the warehouse keeper in a reliable way, within a seven day time limit, counting from the day of taking delivery, of defects in the merchandise which could not be established at the moment of taking delivery, otherwise merchandise shall be considered as having been accepted in a regular state.

Application of the Rules of Deposit

Article 832

Rules of deposit shall apply accordingly to the contract of warehousing, unless otherwise regulated by the rules of warehousing.

SUBTITLE 2

WAREHOUSE WARRANT

Duty of Issuing a Warehouse Warrant

Article 833

Warehouse keeper being authorised by law to issue a warehouse warrant covering the merchandise accepted for storage, shall issue such warrant to the depositor at their request.

Elements and Contents of Warehouse Warrant

Article 834

(1) Warehouse warrant shall consist of a receipt and a mortgage-deed.
(2) Receipt and the pledge bond shall include the following: title or name and profession of the depositor, their business seat or permanent residence, title and business address of the warehouse keeper, date and number of the warehouse warrant, location of the warehouse, kind, nature and quantity of merchandise, information concerning the amount of insurance for the merchandise, as well as other data necessary to identify the merchandise and to determine its value.
(3) Receipt and mortgage-deed shall refer to each other.

A Warehouse Warrant for Parts of the Merchandise

Article 835

(1) Depositor may demand that the warehouse keeper separates the merchandise into specific parts and issue to them a separate warehouse warrant for each such part.
(2) After they have already obtained a warehouse warrant covering the entire quantity of merchandise, they may demand that the warehouse keeper separates the merchandise into specific parts and issues them, while replacing the already obtained warehouse warrant, the separate warehouse warrants covering each part of the merchandise.
(3) Depositor may demand the warehouse keeper to issue them the warehouse warrant for only one part of the replaceable merchandise left by them at the warehouse keeper.

Right of a Holder of the Warehouse Warrant

Article 836

(1) Holder of a warehouse warrant may demand that the merchandise indicated therein be delivered to them.

(2) They may dispose of the merchandise indicated in the warehouse warrant by transferring the warehouse warrant.

Transferring the Receipt and the Mortgage-deed

Article 837

(1) Receipt and a mortgage-deed may be transferred by endorsement, together or separately.

(2) In effecting such transfer a date must be indicated for each transfer.

(3) At the request of the recipient of the receipt or the mortgage-deed, the transfer affected to their benefit shall be recorded in the warehouse ledger, where also their business seat of permanent residence, shall be noted.

Right of a Holder of the Receipt

Article 838

(1) Transfer of a receipt without a mortgage-deed shall entitle the recipient to claim delivery of merchandise only after paying the holder of the mortgage-deed or depositing the amount, which should be paid to them on the day of maturity of the claim to the warehouse keeper for the holder of the mortgage-deed.

(2) Holder of the receipt without the mortgage-deed may request that the merchandise be sold, if the price to be achieved covers the amount to which the holder of the mortgage-deed is entitled, on condition that the surplus realized be remitted to them.

(3) In case of replaceable items, the holder of the receipt without the mortgage-deed may request that the warehouse keeper deliver to them one part of the merchandise, on condition that they deposit a corresponding amount of money to the warehouse keeper for the account of the holder of mortgage-deed.

Rights of a Holder of the Mortgage-Deed

Article 839

(1) Transfer of the mortgage-deed without the receipt shall entitle the recipient to a lien over the merchandise.

(2) On the occasion of the first transfer the mortgage-deed shall include the title or name and profession of the creditor, their business seat or permanent residence, the amount of their claim, including the interest, and the maturity date.

(3) First recipient of the mortgage-deed shall notify without delay the warehouse keeper that the mortgage-deed is transferred to them, while the warehouse shall record such transfer into the warehouse ledger, indicating on the mortgage-deed the fact of making such transcription.

(4) Without the actions specified in the preceding paragraph, it shall not be possible to transfer further the mortgage-deed by endorsement.

(5) Mortgage-deed 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 items indicated therein.

Complaint for Failing to Pay and Selling of Merchandise

Article 840

(1) Holder of a warrant without a receipt whose claim secured by the warrant is not paid when due shall, under penalty of forfeiture of the right to claim payment from the transferors, lodge a protest in accordance with the legislation governing bills of exchange.
(2) Holder of the mortgage-deed who has filed the protest shall be entitled, after the expiration of the eight day time limit from the maturity of the claim, to demand the sale of the mortgaged merchandise, while the same right shall also pertain to a transferor who has paid to the mortgage-deed holder the claim secured by the mortgage-deed.
(3) Amount achieved by the sale shall serve to cover the sale expenses, the warehouse keeper's claim under the contract of warehousing, and other claims of the warehouse keeper connected to the stored merchandise, as well as for covering payment of the secured claim of the mortgage-deed holder, while the remainder shall belong to the holder of the receipt.

Requesting Payment from Transferors of the Mortgage-Deed

Article 841

(1) Holder of the mortgage-deed may demand payment from a transferor only if not successful in the total settlement by selling the mortgaged merchandise.
(2) Such request must be filed within the time limit determined by the legislation regulating bills of exchange in case of request against the endorsers, and that time limit shall begin to run from the day of selling the merchandise.
(3) Mortgage-deed holder shall forfeit the right to demand payment from the transferors after failing to request the sale of merchandise at the latest within a month from the day of protest.

Chapter XXIII

ORDER

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 842

(1) By a contract of order the person accepting the order shall assume the obligation and be authorised to undertake specific transaction for the account of the orderer.
(2) Person accepting an order shall be entitled to remuneration for their effort, unless otherwise provided by the contract or resulting from the nature of the mutual relations of the parties.

Persons Obliged to Respond to Offering an Order

Article 843

Person who professionally conducts the affairs of others or publicly offers to do so shall, if unwilling to accept an offered mandate relating to those affairs, notify the other party without delay; otherwise, that person shall be liable for the damage sustained by the other party.

SUBTITLE 2

Obligations of the person receiving an order

Performing an Order as It Stands

Article 844

(1) Person accepting an order shall perform the order in conformity with instructions received, and with the care of a good businessperson 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 their guidelines.

(2) Should the person accepting the order consider that following the order according to instructions received would be harmful to the orderer, they shall draw their attention accordingly and request new instructions.

(3) Should the orderer fail to supply specific instructions concerning the job to be done, the person accepting the order shall, while being guided by the interests of the orderer, proceed as a good businessmen or head of household, and should the order be without remuneration (free of charge), they shall proceed as they would with their own matters under the same circumstances.

Departures from Order and from Instructions

Article 845

(1) Person accepting an order may depart from the order and instructions accepted only in agreement with the orderer, and should it be impossible, due to shortage of time or some other reason, to demand the orderer's consent, they may depart from the order and instructions only if, assessing all the circumstances, they are able to reasonably conclude that this is required in the interests of the orderer.

(2) Should the person accepting the order exceed the limits of the order or depart from the instructions received, except in the case referred to in paragraph 1 of this Article, they shall not be considered a person accepting an order, but a manager of another’s affairs, unless the orderer subsequently approves what was done by them.

Substitution

Article 846

(1) Person accepting an order shall perform the order personally.

(2) They may entrust the performance of the order to another only after obtaining permission from the orderer or if compelled by circumstances to do what they did.

(3) In such cases they shall be liable only for the choice of person substituting them and for the instructions communicated to such person.

(4) In remaining cases they shall be liable for the work of their substitute, and for accidental loss or damage to the item, which occurs with the person substituting them.

(5) Orderer in each case may demand, directly from the substitute, the carrying out of the obligation in the order.

Rendering Account

Article 847

Person accepting an order shall render account of the transaction performed, while handing over to the orderer without delay everything they received on the ground of the affairs performed, regardless of whether what was received by them for the orderer was owed to the latter or not.

Submitting a Report

Article 848

Agent shall, at the principal's request, submit a report on the status of the affairs and render an account even before the designated time.

Liability for Use of Orderer's Money

Article 849

If a person accepting an order uses for their own needs the money received for the orderer, they shall pay interest at the highest permitted contractual rate, counting from the day of use, and regarding other money owed and not handed over on time, they shall pay default interest, counting from the day they were obliged to hand the money over.

Joint and Several Liability of Persons Accepting an Order

Article 850

Should performing a transaction be entrusted by the same order to several persons to perform it jointly, they shall be jointly and severally liable for obligations in such order, unless otherwise stipulated.

SUBTITLE 3

OBLIGATIONS OF ORDERER

Advance Payment

Article 851

At the request by person accepting an order, the orderer shall pay to them a sum of money to cover anticipated expenses.

Reimbursement of Expenses and Assuming Obligations

Article 852

(1) Orderer shall reimburse a person accepting the order, even if their effort is not successful without their fault, all necessary expenses incurred by them in performing the order, together with interest from the day of expenditure.

(2) They shall assume the obligations of the person accepting the order while engaging on their own behalf in affairs entrusted to them or shall disengage them from obligations in some other way.

Compensation of Damages

Article 853

Orderer shall compensate damage suffered by the person performing the order through no fault of their own.

Level of Compensation

Article 854

Unless otherwise stipulated, the orderer shall owe a usual amount of compensation and should there be no trade usage in this respect, they shall owe equitable amount.

Remuneration

Article 855

(1) Unless otherwise stipulated, the orderer shall pay remuneration to the person accepting the order when their job is done.

(2) Should the person accepting the order, without fault on their part, complete the order only partially, they shall be entitled to a proportionate part of the remuneration.

(3) Should remuneration stipulated in advance be in obvious disproportion to services rendered, the orderer may request its reduction.

Right of Lien

Article 856

In order to secure remuneration and recovery of expenses, the person accepting the order shall be entitled to acquire a lien over the orderer's movables received under order, and over the sums of money they have collected for the account of orderer.

Joint and Several Liability of the Orderer

Article 857

Should several persons entrust the performance of an order to a person accepting the order, they shall be jointly and severally liable to them.

SUBTITLE 4

TERMINATION OF ORDER

Desisting from Contract

Article 858

(1) Orderer may withdraw from a contract.

(2) In case of withdrawing from a contract providing for compensation to the benefit of the person accepting the order, the orderer shall pay to the latter a corresponding part of compensation, as well as redress loss sustained by them due to withdrawing from the contract – should there be no well-grounded reasons.

Termination by Notice

Article 859

(1) Person accepting an order may cancel it by their own choice, but not at a bad time.

(2) They shall redress the loss to the orderer, if sustained by them because of cancellation of the order at a bad time, unless well-grounded reasons existed for cancellation.

(3) Person accepting the order shall continue, after the cancellation, with performance of the transactions not permitting postponement, until the orderer becomes able to take care of them.

Death, Termination of a Corporate Body

Article 860

(1) Order shall be terminated by the death of a person accepting it.

(2) Successors of the person accepting the order shall notify the orderer of their death without delay, and take measures necessary for protection of orderer's interests, until they become able to take care of them themselves.

(3) Order shall be terminated by death of the orderer only if so provided in the contract or if the person accepting the order accepted it because of their personal relations with the orderer.
(4) In case referred to in paragraph 3 of the present Article the person accepting the order shall continue with the entrusted transactions, to prevent eventual loss for the successors, until they become able to take care of them.
(5) If either the orderer or the person accepting the order is a legal person, the order shall come to an end on the termination of such legal person.

Insolvency, Loss of Business Capacity

Article 861

Order shall be terminated on the bankruptcy of the orderer or person accepting the order or if either of them loses business capacity.

Moment of Termination of Order

Article 862

(1) If the orderer repudiates the contract or in the case of their death or bankruptcy or if they completely or partially loses business capacity, the order shall come to an end at the moment the person accepting the order becomes aware of the event causing the termination of order.
(2) Should written authorisation be issued to the person accepting the order, they shall return it after the termination of the order.

Exceptions

Article 863

Should an order be given to enable the person accepting it to achieve fulfilment of some of its claims against the orderer, the orderer shall not be entitled to withdraw from the contract, and the order shall not come to an end by death or bankruptcy of either the orderer or the person accepting the order; nor shall it come to an end should one of them be deprived, entirely or partially, of business capacity.

Chapter XXIV

COMMISSION BUSINESS

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 864

(1) By a contract of commission business the commission agent shall assume the obligation to perform, for a fee, on their own behalf and for the account of the client, one or several transactions entrusted to them by the client.
(2) Commission agent shall be entitled to commission fee even if it has not been stipulated.

Application of Rules of the Contract of Order

Article 865

Rules relating to orders shall apply to the contract of commission business, unless the rules of commission business provide otherwise.

Transacting under Terms Different from Order

Article 866

(1) Should a commission agent transact a deal under terms less favourable than the ones determined by the order, when not allowed to do so, they shall reimburse the difference to the client and redress the loss 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) However, the client shall forfeit the right referred to in paragraph 2 of the present Article if the commission agent is ready to pay the difference immediately and redress the loss caused.

(4) Should a deal be transacted under more favourable terms than determined by the order, all gains resulting thereof shall belong to the client.

Sale of Merchandise to a Person Burdened with Debts

Article 867

Commission agent shall be liable to a client for losses if they sell the merchandise to a person heavily in debt, provided they are aware of the fact or should have been aware of it.

A Case of Commission Agent themselves Purchasing Client's Merchandise or Selling them Their Own Merchandise

Article 868

(1) Commission agent entrusted to sell or buy merchandise being listed in the stock exchange or in the market, may with the client's permission, keep the merchandise for themselves as a purchaser or deliver it as a seller, at the price effective at the time of executing the transaction entrusted.

(2) In case referred to in paragraph 1 of the present Article the relations stemming out of contract of sale shall ensue between the commission agent and the client.

(3) Should the stock exchange price or market price, and the price determined by the client fail to coincide, the commission agent-seller shall be entitled to the lower of the two prices, while the commission agent-buyer shall pay the price which is higher.

SUBTITLE 2

OBLIGATIONS OF THE COMMISSION AGENT

Preserving and Insuring

Article 869

(1) Commission agent shall preserve the merchandise entrusted to them with the care of a good businessperson.

(2) Commission agent shall also be liable for accidental loss of or damage to the goods if they fail to insure them despite being required to do so under the order.

Notification about Condition of the Merchandise Accepted

Article 870

(1) On the occasion of taking delivery of merchandise from a carrier, forwarded to them by the client, a commission agent shall establish its condition, and shall notify the client without delay on the date of arrival of the merchandise, as well as on visible defects or shortage, otherwise they shall be liable for loss caused to the client due to such omission.

(2) They shall take all necessary measures to preserve the rights of the client against the liable person.

Notification about Changes of Merchandise

Article 871

Commission agent shall notify the client about all changes to the merchandise by which it could lose in its value, and if there is no time to wait for instructions or if the client is late in sending the instructions – where there is danger of considerable damage to the merchandise – the commission agent shall sell it in the most adequate way.

Notifying the Client on Names of the Contracting Partners

Article 872

(1) Commission agent shall notify the client on the name of person with whom they have effected the transaction entrusted to them by the client.

(2) This rule shall not apply in the case of sale of movables in the commission shops, unless otherwise provided by the contract.

Rendering Account

Article 873

(1) Commission agent shall render account of the transaction performed, without unnecessary delay.

(2) They shall hand over to the client everything they have received under the transaction effected for their account.

(3) Commission agent shall transfer to the client the claims and other rights acquired by them against a third party to the transaction effected in their own behalf and for their account.

Del Credere

Article 874

(1) Commission agent shall be liable for fulfilment of the obligations of their contracting partner only if they specifically guarantee that the contracting partner shall fulfil those obligations (del credere), in which case the commission agent shall be jointly and severally liable with the contracting partner.

(2) Commission agent guaranteeing the fulfilment of obligations of their contracting partner shall be entitled to a special fee (del credere commission fee).

SUBTITLE 3

OBLIGATIONS OF CLIENT

Commission Fee

Article 875

(1) Client shall pay to the commission agent a fee when the transaction entrusted to them has been performed, and if performance of the transaction be prevented due to a cause within the scope of client's responsibility.

(2) In case of gradual performance, the commission agent may demand a proportionate part of the fee after each partial fulfilment.

(3) Should the concluded transaction not be performed due to a cause outside the responsibility of both the client and the commission agent, the commission agent shall be entitled to a corresponding fee for their effort.

(4) Commission agent disloyal towards their client shall not be entitled to a fee.

Level of Compensation

Article 876

(1) Should the amount of commission fee be not determined by contract or a tariff, the commission agent shall be entitled to a commission fee in conformity with the transaction effected and the result achieved.

(2) Should in a specific case the commission fee be out of proportion to the transaction effected and the result achieved, the court may, at the client's request, reduce it to an equitable amount.

Compensation of Costs

Article 877

(1) Client shall reimburse to the commission agent the expenses necessary for performing the order, including interest from the day of expenditure.

(2) Client shall pay to a commission agent special compensation to cover the use of their storehouses and transportation facilities, should this be not included in the fee provided for performance of the transaction.

Advance Payment to the Commission Agent

Article 878

Unless otherwise provided by the contract of commission, the client shall not be obliged to advance to the commission agent the funds necessary for performing the transaction entrusted to them.

SUBTITLE 4

Right of Lien

Article 879

(1) Commission agent shall acquire the right of lien relating to merchandise covered by the commission contract while in their possession or in the possession of someone holding them on their behalf or while they remain the holder of a document enabling them to dispose of them.

(2) Commission agent shall be entitled to collect, from the value of the merchandise referred to in paragraph 1 of the present Article, before other creditors of the client, their 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) Right of precedence in collecting shall pertain to the commission agent out of claims acquired by them for the account of client while carrying out their order.

SUBTITLE 5

RELATIONS WITH THIRD PARTIES

Client's Right to Claims Originating from a Transaction with a Third Party

Article 880

(1) Client may demand fulfilment of claims from the transaction entered into by a commission agent with a third party and for their account, only if the commission agent has assigned them to them.

(2) However, in terms of the relation between a client and a commission agent and their creditors, such claims shall be treated from their inception as the client's claims.

Limitation of Rights of Commission Agent's Creditors

Article 881

Commission agent's creditors shall not, in order to collect their claims, even in case of their bankruptcy, take measures of execution against rights and items of property acquired by the commission agent in performing the order on their own behalf but for the account of the client, except in the case of claims in relation to acquiring these rights and items of property.

Insolvency of a Commission Agent

Article 882

(1) In case of a commission agent's bankruptcy, the client may request separation of goods handed over by them to the commission agent to be sold on their account out of the bankrupt's assets, as well as of goods acquired by the commission agent on their account.

(2) In such case the client may request from a third party to whom the commission agent has delivered the items, their price or any unpaid part.

Chapter XXV

CONTRACT OF COMMERCIAL AGENCY

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 883

(1) By a contract of commercial agency the agent shall assume the obligation to take permanent care that third persons enter into contracts with their principal, and to mediate in that respect between them and the principal, as well as to enter into contracts, after obtaining authorisation, with third persons on behalf and for the account of the principal, while the principal shall assume the obligation to pay to them, for each contract concluded, an agreed fee (brokerage).

(2) Principal may have several agents in the same area for the same kind of business.

(3) One agent shall not, without their principal's consent, assume the obligation to work for another principal regarding the same kind of business in the same area.

Form

Article 884

(1) Contract of commercial agency must be concluded in written form.

(2) Contract which is not concluded in written form shall be null and void.

Concluding Contracts on Behalf of a Principal

Article 885

Agent may conclude contracts on behalf and for the account of their principal only after obtaining from them a corresponding special or general authorisation.

Accepting Fulfilment

Article 886

Agent may not demand nor accept fulfilment of a claim of their principal, unless particularly authorised.

Statements to Agent for the Principal

Article 887

Should a contract be concluded by mediation of the agent, then a contracting partner of the principal may validly make statements to the agent concerning defects in the subject of contract, as well as other statements relating to such contract – with the purpose of preserving or realizing rights from the contract.

Statements on Behalf of the Principal

Article 888

In order to preserve the rights of their principal, an agent shall be authorised to make necessary statements to their contracting partner.

Security Measures

Article 889

In order to protect the interest of the principal, an agent may demand necessary security measures.

SUBTITLE 2

OBLIGATIONS OF THE AGENT

Taking Care of the Interests of the Principal

Article 890

(1) Agent shall take care of the interests of the principal, proceed in all transactions undertaken by them with the care of a good businessperson and conform to the instructions given by the principal.

(2) They shall supply the principal with all necessary information concerning the market situation, and particularly those significant for each particular transaction.

Participation in Concluding Transactions

Article 891

Agent shall participate following the instructions of the principal in concluding transactions until their full completion.

Confidentiality

Article 892

(1) Agent shall keep those business secrets of their principal which become known to them in connection with the transaction entrusted.

(2) Agent shall be liable if they use them or discloses them to another even after the termination of the contract of commercial agency.

Restitution of Objects Given to be Used

Article 893

After termination of the commercial agency contract, the agent shall restitute to the principal all items handed over by them for use in the course of the contract.

Particular Case of Liability

Article 894

(1) Agent shall be liable to the principal for fulfilment of obligations arising from the contract concluded through their mediation or concluded by them under authorisation on behalf of the principal, only if they give special written guarantee in that respect.

(2) In case referred to in paragraph 1 of this Article they shall also be entitled to a special fee (del credere fee).

SUBTITLE 3

OBLIGATIONS OF ORDERER

Material and Documentation

Article 895

Should specific material or specific documentation be necessary for the agent to do their business, the principal shall provide them to them.

Duty of Informing

Article 896

(1) Principal may accept or reject as they please the conclusion of a contract transacted by the agent, but shall inform the agent about their decision without delay.

(2) Principal shall inform the agent without delay on the need to reduce the scope of transactions concluded through their mediation, the scope being reasonably expected by the agent, so that the latter can reduce their own business efforts to an adequate degree on time; the principal shall otherwise be liable for loss sustained by the agent in this respect.

Commission Fee

Article 897

(1) Principal shall pay to the agent remuneration (brokerage) for contracts concluded through their mediation, as well as for contracts concluded by the agent themselves, if authorised accordingly.
(2) Agent shall also be entitled to brokerage for contracts concluded directly by the principal with clients found by the agent.

Acquiring the Right to Compensation

Article 898

Unless otherwise stipulated between the contracting parties, the right to remuneration shall accrue to the agent after the contract has been performed, but such right shall belong to them even if the contract remains unfulfilled, if this is due to a reason for which the principal is to blame.

Level of Compensation

Article 899

(1) Should the amount of remuneration be not agreed either by contract or a tariff, the agent shall be entitled to usual remuneration.
(2) Should remuneration in a specific case be excessively high in comparison to the service rendered, the court may, at the principal's request, reduce it to an equitable amount.

Special Remuneration

Article 900

Agent successful in collecting the principal's claims after being authorised accordingly, shall be entitled to particular remuneration from the amount collected.

Costs

Article 901

(1) Agent shall not be entitled, unless otherwise stipulated, to reimbursement of expenses originating from regular performance of broker's transactions.
(2) They shall, however, be entitled to remuneration for special expenses incurred by them to the benefit of the principal or at their order.

SUBTITLE 4

Right of Lien

Article 902

In order to secure collection of their due claims arising in connection with the contract, an agent shall have a right of lien over amounts collected for the principal under the principal's authorisation, as well as over all items of the principal received from the principal or another person in connection with the contract, while those items remain in the agent's possession or in the possession of another person holding them for the agent or while the agent holds a document enabling them to dispose of those items.

SUBTITLE 5

TERMINATION OF CONTRACT

Terminating of Contract Concluded for an Indefinite Period of Time

Article 903

(1) Should the period of validity of a contract of commercial agency be not determined by contract or if it cannot be determined from circumstances of the transaction, each party may terminate the contract at the end of each calendar quarter.

(2) Notice shall be communicated to the other party at least one month prior to expiration of the calendar quarter, and if the contract has lasted for three years, the other party must be given notice two months prior to expiration of the calendar quarter.

(3) Contracting parties may provide for different time limits of notice on termination and of termination of contract, but a minimum one-month time limit must be left between the notice and the termination of contract.

Rescinding of Contract without Time Limit for Notice

Article 904

(1) Each party may rescind the contract without a period of notice on the ground of serious causes, which must be stated.

(2) Should the statement of rescinding of contract be made with no serious reasons, it shall be considered as a notice of termination with the regular period of notice.

(3) Agent who discontinued their activity as a result of an unfounded termination shall be entitled to compensation of damages for lost commission, and should the agent terminate the contract without grounds, the principal shall be entitled to compensation of damages.

(4) Unfounded notice shall entitle the other party to rescind the contract without observance of period of notice.

Termination of Contract Concluded for a Definite Period of Time

Article 905

(1) Should a contract of commercial agency be agreed for a definite period of time, it shall be terminated by the expiration of the time specified.

(2) Should such contract be impliedly extended, it shall be treated as a contract agreed for an indefinite period.

Chapter XXVI

MEDIATION

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 906

By a contract of mediation the mediator shall assume an obligation to try to find and connect their principal with a person who will negotiate with them to enter into a specific contract, while the principal shall assume the obligation to pay to them determined fee should such contract be concluded.

Application of Provisions of the Law Governing the Contract for the Supply of Services

Article 907

Where it is stipulated that the mediator shall be entitled to specified remuneration even if their efforts produce no result, the provisions governing the contract for the supply of services shall apply to that contract.

Accepting Fulfilment

Article 908

Mediation order shall not imply authorisation for the mediator to accept the fulfilment of a contractual obligation for their principal concluded through their mediation, but a written authorisation shall be needed for it.

Revocation of a Mediation Order

Article 909

Principal shall be entitled to revoke a mediation order whenever they please, if they do not renounce such right and on condition that the revocation is not contrary to good faith.

Absence of Duty of Principal to Conclude a Contract

Article 910

Principal shall not be obliged to enter into negotiations for the conclusion of a contract with a person found by the mediator or to conclude a contract with that person under the terms communicated to the mediator, but shall be liable for damage if acting contrary to good faith.

SUBTITLE 2

OBLIGATIONS OF THE MEDIATOR

A Duty to Look for an Opportunity

Article 911

(1) Mediator shall look for an opportunity to conclude a particular contract and direct the principal to it with the care of a good businessperson.

(2) Mediator shall mediate in negotiations and Endeavour that contract be concluded, if they have assumed a specific obligation in that respect.

(3) They shall not be liable if, in spite of necessary care applied, they were not successful in their endeavour.

Obligation to Inform

Article 912

Mediator shall notify their principal of all circumstances relevant to the intended transaction which are known to them or which should be known to them.

Liability of Mediator

Article 913

(1) Mediator shall be liable for loss to be potentially sustained by one or the other party involved in their mediation, which occurs because of their mediation on behalf of a person without business capacity, whose incapacity was known or should have been known to them or on behalf of a person of whose incapacity to meet the contractual obligations they were aware or should have been aware, and shall generally be liable for all loss caused through their fault.

(2) Mediator shall be liable for loss sustained by their principal if they inform a third party of the substance of the order, on negotiations going on or on terms and conditions of a contract concluded, without their principal's permission.

Mediator's Day Book and Sheet

Article 914

Commercial mediator shall note down in a particular book (mediator's day book) essential information about a contract entered into through their mediation, and shall issue an excerpt from such book signed by them (mediator's sheet).

SUBTITLE 3

OBLIGATIONS OF ORDERER

Remuneration

Article 915

(1) Mediator shall be entitled to remuneration even where it has not been stipulated.

(2) Should the amount of remuneration be not determined either by a tariff or other general enactment or by contract or trade custom, it shall be determined by the court according to the mediator's effort and the service rendered.

(3) Stipulated mediator's remuneration may be reduced by the court at the principal's request, if it finds that it is excessively high in comparison to the mediator's effort and the service rendered.

(4) Reduction of the stipulated remuneration shall not be requested if paid to the mediator after entering into a contract mediated by them.

When a Mediator Is Entitled to Remuneration

Article 916

(1) Mediator shall acquire the right to remuneration at the moment of entering into contract they have mediated, unless otherwise stipulated.

(2) However, should a contract be concluded under condition precedent, the realization of such condition shall be a prerequisite to the mediator's acquiring the right to remuneration.

(3) Should a contract be concluded under condition subsequent, the realization of the condition shall not affect the mediator's remuneration.

(4) In case of a contract which is not valid, the mediator shall be entitled to remuneration if the cause of invalidity be unknown to them.

Compensation of Costs

Article 917

(1) Mediator shall not be entitled, unless stipulated to the contrary, to reimbursement of expenses incurred in carrying out the order.

(2) But should their right to reimbursement of expenses be recognized by contract, they shall be entitled to such reimbursement even if the contract has not been concluded.

Mediation for both Parties

Article 918

(1) Unless otherwise stipulated, a mediator who receives an order for mediation by both parties, may request from each only half of the mediator's remuneration, and reimbursement of half of their expenses, should reimbursement of expenses be stipulated.

(2) Mediator shall care for the interests of both parties they are mediating between as a good businessperson.

Loss of the Right to Compensation

Article 919

Mediator working for the other party contrary to the contract or contrary to the interests of their principal shall forfeit their right to remuneration and to the reimbursement of expenses.

Chapter XXVII

FORWARDING (DISPATCH)

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 920

(1) By a contract of forwarding a forwarding agent shall assume the obligation to conclude, in order to effect the transport of a specific item, on their own behalf and for the account of their principal, a contract of carriage and other contracts necessary for effecting transport, as well as to perform other usual transactions and actions, while the orderer shall assume the obligation to pay particular remuneration to them.

(2) Should it be stipulated, the forwarding agent may enter into contracts of carriage and take other legal actions on behalf of their principal.

Desisting from Contract

Article 921

Principal may withdraw from a contract if they wish, but in such case they shall reimburse to the forwarder all expenses incurred by them until that moment, and pay to them a corresponding part of remuneration for the work done.

Application of the Rules of Commission Business or of Commercial Agency

Article 922

Rules of commission business or commercial agency shall apply accordingly to relations between a principal and a forwarding agent not regulated in the present Title.

SUBTITLE 2

Obligations of the Forwarding Agent

Warning about Defects in the Order

Article 923

Forwarding agent shall warn their principal about defects in their order, and more particularly about those exposing them to higher expenses or loss.

Warning about Deficiencies in Packaging

Article 924

If an item is not packed or otherwise not sufficiently ready for transport, the forwarding agent shall warn the principal about such deficiencies, but if waiting for the principal to eliminate them would be damaging to them, the forwarding agent shall eliminate them at the expense of their principal.

Preserving the Interests of the Principal

Article 925

(1) Forwarding agent shall proceed according to the interests of the principal, and act with the care of a good businessperson.

(2) They shall notify the principal without delay of damage to their goods, as well as about all events relevant to them, and take all necessary measures in order to preserve their rights against a liable person.

Proceeding According to the Principal's Instructions

Article 926

(1) Forwarding agent shall follow instructions relating to itinerary, means, and manner of transportation, as well as other instructions received from the principal.

(2) Should it be impossible to proceed according to instructions in the order, the forwarding agent shall request new instructions, and should there be no time or possibility to wait for them, the forwarding agent shall proceed as required in the interest of the principal.

(3) Forwarding agent shall notify their principal without delay of every deviation from the order.

(4) Should the principal fail to determine either the itinerary or the means or the manner of transportation, the forwarding agent shall determine them according to their interests.

(5) Should a forwarding agent diverge from instructions received, they shall also be liable for damage caused by Force Majeure, unless successful in proving that the damage would have occurred even if they had followed instructions.

Liability of Forwarding Agent for Other Persons

Article 927

(1) Forwarding agent shall be liable for the choice of carrier, and other persons they have entered into contract with, while performing the order (such as storage of goods), but shall not be liable for their work unless they have assumed that responsibility by contract.

(2) Forwarding agent entrusting the performance of order to another agent, instead of doing it themselves, shall be liable for their work.

(3) Should the order include, either expressly of impliedly, an authorisation to the forwarding agent to entrust the performance of the order to another agent or if this was obviously in the interest of the principal, they shall be liable only for the choice thereof, unless having assumed the responsibility for their work.

(4) Liabilities referred to in paragraphs 1, 2 and 3 of this Article may not be excluded or limited by contract.

Customs Clearance Procedures and Payment of Customs Duty

Article 928

Unless otherwise specified by contract, an order to forward goods over a state border shall include the forwarding agent's duty to follow necessary customs clearance procedure and pay customs duty for the account of the orderer.

A Case of a Forwarding Agent Performing Transport or other Matters Themselves

Article 929

(1) Unless otherwise stipulated, a forwarding agent may also perform, entirely or partially, the transport of item whose forwarding is entrusted to them, themselves.

(2) Should the forwarding agent perform the transport themselves or part of the transport, they shall obtain the rights and duties of a carrier, and in such case shall be entitled to a corresponding carriage charge, in addition to remuneration for forwarding, and to reimbursement of expenses incurred in relation to forwarding.

(3) Provisions of paragraphs 1 and 2 of this Article shall also apply to other matters covered by the order, trade usages or general terms and conditions.

Insurance of Shipment

Article 930

(1) Forwarding agent shall insure the shipment only if this is stipulated in the contract.

(2) Should the kind of risk to be covered by insurance not be specified in the contract, the forwarding agent shall insure the goods against usual risks.

Rendering Account

Article 931

(1) Forwarding agent shall render an account to the principal after the transaction has been completed.

(2) If so requested by the principal, the forwarding agent shall also render account in the course of carrying out the order.

SUBTITLE 3

OBLIGATIONS OF THE PRINCIPAL

Remuneration

Article 932

Principal shall pay to the forwarding agent remuneration according to the contract, but if remuneration is not included in the contract, according to tariff or other general provisions, and if there are no such provisions, remuneration shall be determined by the court.

When a Forwarding Agent May Request Remuneration

Article 933

Forwarding agent may request remuneration after fulfilling their obligations from the forwarding contract.

Expenses and Advance Payment

Article 934

(1) Principal shall reimburse the forwarding agent necessary expenses incurred in order to carry out the order of forwarding the items.

(2) Forwarding agent may demand reimbursement of expenses immediately after incurring them.

(3) At the forwarding agent's demand, the principal shall make an advance payment to them to cover expenses necessary to carry out the order for forwarding the items.

Stipulation that Remuneration Be Paid by the Consignee

Article 935

Should it be stipulated that the forwarding agent shall collect their claims from the consignee, the forwarding agent shall keep the right to demand remuneration from the principal should the consignee refuse to pay it to them.

Dangerous Objects and Valuables

Article 936

(1) Principal shall notify the forwarding agent of properties of items creating a potential danger to the safety of people and property or danger of damage.

(2) Should a shipment contain valuables, securities or other expensive items, the principal shall notify the forwarding agent accordingly, and inform them of their value at the moment of delivery for forwarding.

SUBTITLE 4

PARTICULAR CASES OF FORWARDING

Forwarding with Fixed Fee

Article 937

(1) Should a lump sum be determined by forwarding contract for carrying out the forwarding order, such sum shall include, unless otherwise stipulated, the remuneration for forwarding and payment for the transport, as well as reimbursement of all other expenses.

(2) In case referred to in paragraph 1 of the present Article, the forwarding agent shall also be responsible for the work of the carrier and other persons engaged by them by corresponding authorisation in the contract.

Collective Forwarding

Article 938

(1) While carrying out orders received, a forwarding agent may organize collective forwarding, unless this be excluded by contract.

(2) After achieving a difference in the freightage to the benefit of the principal by collective forwarding, the forwarding agent shall be entitled to special additional remuneration.

(3) In the case of collective forwarding the forwarding agent shall be liable for loss or damage of the item in transport which otherwise would not take place if it were not for the collective forwarding.

SUBTITLE 5

Forwarding Agent's Right of Lien

Article 939

(1) In order to secure the collection of their claims originated in relation to the forwarding contract, the forwarding agent shall have the right of lien regarding the items handed over for forwarding and in relation to forwarding, while they keep them in their possession or while they are in possession of the document entitling them to dispose of them.

(2) Should yet another agent participate in effecting the forwarding, they shall take care of collecting the claims and realizing the right of lien of the previous forwarding agents.

(3) Should another agent pay off the forwarding agent's claims against the principal such claims and the forwarder's right of lien shall be transferred to them by law.

(4) Paragraph 3 of this Article shall also apply where another forwarding agent pays the carrier's claims.

Chapter XXVIII

CONTRACT OF CONTROL OF MERCHANDISE AND SERVICES

The Concept

Article 940

(1) By a contract of control of merchandise one contracting party (controller) shall assume the obligation to perform, professionally and impartially, the stipulated control of merchandise, and issue a certificate thereof, while the other party (principal) shall assume the obligation to pay for the control performed a stipulated amount of fee.

(2) Control of merchandise may consist of determining the identity, quality, quantity and other characteristics of the merchandise.

Scope of Control

Article 941

Controller shall effect control within the scope, and in the manner, specified in the contract, and should nothing be specified in the contract in that respect, within the scope and in the manner corresponding to the nature of the item.

Nullity of some Clauses of Contract

Article 942

(1) Clauses of a contract by which duties are imposed on the controller which could affect the impartiality of control or authenticity of the certificate on the control effected shall be null and void.

(2) Control shall be considered carried out only after issuing the certificate.

Keeping of Merchandise or Samples

Article 943

(1) Controller shall keep the merchandise handed over to them by the principal in order to carry out the control provided by contract, and shall take care to prevent substitution.

(2) Unless otherwise stipulated, the controller shall keep samples handed over to them for at least six months.

Duty of Notifying the Principal

Article 944

Controller shall notify the principal of all significant circumstances in course of control and of keeping the merchandise on time, and, more particularly, about necessary and useful expenses effected for their account.

Remuneration

Article 945

(1) For the performed control and keeping of merchandise, the controller shall be entitled to a stipulated or usual fee.

(2) Controller shall also be entitled to reimbursement of all necessary and useful expenses incurred for the account of the orderer of control.

Right of Lien

Article 946

In order to secure the stipulated or customary fee and the reimbursement of necessary and useful expenses, the controller shall have the right of lien over the merchandise entrusted to them for control.

Entrusting Control of Merchandise to Another Controller

Article 947

(1) Controller may entrust performing of control to another, unless the principal has expressly forbidden it.

(2) Controller shall be responsible to their principal for the work of the other controllers.

Control of Merchandise with Undertaking Legal Work

Article 948

(1) On the ground of an express order by the principal the controller shall be entitled, in addition to carrying out the control of merchandise as stipulated by contract, to undertake some legal work on behalf and for the account of the principal.

(2) Controller shall be entitled to special customary or stipulated remuneration for performing certain legal matters on behalf and for the account of the principal.

Control of Merchandise with a Guarantee

Article 949

(1) Controller may guarantee non-changeability of properties of controlled merchandise within the terms provided by contract.

(2) For the guarantee assumed in relation to properties of merchandise, the controller shall be entitled to special stipulated or customary remuneration.

Control of Services and Goods not Intended for Trade

Article 950

Should performance of control relate to services or items not intended for trade, the controller and the principal shall have same rights and duties as in the case of control of merchandise.

Rescission of Contract

Article 951

Principal may rescind the contract until the control ordered has been carried out, but in such case they shall pay the controller a proportionate part of the fee, reimburse the necessary and useful expenses incurred and compensate the controller for damage.

Chapter XXIX

CONTRACT OF ORGANIZATION OF TRAVEL

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 952

By a contract of organization of travel a travel organizer shall assume the obligation to procure to a traveller a set of services consisting of transportation, stay and other services relating to them, while a passenger shall assume the obligation to pay to the organizer a total sum (lump sum) as a price.

Issuing a Travel Certificate

Article 953

(1) Travel organizer shall issue a travel certificate to a traveller on entering into contract.

(2) Travel certificate should include the following: place and date of issue, address of the travel organizer, name of the traveller; place and date of departure and of the end of journey, dates of stay, necessary details concerning transportation and stay as well as other services included in the flat price; the minimum number of travellers (needed for the travel); the fixed prices for the set of services provided for by the contract; terms and conditions to be met for the rescission of contract by the traveller, as well as other figures and data deemed necessary to be included in the certificate.

(3) If prior to issuing a travel certificate to the traveller they were served with a travel program containing data specified in the paragraph 2 of the present Article, the travel certificate may include only reference to that program.

Advertising Material

Article 954

(1) Advertising material, such as programs of travel or brochures, related to vacation package, which the travel organizer made accessible to the passenger shall not

contain misleading information regarding price or any other term of contract on organization of travel.

(2) Advertising material placed at the disposal of the passenger shall contain clear, complete and correct information as to the price of travel package, destination; means; characteristics and category of transportation; type of accommodation facility; its location and category; its basic characteristics and touristic classification according to the applicable law of country where facility is located; number of meals per day, itinerary; amount or percentage of advance; number and amount of instalments for repayment of remainder of the price, border crossing, visa and health related formalities with regard to travel and stay at destination; minimum number of passengers necessary to organize travel as well as time limit within which the passenger shall be notified on cancellation of travel, should there be no sufficient number of passengers who applied.

(3) Information contained in advertising material shall be binding on the travel organizer and may be altered only based on the agreement with passenger or were the passenger informed thereon prior to conclusion of contract, in which case such possibility must be expressly stated in advertising material.

Relationship between Contract and a Travel Certificate

Article 955

(1) Existence and validity of a contract of organization of travel shall be independent of the existence of the travel certificate and its contents.

(2) However, the travel organizer shall be liable for all losses sustained by the other party due to their failing to issue the travel certificate or because of its incorrectness.

Presumption of Correctness of the Certificate

Article 956

Everything indicated in the certificate shall be considered correct as long as t they contrary is not proved.

SUBTITLE 2

OBLIGATIONS OF THE TRAVEL ORGANIZER

Protection of Traveller's Rights and Interests

Article 957

Travel organizer shall provide the traveller with services encompassing the substance and features otherwise specified by contract, by certificate or advertising material referred to in Article 954 of the present Law, and shall take care of the passenger's rights and interests in accordance with fair trade practices in this line of business.

Obligation to Inform

Article 958

Travel organizer shall provide the traveller within reasonable time limit prior to starting of travel, either in written form or via electronic mail, with necessary information concerning prices and terms of transportation, stay and particular services, as well as with information relating to quality of the means of transportation and accommodation, time-table, state borders and customs formalities, and to sanitary, monetary and other administrative regulations.

Duty of Confidentiality

Article 959

Information received about the passenger, their luggage and their whereabouts may be related to third parties by the travel organizer only after obtaining permission from the traveller or at the request of a competent agency.

Liability for Organizing Travel

Article 960

Travel organizer shall be liable for loss caused by them to a traveller by total or partial failure to fulfil the obligations relating to the organization of travel provided for by the contract and the present Law.

Liability of Travel Organizer Performing themselves Particular Services

Article 961

Should they themselves supply services of transportation, accommodation and other services relating to carrying out of organized travel, the organizer shall be liable for loss caused to the passenger, on the ground of regulations covering such services.

Liability of Travel Organizer Entrusting the Performance of some Services to Third Parties

Article 962

(1) Travel organizer entrusting the performance of transportation services, lodging and other services relating to realization of travel to third parties shall be liable to the traveller for loss occurring due to total or partial failure to fulfil such services, in accordance with regulations relating to them.

(2) But even if the services are performed in accordance with the contract and regulations relating to them, the organizer shall be liable for loss sustained by the traveller in relation to their performance, unless successful in proving that they acted as a careful travel organizer in making their choice of persons performing such services.

(3) Traveller shall be entitled to demand directly from the third party liable for damage, the entire or additional compensation for loss they have suffered.

(4) To the degree of their redressing the loss sustained by the traveller, the travel organizer shall acquire all rights, which would otherwise pertain to the traveller against the third party liable for such loss (the right of redress).

(5) Passenger shall assign to the travel organizer documents and all that is necessary for enforcement of the right to redress.

Price Reduction

Article 963

(1) Should services arising from a contract of travel organization be incomplete or of low quality, the traveller may demand a proportionate price reduction, on condition that they raise the objection against the travel organizer within eight days from the day of termination of travel.

(2) Demand for a price reduction shall not affect the traveller's right to request compensation of damages.

Exclusion and Limitation of Travel Organizer's Liability

Article 964

(1) Clauses of a contract of travel organization by which liability of the travel organizer is excluded or limited shall be void.

(2) However, a written clause in the contract shall be valid by which the highest amount of compensation is determined in advance, on condition that it be not in obvious disproportion to the loss.

(3) Such limitation of amount of compensation shall not be applicable if the organizer caused damage by wilful misconduct or gross negligence.

Insurance

Article 965

(1) Travel organizer shall conclude a contract on insurance from liability for damage foreseen by present Law.

(2) Travel organizer may stipulate by agreement with traveller to insure them against other risks of travel.

Guarantee for Organized Travels

Article 966

(1) Organizer of travels shall provide guarantee with the bank or insurance company for restitution of price to a traveller, if due to their bankruptcy or incapacity to pay, a travel should not take place or redress of costs for returning of travellers in the place of departure or if for any reasons travel should be interrupted.

(2) Guarantee may be given in form of insurance policy, deposited cash or bank guarantee.

(3) Organizer of travels shall issue to a traveller the confirmation on provision of a guarantee which enables the later to directly realize their rights towards bank or insurance company.

SUBTITLE 3

OBLIGATIONS OF THE TRAVELLER

Payment of Price

Article 967

Traveller shall pay to the travel organizer the stipulated price of the travel, at the time as stipulated or as customary.

Duty of Providing Information

Article 968

At the organizer's request a traveller shall supply on time all information necessary for the organization of travel, and more particularly that necessary for obtaining tickets for transport, lodging reservations, as well as documents needed for crossing state borders.

Notification on Defects of Performance

Article 969

(1) Traveller shall, in writing or another appropriate form, notify the service provider as soon as possible of any non-performance or improper performance of a service under the contract, and shall notify the travel organiser within eight days of completion of the travel.

(2) Duty of the traveller referred to in paragraph 1 of the present Article must be clearly and expressly stated in the contract on organizing of travel.

Meeting Requirements Set Forth by Regulations

Article 970

Traveller shall take care that they personally, their identity documents, and their luggage meet the state borders and customs requirements, sanitary, monetary and other administrative regulations.

Traveller's Liability for Damage

Article 971

Traveller shall be liable for loss caused to the travel organizer by their failure to perform their contractual obligations and under the provisions of the present Law.

SUBTITLE 4

PARTICULAR RIGHTS AND OBLIGATIONS OF CONTRACTING PARTIES

Substituting a Traveller with Another Person

Article 972

Unless otherwise stipulated, a traveller may determine another person to use the services instead of them, on condition that such person meets particular requirements for the specific travel, and that such passenger reimburse to the travel organizer the expenses incurred by the replacement.

Raising a Stipulated Price

Article 973

(1) Travel organizer may demand an increase of the stipulated price only if, after entering into contract, the foreign currency exchange rate or carrier's tariffs affecting the price of travel have been changed.

(2) Right to increase the stipulated price as specified in the preceding paragraph, may be effected by the travel organizer only after being provided for in the certificate of travel.

(3) Should the increase of stipulated price exceed ten percent, the traveller may rescind the contract without being obliged to redress the loss.

(4) In the case referred to in paragraph 3 of the present Article the traveller shall be entitled to restitution of the amount paid to the travel organizer.

(5) Price stipulated by contract may not be increased twenty days prior to commencement of the travel.

(6) Should the changes referred to in paragraph 1 of the present Article cause decrease of the price of travel, travel organizer shall restitute to the traveller the difference in price.

Traveller's Right to Withdraw from Contract

Article 974

(1) Traveller may at any time withdraw from contract, entirely or partially.

(2) Should the traveller withdraw from the contract prior to the commencement of the travel within a reasonable time limit, which shall be determined with regard to the kind of package deal (withdrawing on time), the travel organizer shall be entitled only to reimbursement of current office expenses.

(3) In case of an untimely withdrawal from contract, the travel organizer may request from the traveller compensation in a percentage of the stipulated price, which shall be determined in proportion to the time left over before commencement of the travel, and which must be justified economically.

(4) Travel organizer shall be entitled only to reimbursement of expenses incurred, if the passenger withdraws from contract due to circumstances impossible to avoid or eliminate by them, and which – had they existed at the time of entering into contract – would have amounted to a justified ground for them not to enter into contract or if the traveller has provided a corresponding replacement for them or the replacement has been found by the organizer themselves.

(5) Should the traveller withdraw from contract after the travel has commenced, and the relevant grounds were not the circumstances specified in the paragraph 4 of the present Article, the organizer shall be entitled to the full amount of the stipulated price of the travel.

Right of Travel Organizer to Withdraw from Contract

Article 975

(1) Travel organizer may withdraw from contract, entirely or partially, without an obligation to provide compensation of damages, should prior or in course of performing the contract extraordinary circumstances take place which could not have been foreseen, avoided or eliminated, and which – had they existed at the time of entering into contract – would have amounted to a justified ground for the travel organizer not to enter into contract.

(2) Travel organizer may also withdraw from contract without an obligation to provide compensation of damages should there be no minimum number of travellers as anticipated in the certificate of travel, on condition that the organizer notifies the traveller accordingly and in due time, which time shall not be shorter than five days prior to the scheduled date of travel.

(3) In case of withdrawing from contract prior to its being performed, the organizer shall restitute to the traveller the entire amount received by them.

(4) Should the organizer withdraw from contract in course of its performance, they shall be entitled to equitable compensation to cover the services realized and provided by contract, while being obliged to take all necessary measures to protect the interests of the traveller.

Change of Itinerary

Article 976

(1) Changes in the itinerary may be effected only if caused by extraordinary circumstances which could not have been foreseen, avoided or eliminated by the travel organizer.

(2) Expenses caused due to changes in the itinerary shall be at the charge of the travel organizer, while reduction of expenses shall be to the credit of the traveller.

(3) Changing the stipulated lodging may be effected only by using a facility of the same category or by using the premises of a higher category in the place as stipulated by contract – at the charge of the organizer.
(4) Should essential changes be made to the itinerary without justified ground, the travel organizer shall restitute to the traveller the entire amount paid to them if the traveller withdraws from travel due to the above.
(5) Should essential changes in the itinerary be made in course of performing the contract, the traveller– if they withdraw from the contract – shall bear only actual expenses of the services realized until then.

Chapter XXX

INTERMEDIARY CONTRACT OF TRAVEL

The Concept

Article 977

By an intermediary contract of travel, the intermediary shall assume the obligation to conclude, on behalf and for the account of a passenger, a contract of organizing a travel or a contract of performing one or several particular services making possible travel or stay, while the passenger shall assume the obligation to pay in return a corresponding fee.

Duty of Issuing an Acknowledgment

Article 978

(1) Where a travel intermediary contract includes an obligation to conclude a travel organisation contract, the intermediary shall, upon conclusion of the contract, issue a travel certificate which, in addition to information concerning the travel and the name and address of the travel organiser, shall contain the name and address of the intermediary and state that the intermediary is acting in that capacity.
(2) Should they fail to indicate in the acknowledgment of travel their capacity as intermediary, the intermediary in the organization of travel shall be considered as the travel organizer.
(3) Should the intermediate contract of travel be related to concluding a contract of a specific service, the intermediary shall issue an acknowledgment relating to such service, indicating the amount paid for the services.

Proceeding According to Instructions of the Traveller

Article 979

(1) Intermediary shall proceed according to instructions given to them on time by the traveller, if such instructions are in accordance with the contract, with the usual business activity of an intermediary, and with the interests of the traveller.
(2) Should a traveller fail to supply necessary instructions, the intermediary shall act for the traveller in the way most appropriate in the given circumstances.

Choice of Third Parties

Article 980

Intermediary shall choose in good faith third parties who must perform services provided by the contract, and shall be responsible to the passenger for such choice.

Corresponding Application of Terms of the Contract of Travel Organization

Article 981

Provisions of the present Law relating to the contract of travel organization shall apply accordingly to the intermediate contract of travel, unless otherwise specified by provisions of the present Chapter.

Chapter XXXI

THE CONTRACT OF ENGAGING CATERING CAPACITIES (CONTRACT OF ALLOTMENT)

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 982

(1) By a contract of allotment, the caterer shall assume the obligation to place at the disposal of a tourist agency, in course of a specified period of time, a number of beds in a designated facility, to provide catering services for persons sent by the agency, and to pay to it a specified fee, while the agency shall assume the obligation to endeavour to fill that capacities or to inform, within the determined time limit, that this is not possible, and to pay the price for catering services supplied, if using the engaged hotel capacities.

(2) Unless otherwise provided by the contract, the lodging capacities shall be considered placed at disposal in the course of one year.

Form of a Contract

Article 983

(1) Contract of allotment must be concluded in written form.

(2) Agreement which is not concluded in written form shall be null and void.

SUBTITLE 2

OBLIGATIONS OF A TOURIST AGENCY

Obligation to Inform

Article 984

(1) Tourist agency shall notify the caterer in the course of filling up of accommodation capacities.

(2) If not able to fill up all engaged accommodation capacities, a tourist agency shall notify, within stipulated or customary time limits, the caterer of the fact, and to send them the list of guests, as well as to determine in such notification the time limit up to which the caterer may freely dispose of the capacities engaged.

(3) Catering capacities which are not designated in the guest list as filled up, shall be considered vacant from the day of acknowledging of such list by the hotel, for the period covered by the list.

(4) After the expiration of such time limit, the tourist agency shall again acquire the right to fill up the engaged capacities.

Duty of Complying with Prices Provided for in the Contract

Article 985

Tourist agency shall not charge higher prices for catering services to persons sent by it to a catering facility, than the ones provided by the contract of allotment or by caterer's price list.

Duty of Payment for Catering Services

Article 986

(1) Unless otherwise provided by contract, the price of the effected catering services shall be paid by the tourist agency to the caterer after the services have been provided.

(2) Caterer shall be entitled to demand an adequate advance payment.

Duty of Issuing a Particular Certificate

Article 987

(1) Tourist agency shall issue to a person sent by it, on the ground of an allotment contract, a particular certificate.

(2) Particular certificate shall be made out to name or to a specific group of persons; it shall not be transferrable and shall contain an order to the caterer to supply services indicated therein.

(3) Particular certificate shall serve as proof that the person indicated is a client of the tourist agency, which concluded the contract of allotment with the caterer.

(4) Particular certificate shall serve as a ground for settling mutual claims between the tourist agency and the caterer.

SUBTITLE 3

OBLIGATIONS OF THE CATERER

Duty of Making Available the Stipulated Accommodation Capacities

Article 988

(1) Caterer shall assume a final and irrevocable obligation to make available, during a specified period of time, the stipulated number of beds and to supply the persons sent by the tourist agency with services indicated in the particular certificate.

(2) Caterer shall not make an agreement with another tourist agency for engaging capacities which have been already reserved on the ground of an allotment contract.

Duty of Non-discrimination

Article 989

Caterer shall supply persons sent by the tourist agency with services of the same quality as the ones extended to persons with whom they have entered into a direct agreement on catering services.

Duty of a Caterer not to Change Prices of the Services

Article 990

(1) Caterer shall not change stipulated prices unless they notify the tourist agency accordingly at least six months in advance, except in case of change in the foreign currency exchange rate affecting the price stipulated.
(2) New prices may be applied only after the expiration of one month from the day of their referral to the attention of the tourist agency.
(3) New prices shall not apply to services covered by the guest list already delivered to the caterer.
(4) In any case the changed prices shall not affect the reservations (bookings) confirmed by the caterer.

Duty of Payment of Fee

Article 991

(1) Caterer shall pay to a tourist agency a fee against turnover effected on the ground of the contract of allotment.
(2) Fee shall be determined as a percentage of the price of the catering services which are provided.
(3) Should the percentage fee not be determined by contract, the tourist agency shall be entitled to a fee as specified by general terms and conditions of tourist trade or, in the absence of such terms and conditions, by corresponding trade practices.

SUBTITLE 4

A RIGHT OF TOURIST AGENCY TO REPUDIATE THE CONTRACT

A Right to Withdraw from Engaged Accommodation Capacities

Article 992

(1) Tourist agency may temporarily withdraw from the use of engaged accommodation capacities, and still not rescind the contract of allotment, and not create its own obligation to provide compensation of damages to the caterer, if it notifies the caterer on the withdrawal from use within the stipulated time limit.
(2) Should the time limit for notification on withdrawal be not specified by contract, it shall be determined on the ground of catering business trade practices.
(3) Should the notification of withdrawal not be communicated within the specified time limit, the caterer shall be entitled to compensation of damages.
(4) Tourist agency may rescind the contract in its entirety, without being bound to redress loss, if it communicates notification of repudiation within the stipulated time limit.

Duty of a Tourist Agency to Fill in the Engaged Capacities

Article 993

(1) Allotment contract may include a special clause binding the tourist agency to fill in the engaged catering capacities.
(2) Should it fail in such case to fill in the engaged catering capacities, the tourist agency shall pay to the caterer compensation against unused beds per day.
(3) Tourist agency in such case shall have no right to repudiate the contract by notification on time either entirely or partially.

Chapter XXXII

INSURANCE

SUBTITLE 1

JOINT PROVISIONS FOR PROPERTY INSURANCE AND INSURANCE OF PERSONS

Section 1

GENERAL PROVISIONS

The Concept

Article 994

By a contract of insurance a policyholder shall assume the obligation to pay a specific amount to an insurance organization (insurer), while the organization shall assume the obligation, should an event take place which represents the case covered by insurance, to pay to the insured person or to a third party, compensation, the stipulated amount or to do something else.

Case Covered by Insurance

Article 995

(1) Event serving as a ground for concluding insurance (an insurance case) must be a future event, uncertain and entirely independent of the contracting party's will.

(2) Contract of insurance shall be void if, at the moment of its conclusion, the insurance case has already materialized or is at the point of occurring or if it is certain that it is going to occur or if, even at that time, there was no possibility of its occurring.

(3) However, after stipulating that the insurance shall encompass a specified period of time preceding the conclusion of contract, the contract shall be null only if, at the moment of its conclusion, the interested party was aware that the case covered by insurance had already taken place or that even then the possibility of its taking place had ceased to exist.

Exclusion of some Kinds of Insurance

Article 996

(1) Provisions of the present Title shall not apply to navigation insurance or to other kinds of insurance subject to the rules of navigation insurance.

(2) Mentioned provisions shall not apply to the insurance of claims either or to relations arising from re-insurance.

Departure from Provisions of the Present Title

Article 997

(1) It may be possible to depart in a contract from provisions of the present Title, if such departure is expressly provided by such provisions or from provisions leaving contracting parties the option to proceed as they wish.

(2) Deviations from the remaining provisions, if not prohibited by the present Law or other laws, shall be permitted only if it is to the obvious interest of the person insured.

Section 2

CONCLUDING A CONTRACT

When a Contract is Concluded

Article 998

(1) Contract of insurance shall be concluded when the contracting parties have signed the insurance policy or the list of coverage.

(2) Written offer made to an insurer to enter into a contract of insurance shall be binding on the offeror – unless they have determined a shorter time limit, for eight days after the offer has reached the insurer, and should medical examination be necessary, then in course of thirty days.

(3) Should the insurer fail, within the time limit referred to in paragraph 2 of the present Article, to decline the offer which does not differ from terms and conditions of their usual provision of the proposed insurance, it shall be deemed that the insurer has accepted the offer and that the contract has been concluded.

(4) In case referred to in paragraph 3 of the present Article the contract shall be considered as concluded at the moment of the offer reaching the insurer.

Policy and the List of Cover

Article 999

(1) Following must be indicated in the policy: contracting parties, the insured item or insured person, risk covered by insurance, duration of insurance and period of cover, amount of insurance or an indication that the insurance is unlimited, insurance premium or allowance, date of issuing the policy, and signatures of contracting parties.

(2) Insurance policy may be temporarily substituted by a list of cover, which shall include the essential constituent elements of contract.

(3) Insurer shall warn the policyholder that the general and special insurance terms and conditions form an integral part of the contract and shall provide the policyholder with their text, unless they are printed on the policy itself.

(4) Performance of obligation specified in the paragraph 3 of the present Article must be expressly indicated as done in the insurance policy.

(5) In the case of discrepancy between a provision of the general or particular terms and conditions, and an insurance policy clause, the clause of the policy shall apply, while in the case of discrepancy between an insurance policy printed clause and a clause which is handwritten, the latter shall apply.

(6) Contracting parties may agree that a policy be made out either to specific person, by order or to bearer.

Insurance without Policy

Article 1000

Terms of insurance may provide cases in which contractual relationship from insurance shall ensue due to only payment of premium.

Unauthorised Conclusion of Contract on Behalf of Another

Article 1001

(1) Person concluding a contract of insurance on behalf of another without their authorisation, shall be liable to the insurer for obligations stemming out of such contract, until the person on whose behalf the contract is concluded has accepted it.

(2) Party interested may approve of the contract even after the case covered has taken place.
(3) Should approval be declined, the policyholder shall owe the insurance premium for the period of insurance within which the insurer was notified of declining the approval.
(4) But a manager of another’s affairs shall not be liable for obligations stemming out of the insurance if they notify the insurer of their acting without authorisation and on behalf of and for the account of another.

Insurance for Another Person's Account or for the Account of the Party Interested

Article 1002

(1) In case of insurance for another person's account or for the account of the party interested, the duties of payment of insurance premium and other contractual obligations shall be met by the policyholder, but they shall not be entitled to effect rights on the ground of insurance, even after being in possession of the policy, without the consent of the person whose interest is insured and who is the holder of these rights.
(2) Policyholder shall not be obliged to hand over the policy to the interested party until reimbursed for the premiums paid to the insurer and the expenses of the contract.
(3) Policyholder shall have the right of priority in collecting these claims out of compensation due, and the right to demand their discharge directly from the insurer.
(4) Insurer may raise all defences otherwise pertaining to them on the ground of the contract against the policyholder against every user of the insurance for another person's account.

Insurance Agents

Article 1003

(1) Should an insurer authorise someone to represent them, while not specifying the scope of their powers, such agent shall be entitled to conclude, on behalf and for the account of the insurer, the contract of insurance, to negotiate and conclude alterations of contracts or extend their validity, to issue insurance policies, to collect premium payments, and to accept statements communicated to the insurer.
(2) Should the insurer limit their agent while this fact is not known to the policyholder, such limitations shall be considered as non-existent.

Section 3

OBLIGATIONS OF THE INSURED PERSON OR POLICYHOLDER

I. REPORTING THE CIRCUMSTANCES MATERIAL IN ASSESSING THE RISK

Duty of Reporting

Article 1004

Policyholder shall report to the insurer, at the conclusion of the contract, all circumstances which are material in assessing the risk, and which were known or could not have been unknown, to them.

Deliberately Incorrect Reporting or Concealing Facts

Article 1005

(1) Should a policyholder deliberately file an incorrect application or intentionally suppress circumstances being of a nature, which would induce the insurer, if they knew the real situation, not to enter into contract, the insurer shall be entitled to seek avoidance of contract.
(2) In the case of avoidance of contract on the ground of reasons specified in the paragraph 1 of the present Article, the insurer shall keep the collected insurance premiums, and shall be entitled to request payment of the premium for the insurance period within which they have requested the avoidance of contract.
(3) Insurer's right to request annulment of the insurance contract shall cease if, within three days of becoming aware of the incorrect application or concealment of facts, the insurer fails to notify the policyholder of the intention to exercise that right.

Unintentional Incorrectness or Incompleteness of Application

Article 1006

(1) Should a policyholder make an incorrect application or omit to supply necessary information unintentionally, the insurer may, at their own choice, within one month after becoming aware of the incorrectness or incompleteness of the application, declare that they are rescinding the contract or propose an increase of the insurance premium, proportionally to the higher risk involved.
(2) In case referred to in paragraph 1 of the present Article the contract shall be terminated on the expiration of fourteen days from the day of the insurer's notifying the policyholder of cancellation, while in the case of the insurer's proposal for insurance premium increase, the rescission shall take effect by operation of law, should the policyholder fail to accept the proposal within the fourteen day period after being notified about it.
(3) In case of rescission, the insurer shall restitute the part of insurance premium relating to the remaining share of the insurance period.
(4) Should the case covered by insurance take place prior to finding the incorrectness or incompleteness of the application or after that but prior to the rescission or prior to reaching an agreement on the premium increase, the compensation shall be reduced proportionally between the rate of the paid insurance premiums and the rate of insurance premiums which would have to be paid according to the real risk.

Extending the Application of the Preceding Articles

Article 1007

Provisions of the preceding articles concerning the consequences of incorrect application or of suppressing circumstances relevant for assessing the risk, shall also apply in cases of insurance concluded on behalf and for the account of another or to the benefit of a third party, should such persons be aware of incorrectness of the application or of suppressing the circumstances relevant for the assessment of risk.

Cases Where the Insurer is Unable to Invoke Incorrectness or Incompleteness of Application

Article 1008

(1) Insurer who, at the moment of entering into contract, was aware or could not have been unaware, of circumstances relevant for assessing the risk, which were incorrectly notified or suppressed by the policyholder, shall not invoke incorrectness of the application or the fact of suppression.

(2) Provision referred to in paragraph 1 of the present Article shall apply if the insurer becomes aware of these circumstances in course of the insurance period, but fails to use their legal rights.

II. PAYMENT OF INSURANCE PREMIUM

Duty of Paying and Accepting the Insurance Premium

Article 1009

(1) Policyholder shall pay the insurance premium; however, the insurer shall accept payment of the premium from any person having a legal interest in its payment.

(2) Premium shall be paid within the stipulated time limits, and should it be paid as a lump sum, it shall be paid on entering into contract.

(3) Place of payment of the insurance premium shall be the place of the seat or place of permanent residence of the policyholder, unless another place be designated by contract.

Consequences of Failing to Pay the Insurance Premium

Article 1010

(1) Should it be stipulated that the insurance premium be paid on entering into contract, the duty of the insurer to pay compensation or the amount specified by contract, shall commence on the day following the day of payment of insurance premium.

(2) Should it be stipulated that the insurance premium be paid after entering into contract, the duty of insurer to pay the compensation or the amount specified by contract shall commence from the day determined in the contract as a day of commencement of insurance.

(3) Should the policyholder fail to pay a premium due after the conclusion of the contract by its due date, and should no other interested person pay it, the insurance contract shall terminate by operation of law upon expiry of 30 days from the date on which the policyholder is served with a registered letter from the insurer notifying them that the premium has fallen due, provided that this period may not expire before 30 days have elapsed from the date on which the premium fell due.

(4) In any event, the insurance contract shall be terminated by operation of law if the premium is not paid within one year time counting from the maturity.

(5) Provisions of the present Article shall not apply to life insurance.

III NOTIFYING THE INSURER ON CHANGES OF RISK

Increase in Risk

Article 1011

(1) In the case of property insurance, the policyholder shall notify the insurer of every change in circumstances that may be relevant to the assessment of risk and, in the case of personal insurance, only where the risk has increased because the insured person has changed occupation.

(2) Policyholder shall notify the insurer without delay of any increase in risk caused by an act of the policyholder and, where the risk increases without the policyholder's involvement, shall notify the insurer within 14 days of becoming aware of it.

(3) Should the increase in risk be of such scope that the insurer would not have concluded the contract if such situation had existed at the time of its conclusion, they shall be entitled to rescind the contract.
(4) Where the increase in risk is such that the insurer would have concluded the contract only at a higher premium had that situation existed when the contract was concluded, the insurer may propose a new premium rate to the policyholder.
(5) Should the policyholder fail to accept the new premium rate within fourteen days of receipt of the proposal for the new rate, the contract shall be terminated by operation of law.
(6) Contract shall remain in force and the insurer shall no longer be entitled to propose a new premium rate to the policyholder or rescind the contract if the insurer fails to exercise those rights within one month of becoming aware, in any manner, of the increase in risk or if, before that period expires, the insurer otherwise demonstrates consent to continuation of the contract (by accepting the premium, paying compensation for an insured event occurring after the increase in risk or otherwise).

Should a Case Covered by Insurance Take Place in the Meantime

Article 1012

Should an insured event occur before the insurer is notified of the increase in risk or after notification but before the insurer rescinds the contract or reaches an agreement with the policyholder on an increase in the premium, compensation shall be reduced in proportion to the ratio between the premiums paid and the premiums that should have been paid for the increased risk.

Reduction of Risk

Article 1013

(1) Should after entering into contract of insurance, a reduction of risk take place, the policyholder shall be entitled to demand a corresponding reduction of insurance premium, counting from the day of their notifying the insurer of such reduction of risk.
(2) Should the insurer fail to accept the reduction of insurance premium, the policyholder may rescind the contract.

Duty to Notify of the Occurrence of an Event Covered by Insurance

Article 1014

(1) Except in the case of life insurance, the insured person shall notify the insurer about occurrence of the event covered by insurance, within three days at the latest, counting from the day of their becoming aware of it.
(2) Should they fail to fulfil this obligation within the time limit referred to in paragraph 1 of present Article, they shall compensate the insurer for loss sustained due to the above.

Nullity of Clauses of Forfeiture of Right

Article 1015

Clauses of a contract which provide for the forfeiture of the right to compensation or to the amount insured, should the insured person, after the occurrence of the event covered by insurance, fail to execute some of the prescribed or stipulated obligations shall be void.

Section 4

OBLIGATIONS OF THE INSURER

Payment of Compensation or of the Amount Stipulated

Article 1016

(1) When the event covered by insurance takes place, the insurer shall pay the compensation or the amount specified by contract within the stipulated time limit, which shall not exceed fourteen days, counting from the notification received by the insurer of the occurrence of the insured event.

(2) But should some time be needed to establish the existence of the insurer's obligation or its amount, time limit referred to in paragraph 1 of the present Article shall begin to run from the day of establishing the existence of their obligation and its amount.

(3) Where the amount of the insurer's obligation is not determined within the period referred to in paragraph 1 of this Article, the insurer shall, at the request of the entitled person, pay the undisputed portion of the obligation as an advance.

(4) Should the insurer fail to perform the obligation within the periods referred to in this Article, the insurer shall owe the insured person default interest from the date of receipt of notification of the insured event, as well as compensation of damages resulting from that failure.

Exclusion of Liability of the Insurer in Case of Intentional Misconduct or Fraud

Article 1017

If the policyholder, the insured person or the beneficiary of insurance provoked the event covered by insurance by their intentional misconduct or fraud, the insurer shall have no obligation whatsoever, while a contractual clause contrary to that shall have no legal effect.

Defences of the Insurer

Article 1018

(1) Insurer shall be entitled, against the request by the bearer of the policy, as well as request of any other person referring to it, to set up all defences otherwise at their disposal on the ground of contract towards the person with whom they have concluded the contract of insurance.

(2) In the case of mandatory liability insurance the insurer shall not be entitled to raise against the claim for indemnity brought by a third party such defences to which they would be entitled against the insured.

(3) As an exception, the insurer may raise only those defences which originated prior to the occurrence of the insured event, against a claim by the third party in case of voluntary liability insurance, and claims by holders of specific rights on the insured item, whose right has been passed by operation of law from the destroyed or damaged item to the insurance compensation.

Section 5

DURATION OF INSURANCE

Commencement of Effect of the Insurance

Article 1019

(1) Unless otherwise stipulated, the contract of insurance shall begin to take effect twenty four hours from the day designated in the insurance policy as the day of commencement of insurance, and shall continue to be effective until the end of the last day of the time limit stipulated for the insurance.
(2) Should an insurance time limit be not provided by contract, each party shall be entitled to a rescission of the contract becoming effective on the day of maturity of the insurance premium, after notifying the other party accordingly in writing, three months before the maturity of the premium, at the latest.
(3) Should insurance be stipulated for a period exceeding five years, each party shall be entitled, after the expiration of that time limit, to notify the other party by letter of its intent to rescind the contract, honouring the six-month period of notice.
(4) Right of each party to rescind the contract in accordance with paragraphs 2 and 3 of this Article may not be excluded by contract.
(5) Provisions of the present Article shall not apply to life insurance.

Effect of Insolvency on Insurance

Article 1020

(1) In the event of the policyholder's bankruptcy, the insurance shall continue, but either party may rescind the insurance contract within three months of the opening of bankruptcy proceedings, in which case the policyholder's bankruptcy estate shall be entitled to the part of the premium paid corresponding to the remaining insurance period.
(2) In the case of bankruptcy of the insurer, the insurance contract shall be terminated thirty days after the institution of bankruptcy proceedings.

SUBTITLE 2

PROPERTY INSURANCE

Section 1

GENERAL PROVISIONS

The Interest in Insurance

Article 1021

(1) Property insurance may be contracted by any person having an interest that the insured event does not take place, since otherwise such person would suffer a material loss.
(2) Insurance rights may pertain only to persons having material interest that the insured event does not take place at the moment of occurrence of damage.

Purpose of the Property Insurance

Article 1022

(1) By means of the property insurance the compensation of damages inflicted on the property of the insured due to occurrence of the insured event shall be provided for.
(2) Amount of compensation may not exceed the loss suffered by the insured person by occurrence of insured event.

(3) In the case of crop insurance or insurance of other agricultural products, the amount of damage shall be determined in relation to the value such crop would have at the time of harvest, unless otherwise provided by contract.

(4) Clauses of a contract by which the amount of compensation is limited to a sum which is lower than the amount of damage shall be valid.

(5) In assessing the amount of damage, the profit lost shall be taken in consideration only if so provided by contract.

(6) Should in course of the same period of insurance several insured events take place one after the other, the insurance compensation for each one of them shall be determined and paid off entirely by taking in consideration the total amount insured, without reducing it by the amount of compensation previously paid within such period.

(7) Should the value of the insured item be determined by agreement, the compensation shall be determined according to such value, unless the insurer is successful in proving that the value stipulated is excessively higher than the real value, and that there is no justified ground for such difference (for instance, insuring a used item at the value of a new one or insuring a subjective, personal, value).

Preventing the Insured Event, and Salvage

Article 1023

(1) Insured person shall take regulated, stipulated and all other necessary measures to prevent the occurrence of the insured event, and if such event does take place, they shall take every possible measure to limit consequential damage.

(2) Insurer shall compensate expenses, losses, and other losses caused by reasonable attempts to eliminate the direct danger of occurrence of the insured event, including that caused by attempt to limit its damaging consequences, even if such attempts are not successful.

(3) Insurer shall pay such compensation even if, taken together with compensation of damages from the insured event, it exceeds the amount of insurance.

(4) Should the insured person fail to perform the obligation to prevent the insured event or the salvage obligation without justification, the obligation of the insurer shall be reduced by the amount by which the damage increased due to that non-performance.

Leaving the Insured Object after Damage

Article 1024

Unless otherwise provided by contract, the insured person shall not be entitled to leave the insured item after damage to the insurer, after the insured event has occurred, and to request from them the payment of the full amount of insurance.

Loss of Item due to an Event not Provided for in the Insurance Policy

Article 1025

(1) Should an insured item or item whose use is the ground of concluding a liability insurance is lost in course of the insurance period, due to an event not provided for in the insurance policy, the contract shall cease to be valid for the future, while the insurer shall restitute to the policyholder part of the insurance premium, proportionate to the remaining time period.

(2) Should one of several items encompassed by one contract be lost due to an event not provided for in the insurance policy, the insurance shall remain valid regarding the

remaining items, but necessary amendments shall be introduced because of the reduction of the subject of insurance.

Section 2

LIMITATION OF THE INSURED RISKS

Damage Covered by Insurance

Article 1026

(1) Insurer shall compensate for loss occurring accidentally or through the fault of the policyholder, the insured person or the beneficiary of the insurance, unless that obligation of the insurer is expressly excluded by the insurance contract in respect of specific damage.

(2) They shall not be liable for damage caused by persons referred to in paragraph 1 of present Article through intentional misconduct, so that an insurance policy clause which would specify such liability of the insurer shall be void.

(3) But if the insured event has taken place, the insurer shall compensate every loss caused by a person under the responsibility, on any ground whatsoever, of the insured person, regardless of whether the loss was caused by intentional misconduct or negligence.

Damage Caused by Defects in the Insured Item

Article 1027

Insurer shall not be liable for damage to the insured item due to its defects, unless otherwise provided by contract.

Damage Caused by War Operations and Rebellions

Article 1028

(1) Insurer shall not be obliged to compensate for damage caused by war operations or rebellions, unless otherwise provided by contract.

(2) Insurer shall prove that the damage is caused by some of these events.

Section 3

OVER-INSURANCE AND A CONTRACT WITH SEVERAL INSURERS

Over-insurance

Article 1029

(1) Should at conclusion of the contract one party deceive the other, stipulating an amount of insurance which is higher than the real value of the insured item, the other party shall be entitled to request voidance of contract.

(2) Should the stipulated amount of insurance be higher than the value of the insured item, and if both parties are in good faith, the contract shall remain valid and the amount of insurance shall be reduced to the real value of the insured item, while the premium shall be reduced proportionally.

(3) In the cases referred to in paragraphs 1 and 2 of this Article, an insurer acting in good faith shall retain the premiums received and shall be entitled to the full premium for the current insurance period.

Subsequent Reduction of Value

Article 1030

Should the insured amount be reduced in course of insurance period, each contracting party shall be entitled to a corresponding reduction of insurance amount and of premium, beginning from the day the first party submits to the other their request for reduction.

Multiple and Double Insurance

Article 1031

(1) Should an item be insured with two or more insurers against the same risk, for the same interest and for the same period of time, so that the sum of the insured amounts does not exceed the value of such items (multiple insurance), each insurer shall be responsible for complete performance of obligations created out of the contract they have entered into.

(2) Should, however, the sum of the insurance amounts exceed the value of the insured item (double insurance), and the policyholder did not act contrary to good faith, all such insurances shall be full and valid, and each insurer shall be entitled to the stipulated insurance premium for the current insurance period, while the insured person shall be entitled to demand from each insurer the compensation according to the contract entered into with them, but no more, in total, than the amount of damage.

(3) Upon occurrence of the insured event, the policyholder shall notify every insurer covering the same risk and communicate to each of them the names and addresses of the other insurers and the sums insured under the respective contracts concluded with them.

(4) After paying compensation to the insured person, each insurer shall bear a share of the compensation in proportion to the ratio between the sum insured payable by that insurer and the aggregate sums insured, and an insurer who has paid more shall be entitled to request reimbursement of the excess from the other insurers.

(5) Should a contract be concluded without indicating the insurance amount or with an unlimited coverage, it shall be considered as a contract concluded with the highest amount of insurance.

(6) Remaining insurers shall be liable for the part to the charge of an insurer unable to pay, proportionally to their respective parts.

(7) Policyholder concluding a contract of insurance by which double insurance has taken place, while not knowing about a previously concluded insurance, may request – regardless of whether the previous insurance was concluded by themselves or by another – within one month from their becoming aware of such insurance, a corresponding reduction of the insured amount and of the premiums of the subsequent insurance, but the insurer shall keep the already received premiums and shall be entitled to the insurance premium for the current insurance period.

(8) If the double insurance has taken place due to the reduction of value of the insured item in the course of the insurance period, the policyholder shall be entitled to a corresponding reduction in the insurance amount and of the premiums, from the day their request for reduction reaches the insurer.

(9) If in the event of double insurance the policyholder fails to act in good faith, each insurer may request voidance of contract, keep the premiums received and demand the non-reduced premium for the current insurance period.

Co-insurance

Article 1032

Should a contract of insurance be concluded with several insurers who agree on joint bearing and distribution of risk, each insurer designated in the insurance policy shall be liable to the insured person for the entire compensation.

Section 4

SUB – INSURANCE

Article 1033

(1) Should it be established that at the beginning of a relevant period of insurance, the value of the insured item was higher than the amount of insurance, the amount of compensation owed by the insurer shall be proportionally reduced, unless otherwise provided by contract.

(2) Insurer shall be liable to pay the entire compensation up to the amount of insurance, if it is stipulated that the relationship between the value of the item and the amount of insurance shall have no relevance in determining the amount of compensation.

Section 5

TRANSFER OF CONTRACT AND THE PAYMENT OF INSURANCE COMPENSATION TO ANOTHER

Transfer of Contract to the Acquirer of lost Item

Article 1034

(1) In the case of transferring the insured item to another or the subject being a ground for concluding liability insurance, the rights and duties of the policyholder shall pass by law to the acquirer, unless otherwise provided by contract.

(2) But should only one part of the insured items be transferred which, in terms of insurance, do not make an entirety, the contract of insurance regarding the transferred items shall come to an end by law.

(3) Should, due to the transfer of items, the probability of occurrence of the insured event be increased or reduced, the general provisions on increasing or reducing of risk shall apply.

(4) Policyholder who fails to notify the insurer that the insured item has been alienated shall continue to pay premiums falling due after the date of alienation.

(5) Insurer and the acquirer of the insured item may withdraw from the insurance, honouring a fifteen day period of notice, on condition that their notice is submitted within thirty days of becoming aware of the transfer.

(6) Contract of insurance may not be rescinded should the insurance policy be issued to bearer or on order.

Granting of Compensation to Holders of Security and Other Rights

Article 1035

(1) After the occurrence of an insured event, a right of security and other rights existing previously in relation to the insured item shall have as their subject the compensation owed, both in the case of insuring one's own items, and in the case of insuring other person's items because of a duty to keep and restitute them, so that the insurer shall not be able to pay compensation to the insured person without the consent of the holder of such rights.

(2) Holders of the rights referred to in paragraph 1 of the present Article may directly demand that the insurer pay to them their claims within the limits of the amount of insurance, and according to the statutory order of payment.

(3) However, if the insurer at the moment of payment was not aware or could not have been aware, of such rights, the payment of compensation to the insured person shall remain valid.

Section 6

TRANSFER OF INSURED PERSON'S RIGHTS AGAINST THE LIABLE PERSON TO THE INSURER (SUBROGATION)

Article 1036

(1) On payment of compensation from insurance, the insurer shall acquire, by law, all rights of the insured person against the person liable for damage on whatever ground, up to the total amount of compensation.

(2) Should such transfer be made entirely or partially impossible through the fault of the insured person, the insurer shall be released correspondingly from their obligation towards the insured person.

(3) Transfer of rights from the insured person to the insurer shall not be to the detriment of the insured person, so that, should the compensation received by the insured person from the insurer be lower, on any ground, than the damage sustained, the insured person shall be entitled to payment from the funds of the liable party of the remaining part of the compensation prior to payment of the claim of the insurer on the ground of the rights which have been transferred to the insurer.

(4) As an exception to the rules of transfer of an insured person's rights to the insurer, these rights shall not pass to the insurer if damage was caused by a relative in direct line of descendancy with the insured person or person under the care and responsibility of the insured person or a person living with them in the same household or a person who is an employee of the insured person, unless such persons caused the damage by intentional misconduct.

(5) However, should some of the persons specified in the paragraph 4 of the present Article be insured against liability, the insurer may demand the redress of the amount paid to the insured person from their insurer.

Section 7

LIABILITY INSURANCE

Liability of the Insurer

Article 1037

(1) In case of liability insurance, the insurer shall be liable for damage caused by the insured event only if the third party sustaining damage request compensation.

(2) Insurer shall bear, within the limits of the amount of insurance, the expenses of litigation over the liability of the insured person.

Personal Right of the Person Sustaining Damage and Direct Action

Article 1038

(1) In case of liability insurance the person sustaining damage may request the compensation of damages due to an event falling within the sphere of liability of the

insured person directly from the insurer, but only up to the amount of the insurer's obligation.

(2) Person sustaining damage shall have, from the day of occurrence of the insured event, their own right to compensation from the insurance, so that any subsequent change in the insured person's rights against the insurer shall have no effect on the right of a person sustaining damage to compensation.

SUBTITLE 3

INSURANCE OF PERSONS

Section 1

GENERAL PROVISIONS

Determination of the Insured Amount

Article 1039

In contracts of insurance of persons (life insurance and accident insurance), the amount of insurance to be paid by the insurer on the occurrence of the insured event, shall be determined in the insurance policy by agreement between the contracting parties.

Life Insurance Policy

Article 1040

(1) In addition to elements which are constituent for every insurance policy, the life insurance policy shall include indications of the name and last name of a person whose life is insured, their date of birth and event or time limit being a prerequisite for requesting payment of the amount insured.

(2) Life insurance policy may be made out to a specific person or to order, but it shall not be made out to bearer.

(3) For an endorsement of the insurance policy made out to order to be full and valid, it must contain an indication of the name of the beneficiary, the date of endorsing and the signature of the endorser.

Incorrect Reporting of Age of the Insured Person

Article 1041

As an exception to the general provisions of the present Title concerning consequences of incorrect applications or of suppressing the circumstances relevant for the assessment of risk, the following rules shall apply regarding incorrect reporting of age in life insurance contracts:

1) a life insurance contract shall be null and void and the insurer shall in all cases refund all premiums received where, at the time the contract was concluded, the age of the insured person was stated incorrectly and their actual age exceeded the limit up to which the insurer provides life insurance under its terms and tariffs;

2) should it be incorrectly reported that the insured person is of a lower age, but their real age does not exceed the limit up to which the insurer normally enters into life insurance transactions, the contract shall be valid, but the insured amount shall be reduced in proportion to the stipulated insurance premium and the insurance premium provided for the life insurance of a person of the age of the insured person.

3) Should the insured person be of lower age than reported in the application to enter into contract, the insurance premium shall be reduced by a corresponding amount, while the insurer shall repay the difference between the insurance premiums received and the premiums they are entitled to.

Consequences of Failing to Pay Insurance Premium and Reduction of the Insured Amount

Article 1042

(1) Should a life insurance policyholder fail to pay some of the insurance premiums when due, the insurer shall not be entitled to demand payment by instituting legal proceedings.

(2) Should a policyholder, invited by the insurer by means of registered mail, fail to pay an insurance premium due within the time limit indicated in insurer's letter – such time limit being shorter than one month, counting from the day of delivery of the letter – or should such payment not be made by another interested party, the insurer shall be entitled, if at least three annual insurance premiums have been paid by then, only to state to the policyholder that they are going to reduce the amount of insurance to the level of the re-purchase value of insurance or that, in a contrary case, they shall repudiate the contract.

(3) Should the insured event occur prior to repudiation of contract or of reduction of the insured amount, the insured amount shall be considered reduced or as if the contract is repudiated – depending on whether insurance premiums were paid for at least three years or not.

Insuring a Third Party

Article 1043

(1) Life insurance may relate to the life of the policyholder, and it may relate to the life of a third party.

(2) Same shall apply to the accident insurance.

(3) Should insurance relate to the death of a third party, the validity of contract shall depend on their written consent, indicated on the insurance policy or in a separate letter at the moment of signing the insurance policy, with an indication of the insured amount.

Insurance in Case of Death of a Minor and of Persons Deprived of Business Capacity

Article 1044

(1) Insurance shall be void relating to the death of a third party younger than fourteen or to a person completely deprived of business capacity, so that the insurer shall repay to the policyholder all insurance premiums received under such contract.

(2) Validity of insurance in case of death of a third party older than fourteen shall depend on the written consent by their legal representative, and the written consent of the insured person themselves.

Cumulating Compensation and the Insured Amount

Article 1045

(1) In the case of life insurance, an insurer paying the insured amount shall have no right whatsoever to compensation against a third party liable for the occurrence of the insured event.
(2) Right to compensation against a third party liable for the occurrence of the insured event shall belong to the insured person or beneficiary, independently of their right to the insured amount.
(3) Provisions of paragraphs 1 and 2 of this Article shall not apply where accident insurance has been stipulated as liability insurance.

Section 2

EXCLUDED RISKS

Suicide of the Insured Person

Article 1046

(1) Contract of insurance covering the case of death shall not include the risk of suicide of the insured person, if it happened in the first year of the insurance period.
(2) Should the suicide occur within three years from the date of entering into the contract, the insurer shall not be obliged to pay the insured amount to the beneficiary, but only the mathematical reserve of the contract.

Premeditated Murder of the Insured Person

Article 1047

Insurer shall be released from obligation to pay to the beneficiary the insured amount if they intentionally caused the death of the insured person, but if until then at least three annual insurance premiums have been paid, they shall pay the mathematical reserve to the policyholder, and should they be the insured person, the payment shall be made to their successors.

Intentional Causing of Accident

Article 1048

Insurer shall be released from obligation in the insurance contract covering an accident, if the insured person intentionally caused the accident.

War Operations

Article 1049

(1) Should the death of the insured person be caused by war operations, the insurer shall not be obliged to pay the insured amount to the beneficiary, unless otherwise provided by contract, but shall pay them the mathematical reserve under the contract.
(2) Unless otherwise provided by contract, the insurer shall be released from obligation from the accident insurance contract, if the accident was caused by war operations.

Contractual Exclusion of Risk

Article 1050

Other risks may also be excluded by contract covering cases of death or accident.

Section 3

RIGHTS OF THE POLICYHOLDER PRIOR TO OCCURRENCE OF THE INSURED EVENT

Repurchase

Article 1051

(1) At the request of the policyholder under a life insurance contract concluded for the lifetime of the insured person, the insurer shall pay the surrender value of the insurance policy if at least three annual premiums have been paid.

(2) Policy shall specify the conditions under which the policyholder may request payment of its surrender value and the method for calculating that value in accordance with the insurance terms and conditions.

(3) Right to request surrender may not be exercised by the policyholder's creditors or by the insurance beneficiary; however, where the designation of the beneficiary is irrevocable, the surrender value shall be paid to the beneficiary at their request.

(4) As an exception to the paragraph 3 of the present Article, the repurchase of the insurance policy may be demanded by a creditor receiving the policy as security, if the claim supported by security has not been settled at maturity.

Advance Payment

Article 1052

(1) At the request of the policyholder under a life insurance contract concluded for the lifetime of the insured person, the insurer may advance part of the sum insured, up to the surrender value of the insurance policy, which may subsequently be repaid by the policyholder.

(2) Policyholder shall pay interest to be determined against the advance payment received.

(3) Should the policyholder be late with payment of the interest due, it shall be proceeded as if they requested repurchase.

(4) Terms of granting the advance payment must be indicated in the insurance policy, together with the possibility of paying back the amount accepted as advance payment to the insurer, the amount of interest rate, the consequences of failure to pay the interest due – as provided for by insurance terms and conditions.

Insurance Policy as Security

Article 1053

(1) Life insurance policy may be given as security.

(2) Giving the insurance policy as security shall affect the insurer only if they have been notified in writing that the policy has been given as security to the specific creditor.

(3) Should a policy be made out to order, the security shall be effected by endorsement.

Section 4

LIFE INSURANCE FOR THE BENEFIT OF A THIRD PARTY

Designating a Beneficiary

Article 1054

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 5)

(1) Life insurance policyholder may designate in the contract, as well as in other subsequent legal transaction, including a will, a person who shall acquire the rights out of contract.
(2) Should the insurance relate to the life of another person, the designation of the beneficiary shall also need their written consent.
(3) Beneficiary need not be designated by name, since it shall suffice that the deed contain data necessary for designation.
(4) Where children or descendants are designated as beneficiaries, the benefit shall also belong to those born later, while a benefit intended for a spouse or same-sex life partner shall belong to the person who was married to or in a same-sex life partnership with the insured person at the time of the insured person's death.

Sharing the Benefit Among Several Beneficiaries

Article 1055

If children, descendants and, in general, successors are designated as beneficiaries, and the policyholder has not determined the way of distribution of benefit among them, such distribution shall be done proportionally to their inheritance shares, and if beneficiaries are not successors on the ground of inheritance, the amount insured shall be distributed in equal shares.

Revoking a Clause Designating a Beneficiary

Article 1056

(1) Clause by which the insurance benefit is granted to a specific person may be revoked only by the policyholder, and such right shall not be effected either by their creditors or their legal successors.
(2) Policyholder may revoke the clause on benefit only until the beneficiary comes to acknowledge it by stating, in any way whatsoever, their intention to accept the benefit – after which the clause shall become irrevocable.
(3) Policyholder may revoke the beneficiary clause even after the beneficiary has declared acceptance if the beneficiary has attempted to kill the insured person; where the benefit was granted without consideration, the provisions governing revocation of gifts shall also apply.
(4) Beneficiary shall be deemed to have refused the intended benefit if, after the policyholder's death, the beneficiary fails to declare acceptance within one month of being invited to do so by the policyholder's successors.
(5) Statement specifying that the designation of the insurance beneficiary is irrevocable shall be null and void.

Personal and Direct Right of the Beneficiary

Article 1057

(1) Insured amount to be paid to the beneficiary shall not enter into the total estate of inheritance of the policyholder, even if the beneficiaries are their own successors.
(2) Right to the insured amount shall pertain to the beneficiary, from the moment of entering into contract, and regardless of the way and time of their being designated for

beneficiary, and regardless of whether they have stated their acceptance prior to or after the death of the insured person, so that they shall be entitled to request payment of the insured amount directly from the insurer.

(3) After the policyholder has designated their children, their descendants and, generally, their successors as beneficiaries, each one of these beneficiaries shall be entitled to a corresponding part of the insured amount, even if they have renounced the inheritance.

Creditors of the Policyholder and the Insured Person

Article 1058

(1) Creditors of a policyholder and of an insured person shall have no right whatsoever to the insured amount contracted for the beneficiary.

(2) However, if insurance premiums paid by the policyholder are disproportionally high, compared to their possibilities at the moment of payment, their creditors may request for them a part of such payments of the premium, exceeding their possibilities – if requirements are met by which the creditors are entitled to oppose the debtor's legal actions.

Assignment of the Insured Amount

Article 1059

Beneficiary may transfer the right to the sum insured to another person even before occurrence of the insured event, but the written consent of the policyholder, specifying the proposed assignee, shall be required; where the insurance concerns the life of another person, that person's written consent shall also be required.

Death of Designated Beneficiary Prior to Maturity

Article 1060

If a person designated without consideration as a beneficiary dies prior to the maturity of the insured principal or annuity, the insurance benefit shall not belong to their successors, but to the next beneficiary, and should one be not designated, then to the estate of the policyholder.

Life Insurance without a Designated Beneficiary

Article 1061

Should a life insurance policyholder fail to designate a beneficiary or should the clause on determining the beneficiary remain ineffective due to revocation or to refusal by the designated person or due to some other reason, and the policyholder fail to determine another beneficiary, the insured amount shall belong to the estate of the policyholder, and its part shall pass, together with their remaining rights, to their successors.

Bona fide Payment of the Insured Amount to an Unauthorised Person

Article 1062

(1) Should the insurer pay the insured amount to a person who would be entitled to it if the policyholder failed to designate the beneficiary, they shall be released from their obligation from the contract of insurance if, at the moment of payment, they were not aware or could not have been aware, that the beneficiary was designated by will or by some other act not related to their knowledge, but the beneficiary shall be entitled to request repayment from the person who has accepted the amount insured.

(2) Provision referred to in paragraph 1 of the present Article shall apply in case of replacement of the beneficiary.

Chapter XXXIII

ASSIGNMENT AND DISTRIBUTION OF PROPERTY DURING LIFETIME

The Concept

Article 1063

By a contract on assignment and distribution of property during lifetime the ancestor (transferor) shall assume the obligation to assign their property to the descendants during their lifetime without consideration.

Validity of a Contract

Article 1064

(1) Contract shall be valid only if all transferor’s descendants who shall be invited according to the law to inherit them have consented to assignment and distribution.

(2) Should any descendant not have given consent to the assignment and distribution of property, that descendant may give consent subsequently.

(3) Contract shall also be valid should a descendant who has not given consent die prior to the transferor without leaving descendants, waive the right to inheritance, be excluded from inheritance or be unworthy to inherit.

Form

Article 1065

(1) Contract shall be concluded in writing and certified by a notary who shall, before certification, read the contract to the contracting parties and expressly warn them that the assigned property does not form part of the transferor's estate and may not be used to satisfy compulsory heirs.

(2) Notary shall certify in the contract that the actions referred to in paragraph 1 of this Article have been performed.

(3) Contract made contrary to paragraphs 1 and 2 of the present Article shall be null and void.

Subject Matter of the Law

Article 1066

(1) Contract may include only transferor’s property existing in the moment of assignment and distribution, either wholly or partially.

(2) Provision of a contract foreseeing distribution of goods as found in the transferor’s estate of inheritance shall be null and void.

(3) Assigned property shall not be included in the estate of inheritance.

What shall Constitute Estate of Inheritance of the Transferor

Article 1067

Upon death of the transferor, their estate of inheritance shall consist of goods, which are not covered by contract on assignment and distribution, as well as goods acquired by them subsequently.

When shall the Assigned Portions be Deemed Gifts

Article 1068

(1) Should any descendant who became an heir not have consented to the assignment and distribution of property, the portions of property assigned to the other heirs shall be deemed to be gifts.

(2) Same procedure shall apply if, after the assignment and distribution of property made in agreement with all heirs, a child is born to the transferor or an heir who had previously been declared dead appears.

Reserving of Right

Article 1069

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 4)

(1) At the time of assignment and distribution, the transferor may reserve, for themselves, their spouse or same-sex life partner, both of them or another person, a right of enjoyment over all or some of the assigned assets, and may stipulate a lifelong annuity in kind or money, lifelong support or other consideration.

(2) Where the right of enjoyment or lifelong annuity has been stipulated jointly for the transferor and their spouse or same-sex life partner, and one of them dies, the right of enjoyment or annuity shall belong in full to the other until their death, unless otherwise stipulated or unless otherwise arising from the circumstances.

Right of the Transferor's Spouse

Article 1070

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 4)

(1) Transferor may include their spouse or same-sex life partner in the assignment and distribution, in which case that person's consent shall be required.

(2) Where the spouse or same-sex life partner is not included, their right to the compulsory share shall remain unaffected. In that case, the assignment and distribution shall remain valid; however, when determining the value of the estate for the purpose of calculating the compulsory share of the surviving spouse or same-sex life partner, the parts of the deceased's property assigned to their descendants shall be deemed gifts.

Transferors Debts and Contesting of Assignment

Article 1071

(1) Descendants among whom the transferor has distributed the property shall not be liable for the debts of the transferor, unless otherwise stipulated.

(2) Transferor's creditors shall be entitled to contest the contract under conditions applicable to contesting disposals without consideration.

Guarantee Obligation

Article 1072

Guarantee obligation arising among co-heirs following division shall also arise among descendants following assignment and distribution.

Revoking

Article 1073

(1) Transferor shall be entitled to demand that the descendant return everything received, should the descendant demonstrate grave ingratitude towards the transferor.

(2) Transferor shall also be entitled to the right referred to in paragraph 1 of the present Article should a descendant fail to provide the transferor or any other person with the support stipulated by the contract on assignment and distribution or fail to settle the debts of the transferor which they were ordered to settle by the contract.

(3) In other cases of non-performance of encumbrances determined by contract on assignment and distribution, the court, taking care of importance of a charge for the transferor and of other circumstances, shall decide on whether assignor shall be entitled to restitution of assigned goods or shall be entitled to claim enforced execution of the encumbrance.

Right of Descendants after Revoking

Article 1074

(1) Descendant who was obliged to restitute to the transferor what they received at the time of assignment and distribution shall be entitled to claim their compulsory share in inheritance after transferor's death, unless they be excluded from succession or unworthy to inherit the transferor or should they not have waived the succession.

(2) In computing the size of their compulsory share in inheritance, portions of property which the deceased has assigned and distributed during life to their remaining descendants shall be considered as gifts.

Chapter XXXIV

LIFELONG SUPPORT

The Concept

Article 1075

(1) By a contract on lifelong support one party (provider of support) shall assume an obligation to provide support for other party or for third person (recipient of support) until their death, while the other party shall assume the obligation to transfer to former party entire or portion of latter party's property, under condition that acquiring of items and rights shall be postponed until the moment of death of the recipient of support.

(2) Recipient of support may cover by the contract only things or rights, which exist at the moment of concluding of the contract.

(3) Obligation of providing support, unless otherwise stipulated, shall especially include providing of housing, food, clothes and footwear, adequate care in case of illness and old age, expenses for medical treatment and dues for ordinary everyday needs.

Form

Article 1076

(1) Lifelong support contract shall be concluded in writing and certified by a notary who shall, before certification, read the contract to the parties and expressly warn the

recipient of support that the property forming the subject of the contract shall not form part of their estate and may not be used to satisfy compulsory heirs.

(2) Notary shall certify in the contract that the actions referred to in paragraph 1 of this Article have been performed.

(3) Contract made contrary to paragraphs 1 and 2 of the present Article shall be null and void.

Special Ground for Nullity of Contract

Article 1077

Contract under which provider of support should be an individual or legal person who cares of the recipient of support within exercise of their profession or business activity (medical personnel, hospitals, agencies of various kinds and the like) shall be null and void, unless prior to concluding of the contract permission is received from the public agency in charge of guardianship.

Lifelong Support of Several Persons

Article 1078

Should lifelong support be stipulated for two or more persons, each of them shall be separately entitled to the specified prestations.

Lifelong Support in Favour of Third Parties

Article 1079

(1) Should a lifelong support be stipulated in favour of third party, provider of support shall acquire ownership right to items of the contract in the moment of death of their contracting partner, unless contract provides that ownership right shall be transferred in the moment of death of third party.

(2) Obligation of support shall last until the death of third party.

Securing of the Rights from Contract

Article 1080

(1) Provider of support may secure their right from contract by registering it in the public records.

(2) Third party to whose benefit the support was stipulated shall also be entitled to a right referred to in paragraph 1 of the present Article, upon death of the contracting partner of the provider of support.

Non-Transferability of Right

Article 1081

Claims of the recipient of support may not be transferred to another.

Rescinding of Contract due to Disturbed Relations

Article 1082

(1) Contractual parties may rescind the contract on lifelong support by mutual agreement even after its implementation has started.

(2) Should in accordance with the contract on lifelong support contracting parties live jointly, and should their relations become so disturbed, that their joint life becomes

insupportable, each party shall be entitled to claim they rescission of the contract before the court.

(3) Any party shall be entitled to claim rescission of the contract should the other party fail to perform its obligations.

(4) Should the contract be rescinded each party shall reserve the right to claim compensation from the other party attributable to it under general rules of law on obligations and property.

(5) Should contract on lifelong support be stipulated to the benefit of third person, person in whose favour support is stipulated shall also be entitled to claim rescission of the contract upon death of the contracting partner of the provider of support.

Rescission of Contract due to Changed Circumstances

Article 1083

(1) Should after concluding of the contract, circumstances change to such extent that its performance becomes significantly aggravated, court may, upon claim by one or other contracting party, either rearrange their mutual relationship or order rescission.

(2) Court may convert the right of recipient of the support into lifelong annuity, should that be suitable for both contracting parties.

(3) Should lifelong support be stipulated to the benefit of third person, after death of the contracting partner of the provider of support, person to whose benefit support is stipulated shall be entitled to claim rescission of the contract.

Right of Legal Heirs of the Recipient of Support

Article 1084

(1) On demand of legal heirs of the recipient of support, court may avoid the contract on lifelong support should, due to illness or old age of the recipient of support, contract constituted no uncertainty for the provider of support.

(2) Legal heirs may claim avoidance of the contract within one year from the date of becoming aware of the contract, and at latest within three years from the day of recipient's death.

(3) One year time limit shall not start to run prior to the death of recipient.

Death of the Provider of Support

Article 1085

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 4)

(1) Following the death of the provider of support, their obligations shall pass to their spouse or same-sex life partner and descendants called to inherit, provided that they consent.

(2) Should persons referred to in paragraph 1 of this Article deny consent to continuation of contract on lifelong support, contract shall be rescinded, and they shall not be entitled to claim recovery for previously provided support.

Compensation by Recipient of Support

Article 1086

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 123/24 as of 23 December 2024, Article 4)

(1) Where the spouse or same-sex life partner and descendants of the provider of support are unable to assume the contractual obligations, they may claim compensation from the recipient of support.

(2) Court shall establish such compensation at their discretion, taking into account economic situation of the recipient of support and persons who were authorised to prolong the contract.

Chapter XXXV

LIFELONG ANNUITY

The Concept

Article 1087

(1) By a contract on lifelong annuity, one contracting party (creditor of the annuity) shall assume an obligation to transfer to their contracting partner (debtor of the annuity) the right of ownership on specified items or some other rights or to pay them a specified amount of money, while the latter shall assume an obligation, in consideration for that, of payment to either former party or third person, of specified amounts of money or some other replaceable goods within specified time limits until the end of their life.

(2) Duration of the annuity may be determined by duration of life of third party or creditor of the annuity, in which case, after the creditor's death, the annuity shall be passed to their successors, unless otherwise agreed upon.

Form

Article 1088

(1) For validity of contract on lifelong annuity it shall be necessary that it be concluded in written form.

(2) Agreement which is not concluded in written form shall be null and void.

Amount of the Annuity

Article 1089

(1) Amount of the annuity shall be determined freely by contracting parties.

(2) Contracting parties may agree that the amount of annuity for each period shall be specified according to a defined index.

Securing of the Claims of Annuity

Article 1090

For the purpose of securing of their claims of annuity, creditor may claim that it is registered in the Cadastre of Real Estate as an encumbrance on the real estate of the debtor.

Payment of the Annuity

Article 1091

(1) Instalments of lifelong annuity shall be paid quarterly in advance, on the first day of each quarter, unless otherwise stipulated.

(2) Should it be stipulated that the payment shall take place upon expiry of specified period of time, and should the creditor die during such period, their heirs shall be entitled to such part of an instalment, which is proportionate to expired part of the time period.

If one Annuity is Stipulated in Favour of Several Persons

Article 1092

(1) If one lifelong annuity is established in favour of two or more persons, creditor shall pay entire amount of the annuity, even after death of some of them, to remaining persons, until death of the last of them.

(2) In case referred to in paragraph 1 of the present Article, it shall not be permitted to stipulate transfer of annuity to a child which is neither born nor conceived at time of establishing of the annuity.

Transfer to Another

Article 1093

(1) Right to a lifelong annuity may be transferred to another; however, even in such case it shall extinguish with the death of person in whose favour it was established.

(2) When annuity is established by gratuitous transaction, donor or testator, may determine that it may not be transferred to another.

Placing a Ban on Lifelong Annuity

Article 1094

(1) Ban may be placed on lifelong annuity on the ground of debts of the annuitant.

(2) When annuity is established through gratuitous legal transaction, donor or testator may determine that it may not be subject to a ban.

(3) Such provision shall be presumed, should the annuity be established by gratuitous transaction for the purpose of securing the compulsory support of the annuitant.

Nullity of the Contract

Article 1095

(1) Court shall annul the contract on lifelong annuity upon claim by the interested person, should it establish that due to old age or illness of the annuity creditor, contract shall not constitute any risk for annuity debtor.

(2) Contract shall remain in effect, should it be determined that the creditor of annuity, when stipulating low amount of annuity, intended to make a gift to a debtor.

Revision of Annuity

Article 1096

(1) In case of increase of the costs of living by more than twenty percent, creditor of annuity shall be entitled to claim corresponding increase of the annuity.

(2) Increase of the annuity shall not exceed increase in costs of living or increase of value of items or rights delivered to the annuity debtor.

Rescission of the Contract by the Debtor

Article 1097

(1) Debtor of annuity shall be entitled to, upon expiry of three years from concluding of the contract, rescind the contract and be released of their obligation.
(2) Debtor shall be under duty to restore to the creditor of annuity such items and rights as they received from them in consideration of the obligation of giving the annuity, but shall keep the civil and natural fruit and benefits yielded from such items.
(3) Should the annuity be established by another through the contract with debtor or should it be a gift or legacy to the annuity creditor, as well as should it be awarded by court as a compensation of damages, debtor may be released from their obligation after expiry of three years from its creation, should creditor agree that debtor pays them at once fifteen fold amount of the annuity.
(4) In the cases specified in paragraphs 1, 2 and 3 of the present Article, creditor shall withhold the instalments of annuity they already received, and shall be entitled to claim payment of due instalments.
(5) Debtor shall communicate to the creditor, at least three months in advance, the intention to be released from the obligation to pay the annuity.

Rescission of the Contract by Creditor

Article 1098

(1) Should debtor be in delay with payment of two instalments of annuity, creditor shall be entitled, at their discretion, to either rescind the contract or claim separation from debtor's assets, of necessary amount of money, whereby the annual interest accrued on such amount would be equal to annual amount of annuity; they shall be entitled to deposit such amount with a bank on the name of debtor, but with a lifelong entitlement to a creditor to enjoy interest up to the amount of annuity.
(2) Should the contract be rescinded, debtor shall restitute to the annuity creditor items and rights which they received in compensation for the obligation of giving the annuity, but shall be entitled to withhold fruits and benefits they obtained from them, while the creditor shall withhold the annuity instalments received, and is entitled to claim payment of instalments due.
(3) Should items and rights received by debtor no longer be in their property, they shall redress the creditor for their value.

Debtor's Insolvency

Article 1099

In case of insolvency of the annuity debtor, creditor shall be entitled to claim payment of the sum of money which could yield the annuity in the same amount until the end of their life

Chapter XXXVI

GUARANTEE

SUBTITLE 1

GENERAL PROVISIONS

The Concept

Article 1100

By a contract of guarantee a guarantor shall assume an obligation to a creditor to fulfil a valid and due obligation of a debtor, should the latter fail to do so.

Form

Article 1101

(1) Contract of guarantee shall produce an obligation for the guarantor only after their statement on guarantee is made in writing.

(2) Should the declaration on guarantee not be made in writing, such contract shall be null and void.

Capacity for Giving a Guarantee

Article 1102

Only a person with full business capacity may assume an obligation by contract of guarantee.

Guarantee for a Person without Business Capacity

Article 1103

Person who assumes an obligation as guarantor for the obligation of a person without business capacity shall be liable to the creditor in the same manner as a guarantor for a person with business capacity.

Subject of the Guarantee

Article 1104

(1) Guarantee may be given for every valid obligation, regardless of its substance.

(2) It shall also be possible to guarantee a conditional obligation and a specific future obligation.

(3) Guarantee for a future obligation may be revoked prior to occurrence of such obligation, if a time limit was not provided.

(4) Guarantee may also be given for an obligation of another guarantor (guarantor's guarantor).

Scope of guarantor's Liability

Article 1105

(1) Guarantor's obligation shall not exceed the obligation of the principal debtor, and if it is stipulated that it will exceed this, it shall be reduced to the scope of debtor's obligation.

(2) Guarantor shall be liable to fulfil the entire obligation they have guaranteed, if their liability is not limited to a part of it or is not subjected in some other way to less strict conditions.

(3) They shall be liable to reimburse the necessary expenses incurred by the creditor in order to collect the debt from the principal debtor.

(4) Guarantor shall also be liable for every increase in obligation ensuing from the debtor's delay or fault, unless otherwise provided by contract.

(5) Guarantor shall be liable only for interest stipulated, which becomes due after entering into the contract of guarantee.

Transfer of Creditor's Rights to the guarantor (Subrogation)

Article 1106

Creditor's claim, settled by a guarantor, shall pass to them along with all secondary rights and guarantees for its fulfilment.

SUBTITLE 2

RELATIONSHIP BETWEEN A CREDITOR AND A guarantor

Forms of guarantee

Article 1107

(1) Fulfilment of an obligation may be demanded from a guarantor only after the principal debtor fails to fulfil it within the time limit specified in written notice (subsidiary guarantee).

(2) Creditor may demand fulfilment from a guarantor, although they have not previously notified the principal debtor to fulfil the obligation, should it be obvious that its fulfilment cannot be effected out of the principal debtor's means or if the principal debtor has gone bankrupt.

(3) Should a guarantor assume an obligation as a guarantor-payer, they shall be liable to the creditor as a principal debtor for the entire obligation, so that the creditor may demand its fulfilment either from the principal debtor or the guarantor or from both of them at the same time (joint and several guarantee).

(4) Unless otherwise stipulated, a guarantor for an obligation created on the ground of a commercial contract shall be liable as a guarantor-payer.

Joint and Several Liability of Guarantors

Article 1108

Several guarantors for a debt shall be jointly and severally liable, regardless of whether they have guaranteed together or each one of them has assumed an individual obligation to the creditor, unless their liability be regulated differently by contract.

Loss of the Right to Time Limit

Article 1109

Unless otherwise stipulated, if a debtor has lost the right to a time limit determined for the fulfilment of their obligation, a creditor shall still not be entitled to demand fulfilment from the guarantor prior to expiration of that time limit.

Principal Debtor's Insolvency

Article 1110

(1) In case of insolvency of a principal debtor, the creditor shall file their claim in the bankruptcy proceedings, and shall inform the guarantor thereof; otherwise they shall be liable to the guarantor for the ensuing loss sustained by them.

(2) Reducing the obligation of the principal debtor in bankruptcy proceedings or in proceedings of compulsory settlement of accounts, shall not result in a corresponding decrease in the guarantor's obligation, so that the guarantor shall still be liable to the creditor for the entire amount of their obligation.

In the Case of Reduced Liability of Debtor's Successor

Article 1111

Guarantor shall also be liable for the entire amount of obligation they have guaranteed should a debtor's successor be liable only to pay that part of obligation, which corresponds to the value of inherited property.

guarantor's Objections

Article 1112

(1) Guarantor may raise against creditor's claim all defences available to the principal debtor, including the defence of setoff, but not purely personal defences belonging to the debtor.

(2) If the debtor renounces a defence or recognizes a creditor's claim, this shall have no effect on a guarantor.

(3) Guarantor may also raise their own defences against a creditor, such as nullity of guarantee contract, unenforceability due to statute of limitations of the creditor's claim against them or the setoff of mutual claims.

Duty of Notifying a guarantor on Debtor's Omission

Article 1113

Should a debtor fail to fulfil their obligation on time, a creditor shall notify the guarantor thereof, otherwise they shall be liable to them for the ensuing loss sustained by the guarantor.

Releasing a guarantor due to Creditor's Delay

Article 1114

(1) Guarantor shall be released from liability should a creditor, if notified by them after the maturity of the claim, fail to demand fulfilment from the principal debtor within a month after such notice.

(2) Should the time limit for fulfilment be not determined, the guarantor shall be released from liability if the creditor, on notice after the expiration of a year since entering into contract of guarantee, fail to make a statement necessary for determining the date of fulfilment, within a one month time limit from such notice.

Releasing a guarantor due to Abandoning Guarantees

Article 1115

(1) Should a creditor abandon a security or any other right by which fulfilment of their claim is guaranteed or should they lose it by their negligence, thus preventing the passing of such right to the guarantor, the latter shall be released from their obligation to the creditor for the amount they could earn by effecting such right.

(2) Rule specified in paragraph 1 of the present Article shall apply whether the right arose prior to or after conclusion of the contract of guarantee.

SUBTITLE 3

RELATIONSHIP BETWEEN A guarantor AND A DEBTOR

The Right to Demand Compensation from a Debtor

Article 1116

(1) Guarantor who has paid a creditor may demand from the debtor compensation for everything paid by them on their account, including interest from the day of payment.
(2) Guarantor shall be entitled to reimbursement of expenses incurred in litigation with the creditor from the time the guarantor notified the debtor of the litigation, as well as to compensation of damages, if any.

The Right of a guarantor of a Joint Debtor

Article 1117

Guarantor for one of more joint and several debtors may demand compensation of the amount they have paid to the creditor from any of them as well as reimbursement of expenses.

The Right of a guarantor to Preliminary Guarantee

Article 1118

Prior to meeting their duty toward a creditor, a guarantor assuming an obligation after corresponding knowledge or permission of the debtor, shall be entitled to demand that the debtor supply them with any necessary guarantee to secure their eventual requests in the following cases: if the debtor has failed to fulfil their obligation when due, if the creditor has demanded from the court the collection from the guarantor or if the financial situation of debtor has considerably deteriorated since entering into the contract of guarantee.

Loss of the Right to Compensation

Article 1119

(1) Debtor may use against the guarantor who has paid out creditor’s claim without their knowledge all legal means which were at their disposal at the moment of such payment as instruments for denying creditor's request.
(2) Guarantor who has paid out a creditor's claim, while failing to notify the debtor thereof, so that the latter, not knowing of such payment, paid the claim, shall not be able to demand compensation from the debtor, but shall be entitled to request from the creditor the repayment of sum paid to them.

The Right to Repayment

Article 1120

Guarantor who, without the knowledge of a debtor, has paid a creditor's claim which was subsequently cancelled at the debtor's request or settled by setoff, shall be entitled only to demand the corresponding repayment from the creditor.

SUBTITLE 4

Redress of the Payer against the Remaining guarantors

Article 1121

Should there be several guarantors, the one paying the claim due shall be entitled to demand that each of the remaining guarantors compensate the part corresponding to them.

SUBTITLE 5

Statute of Limitations

Article 1122

(1) When the obligation of the principal debtor becomes time-barred, the obligation of the guarantor shall also become time-barred.

(2) If the period for expiry due to statute of limitations of the obligation of the principal debtor is longer than two years, the guarantor's obligation shall expire on the above ground two years after the maturity of the obligation of the principal debtor, except if the guarantor is jointly and severally liable with the debtor.

(3) Interruption of the expiration period of the claim toward the principal debtor shall have effect towards guarantor as well, only if the interruption took place due to a motion of the creditor in court against the principal debtor.

(4) Suspension of the expiration period of principal debtor's obligation shall have no effect for the guarantor.

Chapter XXXVII

DIRECTING (ASSIGNMENT)

Subtitle 1

Concept of the Contract

Article 1123

By directing (an assignment) one party – the director (assignor), shall authorise another party – the directee (assignee), to perform something on their account for the benefit of a third party – the recipient of the direction (recipient), while authorising them to accept such performance in their own name.

Subtitle 2

RELATIONS BETWEEN A RECIPIENT AND AN ASSIGNEE

Acceptance by the Assignee

Article 1124

(1) Recipient of the assignment shall acquire the right to demand performance from the assignee only after notifying them of their acceptance of the assignment.

(2) Acceptance of the assignment may not be revoked.

Objections of the Assignee

Article 1125

(1) By accepting the assignment a debt relationship shall arise between the recipient and the assignee, independent of the relationship between the assignor and the assignee, and the relationship between the assignor and the recipient of the assignment.

(2) Assignee accepting the assignment may raise against the recipient of the assignment only those defences which relate to validity of acceptance, objections based on the contents of acceptance or on the contents of assignment itself, as well as personal objections they have against them.

Transferring the Assignment

Article 1126

(1) Recipient of the assignment shall be entitled to transfer the assignment to another prior to acceptance by the assignee, and the transferee can transfer it further, except when the assignment itself or specific circumstances indicate that it is non-transferable.

(2) Should an assignee notify a recipient of the assignment that they accept the assignment, such acceptance shall be effective with respect to all persons to whom the assignment might subsequently be transferred.

(3) Should the assignee notify the transferee to whom the recipient of the assignment has transferred the assignment, that they accept it, they shall not raise against the transferee personal objections that they have against the recipient of the assignment.

Statute of Limitations

Article 1127

(1) Right of a recipient of the assignment to demand performance from the assignee shall be time barred after one year.

(2) Should the time limit for performance be not provided, the period for expiry shall commence to run when the assignee accepts the assignment and if they accepted it before it was delivered to the recipient of the assignment, then when it is delivered to them.

SUBTITLE 3

RELATIONSHIP BETWEEN A RECIPIENT AND AN ASSIGNOR

If a Recipient of the Assignment is the Creditor of the Assignor

Article 1128

(1) Creditor shall not be obliged to accept an assignment made to them by a debtor in full satisfaction of the obligation, but shall be obliged to notify the debtor of their refusal without delay; otherwise, the creditor shall be liable to the debtor for damage.

(2) Creditor who has consented to the assignment shall call upon the assignee to perform it.

An Assignment is not Performance

Article 1129

(1) After a creditor has consented to an assignment made by their debtor in full satisfaction of an obligation, that obligation shall not be terminated, unless otherwise agreed, either by their consent to the assignment or by its acceptance by the assignee, but only by performance on the part of the assignee.

(2) Creditor who has consented to the assignment made by their debtor can demand from the assignor that they perform what is owed for them only if they have not received performance from the assignee within the time provided in the assignment.

Duty of a Recipient to Notify the Assignor

Article 1130

Should an assignee decline their consent to the assignment or refuse the performance demanded from them by the recipient of the assignment or state in advance that they will not perform it, the recipient of the assignment shall immediately notify the assignor of it; otherwise, they shall be liable to them for loss.

Renouncing an Accepted Assignment

Article 1131

Recipient of the assignment who is not a creditor of the assignor and who does not want the benefit of the assignment, may renounce it even if they have already stated that they accepted it, but they have a duty to notify the assignor without delay.

Revocation of Authorisation Given to the Recipient of the Assignment

Article 1132

Assignor may revoke the authorisation given to a recipient by means of an assignment, unless the assignment was given in full satisfaction of their own debt to them, and generally, if the assignment was given in the interest of the recipient.

SUBTITLE 4

RELATIONSHIP BETWEEN AN ASSIGNOR AND AN ASSIGNEE

If an Assignee is a Debtor of an Assignor

Article 1133

(1) Assignee shall have no duty to accept the assignment even if they are a debtor of the assignor, unless they promised it to them.

(2) However, should the assignment be made on the basis of the assignee's debt to the assignor, the assignee shall perform it in the amount of the debt, provided it is not more difficult for them than performance of their obligation to the assignor, for any reason.

(3) By performing the assignment made on the basis of the assignee's debt to the assignor, the assignee shall be released in the same measure from their debt to the assignor.

Revocation of Authorisation Given to an Assignee

Article 1134

(1) Assignor may revoke the authorisation given to an assignee in an assignment until the assignee notifies the recipient of the assignment that they accept the assignment or until they perform it.

(2) Assignor may revoke it even if the assignment provides it is irrevocable or if revocation would breach any obligation of theirs towards the recipient of the assignment.

(3) Instituting insolvency proceedings against the assignor's property shall bring with it revocation of the assignment by law, except if the assignee had already accepted the assignment prior to instituting the insolvency proceedings or if, at the moment of acceptance, they did not know or should not have known of the insolvency.

SUBTITLE 5

DEATH AND LOSS OF BUSINESS CAPACITY

Article 1135

Death of the assignor, recipient of the assignment or the assignee, and loss of business capacity by any of them, shall have no effect on the assignment.

SUBTITLE 6

An Assignment in the Form of Bearer Paper

Article 1136

(1) Written assignment can be made out to bearer.

(2) In the case of paragraph 1 of present Article every holder of the paper shall have the position of a recipient of the assignment with respect to the assignee.

(3) Relations created in an assignment between the recipient of the assignment and the assignor shall arise in this case only between each holder of the paper and the person who ceded the paper to them.

SUBTITLE 7

The Assignment in Form of a Paper Made Out to Order

Article 1137

Written assignment that relates to money, to securities or to negotiable property can be issued with the provision "to order", if the assignee is a person engaged in business activity, and if what should be performed enters within the scope of that activity.

Title XXXVIII

BANK MONEY DEPOSITS

SUBTITLE 1

MONEY DEPOSIT

The Concept

Article 1138

(1) Contract of money deposit shall be concluded if a bank assume the obligation to accept, and the depositor assume the obligation to deposit at the bank, a specific amount of money.

(2) Bank shall acquire by a contract referred to in paragraph 1 of present Article the right to dispose of the deposited money and shall repay it under the terms provided for by contract.

Opening of Account

Article 1139

(1) On the ground of a contract of money deposit, the bank shall open an account to the benefit and to the charge of which it shall enter all claims and debts from transactions with the depositor or on their account with third parties.

(2) Claims or debts which are agreed by the contracting parties to be excluded shall not be entered in the account.

Eliminating the Debit Balance

Article 1140

(1) Bank shall effect payments from the account within the limits of available means.

(2) Should the bank effect one or more in and out payments within the scope of the contract of deposit, which make the balance passive, it shall notify the depositor thereof

without delay, and the latter shall take immediate measures to eliminate the debit balance.

Kinds of Money Deposits

Article 1141

(1) Money deposit may be at sight deposit or a time deposit, with or without period of notice, with special purpose or without purpose.

(2) Unless the contrary be provided by contract, a money deposit account shall be considered as a sight deposit, so that the depositor of the account shall be entitled to dispose at any moment of the part or of the entire amount of balance.

Statement of Account

Article 1142

(1) Bank shall notify the depositor on every change in the position of their account.

(2) By the end of every year the bank shall send a statement of the account (amount of balance) and, if provided by contract or custom, it shall do this more frequently.

The Place of Paying in and Paying out

Article 1143

Unless otherwise agreed between the contracting parties orders for paying in and out of depositor's account shall be directed to the seat of the bank in which the account was opened.

Existence of Several Accounts

Article 1144

Should the same person have several accounts with one bank or with several of its branches, each of these accounts shall be independent.

Payment of Interest

Article 1145

(1) Bank shall pay the interest on assets deposited with it, unless otherwise provided by law.

(2) Amount of interest shall be determined by the contract of deposit of assets, and if there is no indication in the contract to that respect, statutory interest shall be paid.

SUBTITLE 2

SAVINGS DEPOSIT

Savings Book

Article 1146

(1) Should a money deposit be accepted as savings deposit, the bank or the savings and credit institution, shall issue a savings book to the depositor.

(2) Savings book may be issued only in the name of a specified person.

Entry in the Book

Article 1147

(1) All payments and withdrawals of money shall be entered into the savings book.

(2) Entries in the book confirmed by the bank's seal and signature of the authorised person shall serve as proof of payments or withdrawals, and of the relations between the bank and the depositor.

(3) Provisions of a money deposit contract contrary to paragraphs 1 and 2 of this Article shall be null and void.

Payment of Interest

Article 1148

Interest shall be paid on savings deposits.

Kinds of Savings Deposits

Article 1149

Savings deposits may be sight deposits or time deposits, with or without a period of notice.

Chapter XXXIX

DEPOSIT OF SECURITIES

The Concept

Article 1150

By a contract of deposit of securities a bank shall assume the obligation to take over the securities against compensation, for the purpose of keeping them and of exercising the rights and duties required in relation to that.

Exercising Parental Rights

Article 1151

Unless otherwise stipulated, the bank may exercise rights stemming from securities deposited only for the account of the depositor.

Duties of the Bank

Article 1152

(1) Bank shall ensure the keeping of securities with care required from a depository against compensation, and take all actions for the account of the depositor necessary for preserving and realizing their rights out of the securities.

(2) Unless otherwise stipulated by the contracting parties, the bank shall collect the interest due, the principal amount and, generally, all amounts which deposited securities entitle the holder to, as soon as they become due for payment.

(3) Bank shall place at the disposal of the depositor the amounts collected and, if the latter has opened an account with the bank to make money deposits, enter them to the credit of such account.

Restitution of Securities

Article 1153

(1) At depositor's request the bank shall restitute the securities at any time.

(2) Restitution shall be effected, as a rule, at the place where the depositing was made.
(3) Subject of restitution shall be the securities as such, unless the contracting parties have agreed that it can be effected by paying a corresponding amount.
(4) Restitution may be effected only to the depositor or their legal successors or to persons designated by them, even if it is obvious from the securities themselves that they belong to a third party.

Third Parties' Claims

Article 1154

Every claim by a third party regarding the securities lodged shall be communicated by the bank to the depositor.

Chapter XL

BANK CURRENT ACCOUNT

The Concept

Article 1155

By a bank current account contract, the bank shall open a special account for a person and, through that account, receive payments and make payments within the limits of that person's funds and approved credit.

Form of a Contract

Article 1156

(1) Contract of opening a current account shall be concluded in writing.
(2) Agreement which is not concluded in written form shall be null and void.

Assets in the Current Account

Article 1157

(1) Money assets in a current account shall be effected by depositor's payments and by collecting money amounts made for their account.
(2) Bank shall make payments from the current account for the depositor, even if it is without funds, within the scope provided for by contract of opening the current account or by special agreement.
(3) Obligation of the bank referred to in paragraph 2 of this Article may be excluded by the current account opening contract.

Balance Setoff of Several Accounts

Article 1158

If a depositor has several current accounts with the same bank, the plus and minus balances of these accounts shall be mutually offset, unless otherwise provided by contract.

Disposing of Balance

Article 1159

Beneficiary of a current account may at any moment dispose of the balance figuring on the account to their credit, unless a period of notice be provided by contract.

Application of Rules of the Contract of Order

Article 1160

(1) Bank shall be liable for carrying out orders of the depositor according to the rules of the contract of order.

(2) If an order should be carried out at a place where the bank has no branch, it may effect the transaction through another bank.

Duration of Account

Article 1161

If period of duration of a current account is not determined by contract, each party shall be entitled to close it, while honouring a fifteen-day period of notice.

Bank Commission and Compensation of Expenses

Article 1162

(1) Bank shall be entitled to charge commission for services rendered, included in the contract of the current account, as well as to repayment of particular expenses incurred in relation to these services.

(2) Claims referred to in paragraph 1 of present Article shall be entered by the bank to its credit in the current account, unless otherwise stipulated by the contracting parties.

Delivering Statements of Account

Article 1163

(1) At every change of the current account the bank shall issue a statement of the account, with an indication of balance, and deliver it to the client in the way agreed upon.

(2) Statement of account shall be considered as approved if not contested within the agreed time limit or, in the absence of the relevant agreement, within a fifteen-day period.

(3) Even after approval, the statement of account may be contested because of a mistake in writing or in accounting or omission or duplication, but such contesting must be effected within one year, at the latest, from the day of accepting the account on settling the balance after the closing of the current account; otherwise, such right shall be forfeited.

Chapter XLI

THE CONTRACT OF SAFE-DEPOSIT BOX

The Concept

Article 1164

(1) By a contract of safe-deposit box, a bank shall assume the obligation to provide a beneficiary with a safe-deposit box for a definite period of time, while the beneficiary shall assume the obligation to pay in return the specified fee.

(2) Bank shall take all necessary measures to ensure the good condition of the safe-deposit box and to provide supervision over it.

Admittance to Safe-Deposit Box

Article 1165

(1) Access to a safe-deposit box shall be permitted only to the beneficiary or to their representative.

(2) Bank shall not be allowed to keep a duplicate of key or keys handed over to the beneficiary.

Objects which Shall not Be Placed in the Safe-Deposit Box

Article 1166

(1) Beneficiary shall not be allowed to place in their safe-deposit box an item or a product, which could imperil the safety of the bank or other safe-deposit boxes.

(2) Should the beneficiary fail to adhere to that obligation, the bank may declare its intention to rescind the contract of safe-deposit box.

Rights of a Bank in case of Payment Failure

Article 1167

(1) Should a beneficiary fail to pay to the bank a single instalment of the charge due, the bank may rescind the contract within a month after warning the beneficiary, by registered mail, about the payment due.

(2) After rescinding the contract, the bank may invite the beneficiary to empty the safe-deposit box and hand the key over, and should the beneficiary fail to act accordingly, the bank may demand that the safe-deposit box be opened by the court, that its contents be established officially, and that item found be placed at the court or be trusted to the bank for keeping.

(3) Bank shall be entitled to the priority payment of the fee due, which is stipulated in the contract of the safe-deposit box – from the money found in the safe-deposit box or from the proceeds obtained through the sale of other valuables found in the safe-deposit box.

Chapter XLII

THE CONTRACT OF CREDIT

The Concept

Article 1168

By a contract of credit the bank shall assume the obligation to place at the disposal of a beneficiary of the credit a specific amount of money, for a definite or indefinite period of time, and for specific purpose or without such purpose, while the beneficiary shall assume an obligation to pay to the bank the stipulated interest and repay the received amount of money, at the time and in the way determined by contract.

The Form and the Substance

Article 1169

(1) Contract of credit must be concluded in written form.

(2) Contract which is not concluded in written form shall be null and void.

(3) Following shall be specified by a contract of credit: the amount, terms and conditions of granting, using and repayment of credit.

Cancellation by the Creditor

Article 1170

(1) Bank may cancel the contract of credit prior to the expiration of the stipulated time limit, if the credit is used contrary to its purpose.

(2) Bank may also cancel the contract of credit prior to the expiration of the stipulated time limit in the event of insolvency of the beneficiary, even if it has not been established by court decision or in the event of termination of a legal person or death of the beneficiary, if in such events the bank granting the credit would be placed into a substantially more difficult position.

Withdrawing from Contract and Repayment of Credit Ahead of Schedule

Article 1171

(1) Beneficiary of a credit may withdraw from the contract before beginning to use the credit.

(2) Beneficiary of the credit may repay the credit also ahead of schedule determined by contract, but shall notify the bank thereof, in advance.

(3) In the cases referred to in paragraphs 1 and 2 of this Article, the credit beneficiary shall compensate the creditor for any damage sustained.

(4) In the case of repayment of the credit ahead of schedule, the bank shall not charge the interest for the period from the day of repaying the credit until the day specified by contract as the day of repayment.

Chapter XLIII

THE CONTRACT OF CREDIT ON THE GROUND OF PLEDGE OF THE SECURITIES

The Concept

Article 1172

By a contract of credit on the ground of pledging of securities, a bank shall grant credit in a specified amount, secured by pledge on securities held by the beneficiary of the credit or by a third person giving their consent to the matter.

The Form and the Substance

Article 1173

(1) Contract of credit on the basis of pledge of securities must be concluded in written form, and shall contain the specification of securities pledged, an indication of the title or the firm and seat or of permanent residence of the holder of the securities, of the amount and terms of the credit granted, as well as of the amount and value of the securities considered when granting the credit.

(2) Contract which is not concluded in written form or does not contain the elements from paragraph 1 of the present Article, shall be null and void.

When a Bank May Sell the Pledged Securities

Article 1174

Should a beneficiary fail to repay the credit due for payment, the bank may sell the pledged securities.

Chapter XLIV

LETTERS OF CREDIT

Duties of a Bank Opening a Letter of Credit and Form of the Letter of Credit

Article 1175

(1) By accepting the request of the orderer for opening a letter of credit, the bank opening it shall assume the obligation to pay to the beneficiary of the letter of credit the specified amount of money upon compliance, within the time specified, with the terms and conditions specified in the order for opening the letter of credit.

(2) Letter of credit must be made in written form.

(3) Contract not prepared in a written form shall be null and void.

When is the Obligation Towards Beneficiary Created

Article 1176

(1) Bank's obligation to the beneficiary shall arise on the date on which the opening of the letter of credit is communicated to the beneficiary.

(2) Orderer shall be bound by order issued from the moment when order is received by the bank.

Independence of Letter of Credit from other Legal Transaction

Article 1177

Letter of credit shall be independent from the contract of sale or any other legal transaction in relation to which the letter of credit has been opened.

Documentary Credit

Article 1178

Documentary credit shall exist where a bank is required to pay a specified sum of money to the beneficiary of the letter of credit, provided that documents meeting the terms of the letter of credit are presented to the bank.

Duty of a Bank Opening the Letter of Credit

Article 1179

Bank opening documentary credit shall execute the clauses of payment under the conditions specified in the letter of credit.

Types of a Documentary Credit

Article 1180

(1) Documentary credit may be revocable or irrevocable.

(2) Unless otherwise expressly stipulated, the letter of credit shall always be revocable, even if opened for a specified period of time.

Revocable Letter of Credit

Article 1181

Revocable letter of credit shall not obligate the bank to the beneficiary, so that it may alter or revoke it at the request of the orderer or at its own initiative, should this be in the interest of the orderer.

Irrevocable Documentary Credit

Article 1182

(1) Irrevocable documentary credit shall contain an independent and direct obligation of the bank to the beneficiary.

(2) Such obligation may be cancelled or altered only by agreement between all interested parties.

(3) Irrevocable documentary credit may be confirmed by another bank which, through that, shall assume an independent and direct obligation to the beneficiary, in addition to the bank which opened the documentary credit.

(4) Notification of the documentary credit of a beneficiary by another bank shall not, in itself, confirm such documentary credit.

Duty of the Bank Regarding the Documents

Article 1183

(1) Bank shall inquire whether the documents entirely conform to the requirements of the orderer.

(2) After accepting the documents, the bank shall immediately notify the orderer thereof, while pointing out to them established irregularities and deficiencies.

Limits of Bank's Liability

Article 1184

(1) Bank shall assume no liability should submitted documents appear to be in conformity with instructions of the orderer.

(2) It shall assume no obligation regarding merchandise being the subject of the opened letter of credit.

Transferability and Divisibility of a Documentary Credit

Article 1185

(1) Documentary credit shall be transferrable and divisible only if the bank opening the credit for the beneficiary designated by the orderer, is authorised in the instructions of the first beneficiary to pay entirely or partially one or several third persons.

(2) Documentary credit may be transferred, on the ground of express instructions, only by the bank opening it and, unless the contrary has been stipulated, it may do this only once.

Chapter XLV

BANK GUARANTEE

The Concept

Article 1186

(1) By a bank guarantee a bank shall assume the obligation to a recipient of the guarantee (beneficiary) that, should a third person fail to fulfil on maturity the liability due to them, bank shall settle the liability, if the terms specified in the guarantee are met accordingly.

(2) Guarantee must be issued in writing.

(3) Guarantee which is not issued in written form shall be null and void.

Settling an Obligation from a Guarantee in Money

Article 1187

Bank shall settle an obligation from a guarantee in money, even in the event of a guarantee covering a non-pecuniary obligation.

Confirmation of a Guarantee (Super-guarantee)

Article 1188

Should another bank confirm an obligation from a guarantee, the beneficiary may submit their requests on the ground of guarantee either to the bank issuing the guarantee or the one confirming it.

Assignment of Rights from the Guarantee

Article 1189

Beneficiary may assign their rights from the bank guarantee to a third person only together with the assignment of the claim covered by the guarantee and the transfer of their obligation relating to the secured claim.

Guarantee "Without Objection"

Article 1190

(1) Should a bank guarantee be with the clauses "without objection" and "at the first call" or contain words of the same meaning, the bank shall not raise against the beneficiary objections which the orderer as a debtor may raise against the beneficiary in relation to the secured obligation.

(2) Orderer shall pay to the bank every amount paid by the bank on the ground of guarantee issued with the clauses specified in the paragraph 1 of present Article.

(3) Beneficiary of the guarantee shall owe to the orderer the amount received on the ground of guarantee to which they otherwise would not be entitled to due to justified objections by the orderer.

Chapter XLVI

APPLICATION OF PROVISIONS OF BANKING BUSINESS

Article 1191

Provisions of Articles 1138 to 1190 of the present Law shall also apply accordingly to other legal persons, authorised to engage in certain banking transactions, in accordance with the law.

Chapter XLVII

SETTLEMENT OF CLAIMS

The Concept

Article 1192

(1) By a settlement agreement, persons between whom there is a dispute or uncertainty concerning a legal relationship shall, by making mutual concessions, terminate the dispute or remove the uncertainty and determine their mutual rights and obligations.

(2) Uncertainty shall also exist should exercise of a specific right be unsure.

Mutual Compromise

Article 1193

(1) Compromise may consist, among other things, of partial or total honouring other party's claim; assuming by oneself of some new obligation; reduction of interest rate; extension of time limit; granting the right of partial repayment; granting the right to a rescission fee.

(2) Compromise may be conditional.

(3) If only one party gives in to the other, recognizing, for instance, a right of the other party – this shall not be a settlement and shall not be subject to rules on settlement

Capacity

Article 1194

For concluding a contract of settlement capacity shall be necessary to dispose of rights being the subject of settlement valid.

Subject Matter of the Law

Article 1195

(1) Subject of settlement may be any right that could be disposed of.

(2) Settlement over the property related consequences of a criminal offence shall be legal.

(3) Disputes relating to status relationships shall not be the subject of settlement.

Applying the Provisions on Bilateral Contracts

Article 1196

(1) Contract of settlement shall be governed by general provisions on bilateral contracts, unless something else is prescribed in relation to it.

(2) Should contracting parties effect some other transaction under name of settlement, their relations shall not be governed by provisions of the law applicable to settlement, but by those relating to the transaction actually effected.

Excessive Loss

Article 1197

It shall not be possible to claim voidance of the settlement on the ground of excessive loss.

Effect of Settlement on guarantors and Pledgors

Article 1198

(1) Should novation of an obligation be effected by the settlement, the guarantor shall be released from liability for its fulfilment, while the pledge given by a third person shall be terminated, too.

(2) Otherwise, the guarantor and the third party who has given their goods as pledge shall remain obligated, while their liability may be reduced by the settlement, but not raised, unless they have consented to the settlement.

(3) Should a debtor admit the contested claim by settlement, the guarantor and the pledgor shall retain the right to raise against the creditor defences renounced by the debtor.

Settlement about a Transaction which May Be Avoided

Article 1199

(1) Settlement about a legal transaction which could have been voided by one of the parties shall be full and valid if such party was aware of such possibility at the moment of settlement.

(2) But the settlement shall be void if it relates to a null and void legal transaction even if the contracting parties were aware of the nullity and wanted to eliminate it by settlement.

Nullity of the Settlement

Article 1200

(1) Settlement shall be null and void if based on erroneous belief by both contracting parties that a legal relationship exists which, in fact, does not exist, and if without such erroneous belief there would be no dispute or uncertainty between them.

(2) Settlement shall be null and void also should the erroneous belief of the contracting parties relate to common facts.

(3) Waiver of such nullity shall have no legal effect, and anything given in performance of obligations arising from such a settlement may be reclaimed.

Nullity of One Clause of the Settlement

Article 1201

Clauses of settlement shall form an entirety, so that if one clause is void, the entire settlement shall be void, unless the settlement itself indicates that it consists of independent parts.

PART 3

TRANSITIONAL AND FINAL PROVISIONS

Application of the Present Law

Article 1202

(1) Provisions of the present Law shall not apply to obligation relations created prior to coming into force of the present Law.

(2) Provisions of present Law relating to liability for defective products shall not be applicable to products put in the circulation prior to entry into force of present Law.

(3) Notarial services under the present Law shall be performed by notaries after their appointment pursuant to the Law on Notaries (OG of MNE 68/05).

Application of Usage

Article 1203

(1) Provisions of the general or special usages by which the presumption is determined that the contracting parties have agreed to apply the usages, unless excluding them by contract, shall not apply after coming into force of the present Law.

(2) General Usages of Trade (OG of FPRY 15/54) shall not apply after the entry into force of the present Law to matters regulated by it.

(3) If general or special usage or other trade practices and customs are contrary to the non-imperative norms of the present Law, the provisions of the present Law shall apply,

unless the parties have expressly stipulated the application of usage or other trade practices and customs.

Termination of Validity of other Laws and Regulations

Article 1204

On the day of entry into force of the present Law, the application of the Law on Contracts and Torts (OG of SFRY 29/78, 39/85 and 57/89 and OG of FRY 31/93) shall terminate; provisions of Articles 52 to 59 of the Law on Strata Ownership (OG of the RMNE 71/04) and provisions of Articles 106 to 122 of the Law on Succession shall cease to be effective, except for the provisions of Article 107 paragraphs 2, 3 and 4 and Article 117 paragraphs 2 and 3 (OG FRMNE 4/76 and 22/78), which shall cease to apply upon appointment of notaries on the basis of the Law on Notaries (OG of the RMNE 68/05).

Article 1204a

(Law Amending the Law on Contracts and Torts, Official Gazette of Montenegro 022/17 as of 3 April 2017, Article 6)

Provisions of this law shall not be applied to obligations that arose before the entry into force of this law.

Entry into Force

Article 1205

Present Law shall enter into force on the eighth day of its publication in the Official Gazette of Montenegro.